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#### Obama’s political capital is effectively holding off passage of the Iran sanctions bill now – but it’s still a fight

Delmore 2/5/14 (Erin, Political Analyst @ MSNBC, "Democrats split over Syria, Iran," http://www.msnbc.com/all/democrats-split-over-syria-iran)

Over strong objections from the president, 16 Senate Democrats support a bill that would impose new sanctions on Iran should the country fail to reach a permanent agreement with international negotiators to roll back its nuclear program. Those senators, along with 43 Republicans, argue that tough sanctions brought Iran to the negotiating table in the first place and further pressure would flex American muscle in the 6-month talks toward crafting a permanent solution. The bill drew support from Sens. Chuck Schumer, D-N.Y, and Harry Reid, D-Nev., both close allies of Obama’s but also leading supporters of policies favoring Israel. The American Israel Public Affairs Committee, America’s most powerful pro-Israel advocacy group, has lobbied members of Congress from both parties to support the sanctions.¶ Other Democrats are siding with the Obama administration, which argues that imposing new sanctions damaged “good-faith” negotiations while empowering Iran’s hard-liners rooting for the talks to fail. (A National Security Council spokeswoman charged last month that the sanctions bill could end negotiations and bring the U.S. closer to war.) ¶ The Senate bill has been losing steam ever since the White House ratcheted up pressure on Senate Democrats to abandon the it. Introduced in December by Democrat Robert Menendez, D-N.J. and Sen. Mark Kirk. R-Ill., the legislation was backed by 59 members – but now Senate leaders say they will hold off bringing the legislation to a vote until the six-month negotiation process ends.¶ Adam Sharon, a spokesman for the Senate Foreign Relations Committee, which Menendez chairs, said the New Jersey Senator stands behind the bill that bears his name. ¶ Menendez and 58 other senators support the bill, Sharon said. “It’s his bill, three or four senators say they wouldn’t call for a vote now. His position has been, having a bill, having this in place is an extremely effective and necessary tool when negotiating with the Iranians that we need to have to avoid Iran crossing the nuclear threshold. He stands behind this bill and the whole essence of the bill is to have sanctions in waiting, but you have to move on them now to make it happen.”¶ The movement is still alive in the House with enough votes to pass, despite a letter signed by at least 70 Democrats opposing the measure, and a letter of criticism by former Secretary of State Hillary Clinton. Obama reiterated in last week’s State of the Union address a promise to veto any attempt to impose new sanctions on Iran.

#### It’s a war powers fight that Obama wins – but failure commits us to Israeli strikes

**Merry 1/1** (Robert W. Merry, political editor of the National Interest, is the author of books on American history and foreign policy, “Obama may buck the Israel lobby on Iran”, 2014, Washington Times, factiva)

Presidential press secretary Jay Carney uttered 10 words the other day that represent a major presidential challenge to the American Israel lobby and its friends on Capitol Hill. Referring to Senate legislation designed to force President Obama to expand economic sanctions on Iran under conditions the president opposes, Mr. Carney said: “If it were to pass, the president would veto it.” For years, there has been an assumption in Washington that you can’t buck the powerful Israel lobby, particularly the American Israel Public Affairs Committee, or AIPAC, whose positions are nearly identical with the stated aims of Israeli Prime Minister Benjamin Netanyahu. Mr. Netanyahu doesn’t like Mr. Obama’s recent overture to Iran, and neither does AIPAC. The result is the Senate legislation, which is similar to a measure already passed by the House. With the veto threat, Mr. Obama has announced that he is prepared to buck the Israel lobby — and may even welcome the opportunity. It isn’t fair to suggest that everyone who thinks Mr. Obama’s overtures to Iran are ill-conceived or counterproductive is simply following the Israeli lobby’s talking points, but Israel’s supporters in this country are a major reason for the viability of the sanctions legislation the president is threatening to veto. It is nearly impossible to avoid the conclusion that the Senate legislation is designed to sabotage Mr. Obama’s delicate negotiations with Iran (with the involvement also of the five permanent members of the U.N. Security Council and Germany) over Iran’s nuclear program. The aim is to get Iran to forswear any acquisition of nuclear weapons in exchange for the reduction or elimination of current sanctions. Iran insists it has a right to enrich uranium at very small amounts, for peaceful purposes, and Mr. Obama seems willing to accept that Iranian position in the interest of a comprehensive agreement. However, the Senate measure, sponsored by Sens. Robert Menendez, New Jersey Democrat; Charles E. Schumer, New York Democrat; and Mark Kirk, Illinois Republican, would impose potent new sanctions if the final agreement accords Iran the right of peaceful enrichment. That probably would destroy Mr. Obama’s ability to reach an agreement. Iranian President Hasan Rouhani already is under pressure from his country’s hard-liners to abandon his own willingness to seek a deal. The Menendez-Schumer-Kirk measure would undercut him and put the hard-liners back in control. Further, the legislation contains language that would commit the United States to military action on behalf of Israel if Israel initiates action against Iran. This language is cleverly worded, suggesting U.S. action should be triggered only if Israel acted in its “legitimate self-defense” and acknowledging “the law of the United States and the constitutional responsibility of Congress to authorize the use of military force,” but the language is stunning in its brazenness and represents, in the view of Andrew Sullivan, the prominent blogger, “an appalling new low in the Israeli government’s grip on the U.S. Congress.” While noting the language would seem to be nonbinding, Mr. Sullivan adds that “it’s basically endorsing the principle of handing over American foreign policy on a matter as grave as war and peace to a foreign government, acting against international law, thousands of miles away.” That brings us back to Mr. Obama’s veto threat. The American people have made clear through polls and abundant expression (especially during Mr. Obama’s flirtation earlier this year with military action against Bashar Assad’s Syrian regime) that they are sick and weary of American military adventures in the Middle East. They don’t think the Iraq and Afghanistan wars have been worth the price, and they don’t want their country to engage in any other such wars. That’s what the brewing confrontation between Mr. Obama and the Israel lobby comes down to — war and peace. Mr. Obama’s delicate negotiations with Iran, whatever their outcome, are designed to avert another U.S. war in the Middle East. The Menendez-Schumer-Kirk initiative is designed to kill that effort and cedes to Israel America’s war-making decision in matters involving Iran, which further increases the prospects for war. It’s not even an argument about whether the United States should come to Israel’s aid if our ally is under attack, but whether the decision to do so and when that might be necessary should be made in Jerusalem or Washington.

#### The plan’s a perceived loss – it saps capital and causes defections

Loomis 7 --- Department of Government at Georgetown

(3/2/2007, Dr. Andrew J. Loomis is a Visiting Fellow at the Center for a New American Security, “Leveraging legitimacy in the crafting of U.S. foreign policy,” pg 35-36, <http://citation.allacademic.com//meta/p_mla_apa_research_citation/1/7/9/4/8/pages179487/p179487-36.php>)

Declining political authority encourages defection. American political analyst Norman Ornstein writes of the domestic context, In a system where a President has limited formal power, perception matters. The reputation for success—the belief by other political actors that even when he looks down, a president will find a way to pull out a victory—is the most valuable resource a chief executive can have. Conversely, the widespread belief that the Oval Office occupant is on the defensive, on the wane or without the ability to win under adversity can lead to disaster, as individual lawmakers calculate who will be on the winning side and negotiate accordingly. In simple terms, winners win and losers lose more often than not. Failure begets failure. In short, a president experiencing declining amounts of political capital has diminished capacity to advance his goals. As a result, political allies perceive a decreasing benefit in publicly tying themselves to the president, and an increasing benefit in allying with rising centers of authority. A president’s incapacity and his record of success are interlocked and reinforce each other. Incapacity leads to political failure, which reinforces perceptions of incapacity. This feedback loop accelerates decay both in leadership capacity and defection by key allies. The central point of this review of the presidential literature is that the sources of presidential influence—and thus their prospects for enjoying success in pursuing preferred foreign policies—go beyond the structural factors imbued by the Constitution. Presidential authority is affected by ideational resources in the form of public perceptions of legitimacy. The public offers and rescinds its support in accordance with normative trends and historical patterns, non-material sources of power that affects the character of U.S. policy, foreign and domestic.

#### Causes Israel strikes

Perr 12/24 (Jon Perr 12/24/13, B.A. in Political Science from Rutgers University; technology marketing consultant based in Portland, Oregon, has long been active in Democratic politics and public policy as an organizer and advisor in California and Massachusetts. His past roles include field staffer for Gary Hart for President (1984), organizer of Silicon Valley tech executives backing President Clinton's call for national education standards (1997), recruiter of tech executives for Al Gore's and John Kerry's presidential campaigns, and co-coordinator of MassTech for Robert Reich (2002). (Jon, “Senate sanctions bill could let Israel take U.S. to war against Iran” Daily Kos, [http://www.dailykos.com/story/2013/12/24/1265184/-Senate-sanctions-bill-could-let-Israel-take-U-S-to-war-against-Iran#](http://www.dailykos.com/story/2013/12/24/1265184/-Senate-sanctions-bill-could-let-Israel-take-U-S-to-war-against-Iran))

As 2013 draws to close, the negotiations over the Iranian nuclear program have entered a delicate stage. But in 2014, the tensions will escalate dramatically as a bipartisan group of Senators brings a new Iran sanctions bill to the floor for a vote. As many others have warned, that promise of new measures against Tehran will almost certainly blow up the interim deal reached by the Obama administration and its UN/EU partners in Geneva. But Congress' highly unusual intervention into the President's domain of foreign policy doesn't just make the prospect of an American conflict with Iran more likely. As it turns out, the Nuclear Weapon Free Iran Act essentially empowers Israel to decide whether the United States will go to war against Tehran.¶ On their own, the tough new sanctions imposed automatically if a final deal isn't completed in six months pose a daunting enough challenge for President Obama and Secretary of State Kerry. But it is the legislation's commitment to support an Israeli preventive strike against Iranian nuclear facilities that almost ensures the U.S. and Iran will come to blows. As Section 2b, part 5 of the draft mandates:¶ If the Government of Israel is compelled to take military action in legitimate self-defense against Iran's nuclear weapon program, the United States Government should stand with Israel and provide, in accordance with the law of the United States and the constitutional responsibility of Congress to authorize the use of military force, diplomatic, military, and economic support to the Government of Israel in its defense of its territory, people, and existence.¶ Now, the legislation being pushed by Senators Mark Kirk (R-IL), Chuck Schumer (D-NY) and Robert Menendez (D-NJ) does not automatically give the President an authorization to use force should Israel attack the Iranians. (The draft language above explicitly states that the U.S. government must act "in accordance with the law of the United States and the constitutional responsibility of Congress to authorize the use of military force.") But there should be little doubt that an AUMF would be forthcoming from Congressmen on both sides of the aisle. As Lindsey Graham, who with Menendez co-sponsored a similar, non-binding "stand with Israel" resolution in March told a Christians United for Israel (CUFI) conference in July:¶ "If nothing changes in Iran, come September, October, I will present a resolution that will authorize the use of military force to prevent Iran from developing a nuclear bomb."¶ Graham would have plenty of company from the hardest of hard liners in his party. In August 2012, Romney national security adviser and pardoned Iran-Contra architect Elliott Abrams called for a war authorization in the pages of the Weekly Standard. And just two weeks ago, Norman Podhoretz used his Wall Street Journal op-ed to urge the Obama administration to "strike Iran now" to avoid "the nuclear war sure to come."¶ But at the end of the day, the lack of an explicit AUMF in the Nuclear Weapon Free Iran Act doesn't mean its supporters aren't giving Prime Minister Benjamin Netanyahu de facto carte blanche to hit Iranian nuclear facilities. The ensuing Iranian retaliation against to Israeli and American interests would almost certainly trigger the commitment of U.S. forces anyway.¶ Even if the Israelis alone launched a strike against Iran's atomic sites, Tehran will almost certainly hit back against U.S. targets in the Straits of Hormuz, in the region, possibly in Europe and even potentially in the American homeland. Israel would face certain retaliation from Hezbollah rockets launched from Lebanon and Hamas missiles raining down from Gaza.¶ That's why former Bush Defense Secretary Bob Gates and CIA head Michael Hayden raising the alarms about the "disastrous" impact of the supposedly surgical strikes against the Ayatollah's nuclear infrastructure. As the New York Times reported in March 2012, "A classified war simulation held this month to assess the repercussions of an Israeli attack on Iran forecasts that the strike would lead to a wider regional war, which could draw in the United States and leave hundreds of Americans dead, according to American officials." And that September, a bipartisan group of U.S. foreign policy leaders including Brent Scowcroft, retired Admiral William Fallon, former Republican Senator (now Obama Pentagon chief) Chuck Hagel, retired General Anthony Zinni and former Ambassador Thomas Pickering concluded that American attacks with the objective of "ensuring that Iran never acquires a nuclear bomb" would "need to conduct a significantly expanded air and sea war over a prolonged period of time, likely several years." (Accomplishing regime change, the authors noted, would mean an occupation of Iran requiring a "commitment of resources and personnel greater than what the U.S. has expended over the past 10 years in the Iraq and Afghanistan wars combined.") The anticipated blowback?¶ Serious costs to U.S. interests would also be felt over the longer term, we believe, with problematic consequences for global and regional stability, including economic stability. A dynamic of escalation, action, and counteraction could produce serious unintended consequences that would significantly increase all of these costs and lead, potentially, to all-out regional war.

#### Impact is nuclear war

**Reuveny** **10** (Rafael – professor in the School of Public and Environmental affairs at Indiana University, Unilateral strike on Iran could trigger world depression, p. http://www.indiana.edu/~spea/news/speaking\_out/reuveny\_on\_unilateral\_strike\_Iran.shtml)

A unilateral Israeli strike on Iran’s nuclear facilities would likely have dire consequences, including a regional war, global economic collapse and a major power clash. For an Israeli campaign to succeed, it must be quick and decisive. This requires an attack that would be so overwhelming that Iran would not dare to respond in full force. Such an outcome is extremely unlikely since the locations of some of Iran’s nuclear facilities are not fully known and known facilities are buried deep underground. All of these widely spread facilities are shielded by elaborate air defense systems constructed not only by the Iranians, but also the Chinese and, likely, the Russians as well. By now, Iran has also built redundant command and control systems and nuclear facilities, developed early-warning systems, acquired ballistic and cruise missiles and upgraded and enlarged its armed forces. Because Iran is well-prepared, a single, conventional Israeli strike — or even numerous strikes — could not destroy all of its capabilities, giving Iran time to respond. A regional war Unlike Iraq, whose nuclear program Israel destroyed in 1981, Iran has a second-strike capability comprised of a coalition of Iranian, Syrian, Lebanese, Hezbollah, Hamas, and, perhaps, Turkish forces. Internal pressure might compel Jordan, Egypt, and the Palestinian Authority to join the assault, turning a bad situation into a regional war. During the 1973 Arab-Israeli War, at the apex of its power, Israel was saved from defeat by President Nixon’s shipment of weapons and planes. Today, Israel’s numerical inferiority is greater, and it faces more determined and better-equipped opponents. Despite Israel’s touted defense systems, Iranian coalition missiles, armed forces, and terrorist attacks would likely wreak havoc on its enemy, leading to a prolonged tit-for-tat. In the absence of massive U.S. assistance, Israel’s military resources may quickly dwindle, forcing it to use its alleged nuclear weapons, as it had reportedly almost done in 1973. An Israeli nuclear attack would likely destroy most of Iran’s capabilities, but a crippled Iran and its coalition could still attack neighboring oil facilities, unleash global terrorism, plant mines in the Persian Gulf and impair maritime trade in the Mediterranean, Red Sea and Indian Ocean. Middle Eastern oil shipments would likely slow to a trickle as production declines due to the war and insurance companies decide to drop their risky Middle Eastern clients. Iran and Venezuela would likely stop selling oil to the United States and Europe. The world economy would head into a tailspin; international acrimony would rise; and Iraqi and Afghani citizens might fully turn on the United States, immediately requiring the deployment of more American troops. Russia, China, Venezuela, and maybe Brazil and Turkey — all of which essentially support Iran — could be tempted to form an alliance and openly challenge the U.S. hegemony. Replaying Nixon’s nightmare Russia and China might rearm their injured Iranian protege overnight, just as Nixon rearmed Israel, and threaten to intervene, just as the U.S.S.R. threatened to join Egypt and Syria in 1973. President Obama’s response would likely put U.S. forces on nuclear alert, replaying Nixon’s nightmarish scenario. Iran may well feel duty-bound to respond to a unilateral attack by its Israeli archenemy, but it knows that it could not take on the United States head-to-head. In contrast, if the United States leads the attack, Iran’s response would likely be muted. If Iran chooses to absorb an American-led strike, its allies would likely protest and send weapons, but would probably not risk using force. While no one has a crystal ball, leaders should be risk-averse when choosing war as a foreign policy tool. If attacking Iran is deemed necessary, Israel must wait for an American green light. A unilateral Israeli strike could ultimately spark World War III.

### 2

#### A. Interpretation – Statutory restrictions must directly prohibit activities currently under the president’s war powers authority – this excludes regulation or oversight

#### Statutory restrictions prohibit actions

Lamont 5 (Michael, Legal Analyst @ Occupational health, "Legal: Staying on the right side of the law," http://www.personneltoday.com/articles/01/04/2005/29005/legal-staying-on-the-right-side-of-the-law.htm#.UgFe\_o3qnoI)

It will be obvious what 'conduct' and 'redundancy' dismissals are. A statutory restriction means that the employee is prevented by law from doing the job - for example, a driver who loses his driving licence. 'Some other substantial reason' means "Parliament can't be expected to think of everything".

#### Restrictions on authority are distinct from conditions

William Conner 78, former federal judge for the United States District Court for the Southern District of New York United States District Court, S. D. New York, CORPORACION VENEZOLANA de FOMENTO v. VINTERO SALES, http://www.leagle.com/decision/19781560452FSupp1108\_11379

Plaintiff next contends that Merban was charged with notice of the restrictions on the authority of plaintiff's officers to execute the guarantees. Properly interpreted, the "conditions" that had been imposed by plaintiff's Board of Directors and by the Venezuelan Cabinet were not "restrictions" or "limitations" upon the authority of plaintiff's agents but rather conditions precedent to the granting of authority. Essentially, then, plaintiff's argument is that Merban should have known that plaintiff's officers were not authorized to act except upon the fulfillment of the specified conditions.

#### B. Vote Neg –

#### 1. Limits – Regulation and oversight of authority allows a litany of new affs in each area – justifies indirect effects of statutory policies and affs that don’t alter presidential authority – undermines prep and clash

#### 2. Ground – Restriction ground is the locus of neg prep – their interpretation jacks all core disads – politics, presidential powers, and any area based disad because an aff doesn’t have to prevent the president from doing anything

### 3

#### Congressional action undermines the state secrete privilege – ends court deference and spills over

Windsor 12 (Lindsay – J.D. candidate and Master of Security Studies candidate at Georgetown University, “IS THE STATE SECRETS PRIVILEGE IN THE CONSTITUTION? THE BASIS OF THE STATE SECRETS PRIVILEGE IN INHERENT EXECUTIVE POWERS & WHY COURT-IMPLEMENTED SAFEGUARDS ARE CONSTITUTIONAL AND PRUDENT”, 2012, 43 Geo. J. Int'l L. 897, lexis)

In contrast to the acknowledged roles of both Congress and the President in foreign affairs matters, the Constitution does not grant the judiciary branch any authority over foreign affairs, and the courts have traditionally been "hesitant to intrude" upon matters of foreign policy and national security. n153 The Supreme Court "has recognized the generally accepted view that foreign policy [is] the province and responsibility of the Executive." n154 Hence, "courts traditionally have been reluctant to intrude upon the authority of the Executive in military and national security affairs." n155 This hesitation and reluctance stem from the limited institutional competence of the judiciary in foreign affairs. As the Court wrote in Boumediene v. Bush, "Unlike the President and some designated Members of Congress, neither the Members of this Court nor most federal judges begin the day with briefings that may describe new and serious threats to our Nation and its people." n156 Echoing the "sole organ" [\*920] scheme of Curtiss-Wright, the Court later wrote that in foreign affairs matters, "The Judiciary is not suited to [make] determinations that would . . . undermine the Government's ability to speak with one voice in this area." n157 A court should, therefore, give great deference to the Executive's invocation of the state secrets privilege because it inherently involves matters of national security. Nonetheless, deciding cases or controversies before the Court is within its field of expertise. n158 Such cases include separation of powers controversies between federal branches and enforcing checks on executive power. n159 Though a court could not amend the substance of the state secrets privilege, it could amend the procedure for its invocation in one of two ways: pursuant to congressional authorization or by interpreting its own rules of procedure. First, if Congress enacts specific legislation under its Article I powers requiring the President to follow certain procedures in invoking the privilege, then a court could enforce that procedure in a case before it. Second, the Court could reinterpret the procedural requirements for the privilege. The Reynolds Court specifically wrote a court should not always "insist[] upon an examination of the evidence, even by the judge alone, in chambers." n160 But in national security cases implicating core civil liberties, the Court could find that plaintiffs' necessity routinely requires different procedures to satisfy the Court that national security matters are at stake. n16

#### Drone oversight requires circumventing the doctrine – allows lawsuits and releases military secrets

Rosen 11 (Richard D. – Professor of Law and Director, Center for Military Law and Policy, Texas Tech University School of Law, “PART III: ARTICLE: DRONES AND THE U.S. COURTS”, 2011, 37 Wm. Mitchell L. Rev. 5280, lexis)

V. State Secrets: The Death Knell of Drone Cases Assuming a complaint survives the jurisdictional, justiciability, immunity, and other hurdles to lawsuits challenging U.S. drone policy, the state secrets doctrine is likely to bring the suit to a quick end. n93 Under the doctrine, the United States may prevent the disclosure of information in judicial proceedings if there is a reasonable danger of revealing military or state secrets. n94 Once the privilege is properly invoked and a court is satisfied that release would pose a reasonable danger to secrets of state, "even the most compelling necessity cannot overcome the claim of privilege." n95 Not only will the state secrets doctrine thwart plaintiffs from acquiring or introducing evidence vital to their case, n96 it could result in dismissal of the cases themselves. Under the doctrine, the courts will dismiss a case either because the very subject of the case involves state secrets, n97 or a case cannot proceed without the privileged evidence or presents an unnecessary risk of revealing [\*5293] protected secrets. n98 Employing drones as a weapons platform against terrorists and insurgents in an ongoing armed conflict implicates both the nation's military tactics and strategy as well as its delicate relations with friendly nations. n99 As such, lawsuits challenging the policy cannot be tried without access to and the possible disclosure of highly classified information relating to the means, methods, and circumstances under which drones are employed.

#### Lawsuits release vital drone methods and intelligence –turns case

Murphy and Radsan 9 (Richard – AT&T Professor of Law, Texas Tech University School of Law, and Afsheen – Professor, William Mitchell College of Law, “ARTICLE: DUE PROCESS AND TARGETED KILLING OF TERRORISTS”, November, 32 Cardozo L. Rev. 405, lexis)

In defense of this anomaly, there are obvious policy reasons for not allowing Bivens-style claims against American officials for targeted killings wherever they occur in the world. Among them, we do not want federal courts damaging national security through excessive, misdirected second-guessing of executive judgments; nor do we want [\*442] the litigation process to reveal information that national security requires to be kept secret. In Arar v. Ashcroft, a divided panel of the Second Circuit cited these "special factors" to disallow a plaintiff from bringing a Bivens claim against officials he alleged subjected him to extraordinary rendition. n209 But as the dissenting judge in Arar noted, these special factors lose much of their force once one acknowledges that a Bivens-style action needs to overcome formidable hurdles of fact and law. n210 As to practical hurdles, most people left alive by a Predator strike or other targeted killing would not turn to American courts for relief. Some would not sue because they are, in fact, the enemy - Osama bin Laden is not going to hire an American lawyer. n211 Others would not sue because doing so is beyond their means - a villager from the mountains of Afghanistan is not likely to hire an American lawyer either. As to legal hurdles, Boumediene itself poses a high one to lawsuits by non-U.S. citizens for overseas attacks. Here we may seem to contradict our earlier insistence that Boumediene presupposes some form of constitutional protection worldwide for everyone. n212 Yet Boumediene shows that the requirement of judicial process depends on a pragmatic analysis. n213 As part of its balancing, Boumediene made clear that courts should favor the interests of American citizens and of others with strong connections to the United States. n214 Although the Boumediene petitioners lacked the preference in favor of citizens, they persuaded a slim majority of the Court to extend constitutional habeas to non-resident aliens detained at Guantanamo. This result, however, took place under exceptional circumstances: among them, Guantanamo is de facto United States territory; n215 the executive had held detainees [\*443] there for years and claimed authority to do so indefinitely; and the Supreme Court doubted the fairness and accuracy of the CSRTs. n216 Absent such circumstances, Boumediene leaves courts to follow their habit of deferring to the executive on national security. For targeted killing, that may mean cutting off non-citizens from American courts. The state-secrets privilege poses another barrier to Bivens-style actions. This privilege allows the government to block the disclosure of information in court that would damage national security. n217 It could prevent a case from proceeding in any number of ways. For instance, the government could block plaintiffs from accessing or using information needed to determine whether a Predator attack had a sound basis through human or technical sources of intelligence. n218 By this trump card, the government could prevent litigation from seriously compromising intelligence sources and methods. n219 In addition, the doctrine of qualified immunity requires dismissal of actions against officials if a court determines they reasonably believed they were acting within the scope of their legal authority. n220 Defendants would satisfy this requirement so long as they reasonably [\*444] claimed they had authority under the laws of war (assuming their applicability). These standards are hazy, and a court applying them would tend to defer to the executive on matters of military judgment. n221 In view of so many practical and legal hurdles, some courts and commentators might be inclined to categorically reject all Bivens-style challenges to targeted killings. In essence, they might view lawsuits related to targeted killing as a political question left to the executive. n222 This view parallels Justice Thomas's that courts should not second-guess executive judgments as to who is an enemy combatant. n223 Contrary to Justice Thomas's view, the potency of the government's threshold defenses means that targeted-killing cases that make it to the merits would likely involve the most egregious conduct - for example, killing an unarmed Jose Padilla at O'Hare Airport on a shoot-to-kill order. For these egregious cases, a judicial check on executive authority is most necessary. In terms of a Mathews balancing, the question becomes whether the benefits of Bivens actions on targeted killings of terrorists outweigh the harms. The potential harm is to the CIA's sources and methods on the Predator program. Lawsuits might harm national security by forcing the disclosure of sensitive information. The states-secrets privilege should block this result, however. Lawsuits might also harm national security by causing executive officials to become risk-averse about actions needed to counter terrorist activities. Qualified immunity, however, should ensure that liability exists only where an official lacks any justification for his action. On the benefit side, allowing lawsuits to proceed would, in truly exceptional cases, serve the private interest of the plaintiff in seeking compensation and, perhaps more to the point given the incommensurability of death and money, would provide accountability. Still more important, all people have an interest in casting light on the government's use of the power to kill in a world-wide war in which combatants and targets are not easily identified.

### 4

#### The plan limits executive war fighting capabilities – devastates all operations

Kriner 10 (Douglas – asst prof of poli sci @ Boston Univ , "After the Rubicon: Congress, Presidents, and the Politics of Waging War," Ed. by William Howell and Jon Peverhouse, p. 285-286)

American history offers few examples of Congress using its legislative power to bring to heel a wayward commander in chief. Only in the rarest cases will Congress be able to marshall the supermajorities required to pass legislation compelling the president to abandon his preferred policy preferences. However, to focus only on the lack of concrete legislation terminating an ongoing war or blocking the use of force altogether is to miss the more indirect, yet still powerful means of influence through which members of Congress have routinely shaped the course of American military affairs. Even when Congress fails to write its military preferences into law, its members rarely stand on the sidelines of the policy process. Rather, members of Congress have historically engaged in a variety of actions from formal intiatives, such as introducing legislation or holding hearings that challenge the president's conduct of military action, to informal efforts to shape the nature of the policy debate in the public sphere. These actions can raise significantly the political and strategic costs to the president of waging large-scale, long-duration military actions to pursue their policy goals. In some cases, presidents may judge that the benefits of responding miltiarily to a foreign policy crisis or continuing an ongoing military engagement may outweigh even the heightened costs that congressional opposition generates. In these instances, enacting legislation to compel the president to change course may be the only remedy available to congressional opponents. In many other cases, however, congressional opposition has had tangible effects on policy outcomes. Again and again, the statistical and qualitative analyses have showed presidents modifying their policies, moderating the scale and duration of their military ventures, and sometimes foregoing a military response altogether, when faced with real or anticipated opposition on Capitol Hill. When exerted indirectly, congressional influence is less immediately visible and dramatic than it is in the rare occasions when Congress has enacted legislation to mandate a change in militar policy. Yet through indirect mechanisms, Congress has often encouraged presidents to pursue significantly different military policies than they would have adopted in the absence of congressional opposition.

#### It spills over to destabilize all presidential war powers

Heder 10 (Adam, J.D., magna cum laude , J. Reuben Clark Law School, Brigham Young University, “THE POWER TO END WAR: THE EXTENT AND LIMITS OF CONGRESSIONAL POWER,” St. Mary’s Law Journal Vol. 41 No. 3, <http://www.stmaryslawjournal.org/pdfs/Hederreadytogo.pdf>)

This constitutional silence invokes Justice Rehnquist’s oftquoted language from the landmark “political question” case, Goldwater v. Carter . 121 In Goldwater , a group of senators challenged President Carter’s termination, without Senate approval, of the United States ’ Mutual Defense Treaty with Taiwan. 122 A plurality of the Court held, 123 in an opinion authored by Justice Rehnquist, that this was a nonjusticiable political question. 124 He wrote: “In light of the absence of any constitutional provision governing the termination of a treaty, . . . the instant case in my view also ‘must surely be controlled by political standards.’” 125 Notably, Justice Rehnquist relied on the fact that there was no constitutional provision on point. Likewise, there is no constitutional provision on whether Congress has the legislative power to limit, end, or otherwise redefine the scope of a war. Though Justice Powell argues in Goldwater that the Treaty Clause and Article VI of the Constitution “add support to the view that the text of the Constitution does not unquestionably commit the power to terminate treaties to the President alone,” 126 the same cannot be said about Congress’s legislative authority to terminate or limit a war in a way that goes beyond its explicitly enumerated powers. There are no such similar provisions that would suggest Congress may decline to exercise its appropriation power but nonetheless legally order the President to cease all military operations. Thus, the case for deference to the political branches on this issue is even greater than it was in the Goldwater context. Finally, the Constitution does not imply any additional powers for Congress to end, limit, or redefine a war. The textual and historical evidence suggests the Framers purposefully declined to grant Congress such powers. And as this Article argues, granting Congress this power would be inconsistent with the general war powers structure of the Constitution. Such a reading of the Constitution would unnecessarily empower Congress and tilt the scales heavily in its favor. More over, it would strip the President of his Commander in Chief authority to direct the movement of troops at a time when the Executive’s expertise is needed. 127 And fears that the President will grow too powerful are unfounded, given the reasons noted above. 128 In short, the Constitution does not impliedly afford Congress any authority to prematurely terminate a war above what it explicitly grants. 129 Declaring these issues nonjusticiable political questions would be the most practical means of balancing the textual and historical demands, the structural demands, and the practical demands that complex modern warfare brings . Adjudicating these matters would only lead the courts to engage in impermissible line drawing — lines that would both confus e the issue and add layers to the text of the Constitution in an area where the Framers themselves declined to give such guidance.

#### The impact is the loss of fourth-gen warfighting capabilities that escalate to nuclear use

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A. The Emergence of Non-State Actors

Even as the quantity of nation-states in the world has increased dramatically since the end of World War II, the institution of the nation-state has been in decline over the past few decades. Much of this decline is the direct result of the waning of major interstate war, which primarily resulted from the introduction of nuclear weapons.122 The proliferation of nuclear weapons, and their immense capacity for absolute destruction, has ensured that conventional wars remain limited in scope and duration. Hence, "both the size of the armed forces and the quantity of weapons at their disposal has declined quite sharply" since 1945.123 At the same time, concurrent with the decline of the nation-state in the second half of the twentieth century, non-state actors have increasingly been willing and able to use force to advance their causes. In contrast to nation-states, who adhere to the Clausewitzian distinction between the ends of policy and the means of war to achieve those ends, non-state actors do not necessarily fight as a mere means of advancing any coherent policy. Rather, they see their fight as a life-and-death struggle, wherein the ordinary terminology of war as an instrument of policy breaks down because of this blending of means and ends.124 It is the existential nature of this struggle and the disappearance of the Clausewitzian distinction between war and policy that has given rise to a new generation of warfare. The concept of fourth-generational warfare was first articulated in an influential article in the Marine Corps Gazette in 1989, which has proven highly prescient. In describing what they saw as the modem trend toward a new phase of warfighting, the authors argued that: In broad terms, fourth generation warfare seems likely to be widely dispersed and largely undefined; the distinction between war and peace will be blurred to the vanishing point. It will be nonlinear, possibly to the point of having no definable battlefields or fronts. The distinction between "civilian" and "military" may disappear. Actions will occur concurrently throughout all participants' depth, including their society as a cultural, not just a physical, entity. Major military facilities, such as airfields, fixed communications sites, and large headquarters will become rarities because of their vulnerability; the same may be true of civilian equivalents, such as seats of government, power plants, and industrial sites (including knowledge as well as manufacturing industries). 125 It is precisely this blurring of peace and war and the demise of traditionally definable battlefields that provides the impetus for the formulation of a new. theory of war powers. As evidenced by Part M, supra, the constitutional allocation of war powers, and the Framers' commitment of the war power to two co-equal branches, was not designed to cope with the current international system, one that is characterized by the persistent machinations of international terrorist organizations, the rise of multilateral alliances, the emergence of rogue states, and the potentially wide proliferation of easily deployable weapons of mass destruction, nuclear and otherwise. B. The Framers' World vs. Today's World The Framers crafted the Constitution, and the people ratified it, in a time when everyone understood that the state controlled both the raising of armies and their use. Today, however, the threat of terrorism is bringing an end to the era of the nation-state's legal monopoly on violence, and the kind of war that existed before-based on a clear division between government, armed forces, and the people-is on the decline. 126 As states are caught between their decreasing ability to fight each other due to the existence of nuclear weapons and the increasing threat from non-state actors, it is clear that the Westphalian system of nation-states that informed the Framers' allocation of war powers is no longer the order of the day. 127 As seen in Part III, supra, the rise of the modem nation-state occurred as a result of its military effectiveness and ability to defend its citizens. If nation-states such as the United States are unable to adapt to the changing circumstances of fourth-generational warfare-that is, if they are unable to adequately defend against low-intensity conflict conducted by non-state actors-"then clearly [the modem state] does not have a future in front of it.' 128 The challenge in formulating a new theory of war powers for fourthgenerational warfare that remains legally justifiable lies in the difficulty of adapting to changed circumstances while remaining faithful to the constitutional text and the original meaning. 29 To that end, it is crucial to remember that the Framers crafted the Constitution in the context of the Westphalian system of nation-states. The three centuries following the Peace of Westphalia of 1648 witnessed an international system characterized by wars, which, "through the efforts of governments, assumed a more regular, interconnected character."' 130 That period saw the rise of an independent military class and the stabilization of military institutions. Consequently, "warfare became more regular, better organized, and more attuned to the purpose of war-that is, to its political objective."' 1 3' That era is now over. Today, the stability of the long-existing Westphalian international order has been greatly eroded in recent years with the advent of international terrorist organizations, which care nothing for the traditional norms of the laws of war. This new global environment exposes the limitations inherent in the interpretational methods of originalism and textualism and necessitates the adoption of a new method of constitutional interpretation. While one must always be aware of the text of the Constitution and the original understanding of that text, that very awareness identifies the extent to which fourth-generational warfare epitomizes a phenomenon unforeseen by the Framers, a problem the constitutional resolution of which must rely on the good judgment of the present generation. 13 Now, to adapt the constitutional warmarking scheme to the new international order characterized by fourth-generational warfare, one must understand the threat it is being adapted to confront. C. The Jihadist Threat The erosion of the Westphalian and Clausewitzian model of warfare and the blurring of the distinction between the means of warfare and the ends of policy, which is one characteristic of fourth-generational warfare, apply to al-Qaeda and other adherents of jihadist ideology who view the United States as an enemy. An excellent analysis of jihadist ideology and its implications for the rest of the world are presented by Professor Mary Habeck. 133 Professor Habeck identifies the centrality of the Qur'an, specifically a particular reading of the Qur'an and hadith (traditions about the life of Muhammad), to the jihadist terrorists. 134 The jihadis believe that the scope of the Qur'an is universal, and "that their interpretation of Islam is also intended for the entire world, which must be brought to recognize this fact peacefully if possible and through violence if not."' 135 Along these lines, the jihadis view the United States and her allies as among the greatest enemies of Islam: they believe "that every element of modern Western liberalism is flawed, wrong, and evil" because the basis of liberalism is secularism. 136 The jihadis emphasize the superiority of Islam to all other religions, and they believe that "God does not want differing belief systems to coexist."' 37 For this reason, jihadist groups such as al-Qaeda "recognize that the West will not submit without a fight and believe in fact that the Christians, Jews, and liberals have united against Islam in a war that will end in the complete destruction of the unbelievers.' 138 Thus, the adherents of this jihadist ideology, be it al-Qaeda or other groups, will continue to target the United States until she is destroyed. Their ideology demands it. 139 To effectively combat terrorist groups such as al-Qaeda, it is necessary to understand not only how they think, but also how they operate. Al-Qaeda is a transnational organization capable of simultaneously managing multiple operations all over the world."14 It is both centralized and decentralized: al-Qaeda is centralized in the sense that Osama bin Laden is the unquestioned leader, but it is decentralized in that its operations are carried out locally, by distinct cells."4 AI-Qaeda benefits immensely from this arrangement because it can exercise direct control over high-probability operations, while maintaining a distance from low-probability attacks, only taking the credit for those that succeed. The local terrorist cells benefit by gaining access to al-Qaeda's "worldwide network of assets, people, and expertise."' 42 Post-September 11 events have highlighted al-Qaeda's resilience. Even as the United States and her allies fought back, inflicting heavy casualties on al-Qaeda in Afghanistan and destroying dozens of cells worldwide, "al-Qaeda's networked nature allowed it to absorb the damage and remain a threat." 14 3 This is a far cry from earlier generations of warfare, where the decimation of the enemy's military forces would generally bring an end to the conflict. D. The Need for Rapid Reaction and Expanded Presidential War Power By now it should be clear just how different this conflict against the extremist terrorists is from the type of warfare that occupied the minds of the Framers at the time of the Founding. Rather than maintaining the geographical and political isolation desired by the Framers for the new country, today's United States is an international power targeted by individuals and groups that will not rest until seeing her demise. The Global War on Terrorism is not truly a war within the Framers' eighteenth-century conception of the term, and the normal constitutional provisions regulating the division of war powers between Congress and the President do not apply. Instead, this "war" is a struggle for survival and dominance against forces that threaten to destroy the United States and her allies, and the fourth-generational nature of the conflict, highlighted by an indiscernible distinction between wartime and peacetime, necessitates an evolution of America's traditional constitutional warmaking scheme. As first illustrated by the military strategist Colonel John Boyd, constitutional decision-making in the realm of war powers in the fourth generation should consider the implications of the OODA Loop: Observe, Orient, Decide, and Act. 44 In the era of fourth-generational warfare, quick reactions, proceeding through the OODA Loop rapidly, and disrupting the enemy's OODA loop are the keys to victory. "In order to win," Colonel Boyd suggested, "we should operate at a faster tempo or rhythm than our adversaries." 145 In the words of Professor Creveld, "[b]oth organizationally and in terms of the equipment at their disposal, the armed forces of the world will have to adjust themselves to this situation by changing their doctrine, doing away with much of their heavy equipment and becoming more like police."1 46 Unfortunately, the existing constitutional understanding, which diffuses war power between two branches of government, necessarily (by the Framers' design) slows down decision- making. In circumstances where war is undesirable (which is, admittedly, most of the time, especially against other nation-states), the deliberativeness of the existing decision-making process is a positive attribute. In America's current situation, however, in the midst of the conflict with al-Qaeda and other international terrorist organizations, the existing process of constitutional decision-making in warfare may prove a fatal hindrance to achieving the initiative necessary for victory. As a slow-acting, deliberative body, Congress does not have the ability to adequately deal with fast-emerging situations in fourth-generational warfare. Thus, in order to combat transnational threats such as al-Qaeda, the executive branch must have the ability to operate by taking offensive military action even without congressional authorization, because only the executive branch is capable of the swift decision-making and action necessary to prevail in fourth-generational conflicts against fourthgenerational opponents.

#### Bioterror causes extinction

Mhyrvold 13 (Nathan, Began college at age 14, BS and Masters from UCLA, Masters and PhD, Princeton “Strategic Terrorism: A Call to Action,” Working Draft, The Lawfare Research Paper Series

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As horrible as this would be, such a pandemic is by no means the worst attack one can imagine, for several reasons. First, most of the classic bioweapons are based on 1960s and 1970s technology because the 1972 treaty halted bioweapons development efforts in the United States and most other Western countries. Second, the Russians, although solidly committed to biological weapons long after the treaty deadline, were never on the cutting edge of biological research. Third and most important, the science and technology of molecular biology have made enormous advances, utterly transforming the field in the last few decades. High school biology students routinely perform molecular-biology manipulations that would have been impossible even for the best superpower-funded program back in the heyday of biological-weapons research. The biowarfare methods of the 1960s and 1970s are now as antiquated as the lumbering mainframe computers of that era. Tomorrow’s terrorists will have vastly more deadly bugs to choose from. Consider this sobering development: in 2001, Australian researchers working on mousepox, a nonlethal virus that infects mice (as chickenpox does in humans), accidentally discovered that a simple genetic modification transformed the virus.10, 11 Instead of producing mild symptoms, the new virus killed 60% of even those mice already immune to the naturally occurring strains of mousepox. The new virus, moreover, was unaffected by any existing vaccine or antiviral drug. A team of researchers at Saint Louis University led by Mark Buller picked up on that work and, by late 2003, found a way to improve on it: Buller’s variation on mousepox was 100% lethal, although his team of investigators also devised combination vaccine and antiviral therapies that were partially effective in protecting animals from the engineered strain.12, 13 Another saving grace is that the genetically altered virus is no longer contagious. Of course, it is quite possible that future tinkering with the virus will change that property, too. Strong reasons exist to believe that the genetic modifications Buller made to mousepox would work for other poxviruses and possibly for other classes of viruses as well. Might the same techniques allow chickenpox or another poxvirus that infects humans to be turned into a 100% lethal bioweapon, perhaps one that is resistant to any known antiviral therapy? I’ve asked this question of experts many times, and no one has yet replied that such a manipulation couldn’t be done. This case is just one example. Many more are pouring out of scientific journals and conferences every year. Just last year, the journal Nature published a controversial study done at the University of Wisconsin–Madison in which virologists enumerated the changes one would need to make to a highly lethal strain of bird flu to make it easily transmitted from one mammal to another.14 Biotechnology is advancing so rapidly that it is hard to keep track of all the new potential threats. Nor is it clear that anyone is even trying. In addition to lethality and drug resistance, many other parameters can be played with, given that the infectious power of an epidemic depends on many properties, including the length of the latency period during which a person is contagious but asymptomatic. Delaying the onset of serious symptoms allows each new case to spread to more people and thus makes the virus harder to stop. This dynamic is perhaps best illustrated by HIV , which is very difficult to transmit compared with smallpox and many other viruses. Intimate contact is needed, and even then, the infection rate is low. The balancing factor is that HIV can take years to progress to AIDS , which can then take many more years to kill the victim. What makes HIV so dangerous is that infected people have lots of opportunities to infect others. This property has allowed HIV to claim more than 30 million lives so far, and approximately 34 million people are now living with this virus and facing a highly uncertain future.15 A virus genetically engineered to infect its host quickly, to generate symptoms slowly—say, only after weeks or months—and to spread easily through the air or by casual contact would be vastly more devastating than HIV . It could silently penetrate the population to unleash its deadly effects suddenly. This type of epidemic would be almost impossible to combat because most of the infections would occur before the epidemic became obvious. A technologically sophisticated terrorist group could develop such a virus and kill a large part of humanity with it. Indeed, terrorists may not have to develop it themselves: some scientist may do so first and publish the details. Given the rate at which biologists are making discoveries about viruses and the immune system, at some point in the near future, someone may create artificial pathogens that could drive the human race to extinction. Indeed, a detailed species-elimination plan of this nature was openly proposed in a scientific journal. The ostensible purpose of that particular research was to suggest a way to extirpate the malaria mosquito, but similar techniques could be directed toward humans.16 When I’ve talked to molecular biologists about this method, they are quick to point out that it is slow and easily detectable and could be fought with biotech remedies. If you challenge them to come up with improvements to the suggested attack plan, however, they have plenty of ideas. Modern biotechnology will soon be capable, if it is not already, of bringing about the demise of the human race— or at least of killing a sufficient number of people to end high-tech civilization and set humanity back 1,000 years or more. That terrorist groups could achieve this level of technological sophistication may seem far-fetched, but keep in mind that it takes only a handful of individuals to accomplish these tasks. Never has lethal power of this potency been accessible to so few, so easily. Even more dramatically than nuclear proliferation, modern biological science has frighteningly undermined the correlation between the lethality of a weapon and its cost, a fundamentally stabilizing mechanism throughout history. Access to extremely lethal agents—lethal enough to exterminate Homo sapiens—will be available to anybody with a solid background in biology, terrorists included.

### 5

#### The aff doesn’t provide real reform – continued crisis discourse allows a re-expansion of executive authority

Scheuerman 12 – Professor of Political Science and West European Studies at Indiana University (William E., Summer 2012, "Emergencies, Executive Power, and the Uncertain Future of US Presidential Democracy," Law & Social Inquiry 37(3), EBSCO)

IV. REFORMISM'S LIMITS Bruce Ackerman, one of our country's most observant analysts of its clunky constitutional machinery, is similarly impatient with the "comforting notion that our heroic ancestors" created an ideal constitutional and political system (2010, 10). He even agrees that the US model increasingly seems to overlap with Schmitt's dreary vision of executive-centered plebiscitarianism motored by endless crises and emergencies (2010, 82). In sharp contrast to Posner and Vermeule, however, he not only worries deeply about this trend, but he also discards the unrealistic possibility that it might be successfully countered without recourse to legal and constitutional devices. Although Madison's original tripartite separation of powers is ill-adjusted to the realities of the modern administrative state, we need to reinvigorate both liberal legalism and checks and balances. Unless we can succeed in doing so, US citizens are likely to experience a "quantum leap in the presidency's destructive capacities" in the new century (2010, 119). Despite its alarmist tenor, for which he has been—in my view—unfairly criticized,'' Ackerman's position is grounded in a blunt acknowledgment of the comparative disadvantages of the US constitutional system. More clearly than any of the other authors discussed in this article, he breaks cleanly with the intellectual and constitutional provincialism that continues to plague so much legal and political science research on the United States. In part because as "late developers" they learned from institutional mistakes in the United States and elsewhere, more recently designed liberal democracies often do a better job than our Model T version at guaranteeing both policy effectiveness and the rule of law (2010, 120-22). Following the path-breaking work of his colleague Juan Linz, Ackerman offers a critical assessment of our presidential version of liberal democracy, where an independently elected executive regularly finds itself facing off against a potentially obstructionist Congress, which very well may seek to bury "one major presidential initiative after another" (2010, 5; see also Linz 1994). In the context of either real or imagined crises, executives facing strict temporal restraints (i.e., an upcoming election), while claiming to be the people's best protector against so-called special interests, will typically face widespread calls for swift (as well as legally dubious) action. "Crisis talk," in part endogenously generated by a flawed political system prone to gridlock rather than effective policy making, "prepares the ground for a grudging acceptance of presidential unilateralism" (2010, 6). Executives everywhere have much to gain from crisis scenarios. Yet incentives for declaring and perpetuating emergencies may be especially pronounced in our presidential system. The combination of temporal rigidity (i.e., fixed elections and terms of office) and "dual democratic legitimacy" (with both Congress and the president claiming to speak for "we the people") poses severe challenges to law-based government (Linz 1994). Criticizing US scholarship for remaining imprisoned in the anachronistic binary contrast of "US presidentialism vs. Westminster parliamentarism," Ackerman recommends that we pay closer attention to recent innovations achieved by what he describes as "constrained parliamentarism," basically a modified parliamentary system that circumvents the worst design mistakes of both Westminster parliamentarism and US presidentialism. As he has argued previously in a lengthy Harvard Law Review article, constrained parliamentarism—as found, for example, in recent democracies like Germany and Spain—locates law making in a Westminster-style popular assembly. But in contrast to the UK model, "legislative output is constrained by a higher lawmaking process" (2000, 666). The German Eederal Republic, for example, rests on a written constitution (e.g., the Basic Law) and has a powerful constitutional court. In Ackerman's view, constrained parliamentarism lacks many of the institutional components driving the growth of executive-dominated emergency govemment. Not surprisingly, he posits, it suffers to a reduced degree from many of the institutional pathologies plaguing US-style presidentialism. Ackerman argues that, in contrast, US-style presidential models have regularly collapsed elsewhere (e.g., in Latin and South American countries, where US-style presidentialism has been widely imitated [Linz and Valenzuela 1994]), devolving on occasion into unabated authoritarianism (2000, 646). Ackerman now seems genuinely concerned that a similar fate might soon befall its original version. Even if his most recent book repeats some earlier worries, he has now identified additional perils that he thinks deserve immediate attention. Not surprisingly, perhaps, his anxiety level has noticeably increased. Even Schmitt's unattractive vision of presidential authoritarianism appears "a little old-fashioned," given some ominous recent trends (2010, 82). To an extent unfathomable in Schmitt's day, the executive can exploit quasi-scientific polling data in order to gauge the public pulse. Presidents now employ a small but growing army of media gurus and consultants who allow them to craft their messages in astonishingly well-skilled—and potentially manipulative—ways. Especially during crisis moments, an overheated political environment can quickly play into the hands of a "White House propaganda machine generating a stream of sound bites" (2010, 33). Pundits and opinion makers already tend to blur the crucial divide between polling "numbers" and actual votes, with polls in both elite and popular consciousness tending not only to supplement but increasingly displace election results.'^ The decline of the print media and serious joumalism—about which Ackerman is understandably distressed—means that even the most fantastic views are taken seriously. Thus far, the Internet has failed to pick up the slack; it tends to polarize public opinion. Meanwhile, our primary system favors candidates who successfully appeal to an energized partisan base, meaning that those best able to exploit public opinion polling and the mass media, but out of sync with the median voter, generally gain the party nomination. Linz earlier pointed out that presidentialism favors political outsiders; Ackerman worries that in our emerging presidential model, the outsiders will tend to be extremists. Polling and media-savvy, charismatic, and relatively extreme figures will colonize the White House. In addition, the president's control over the massive administrative apparatus provides the executive with a daunting array of institutional weapons, while the Office of Legal Counsel (OLC) and Office of Counsel to the President offer hyperpoliticized sites from which distinctly executive-centered legal and constitutional views now are rapidly disseminated. Ackerman raises some tough questions for those who deem the OLC and related executive organs fundamentally sound institutions that somehow went haywire under David Addington and John Yoo. In his view, their excesses represent a logical result of basic structural trends currently transforming both the executive and political system as whole. OLC's partisan and sometimes quasi-authoritarian legal pronouncements are now being eagerly studied by law students and cited by federal courts (2010, 93). Notwithstanding an admirable tradition of executive deference to the Supreme Court, presidents are better positioned than ever to claim higher political legitimacy and neutralize political rivals. Backed by eager partisan followers, adept at the media game, and well armed with clever legal arguments constructed by some of the best lawyers in the country, prospective presidents may conceivably stop deferring to the Court (2010, 89). Ackerman's most unsettling amendment to his previous views is probably his discussion of the increasingly politicized character of the military—an administrative realm, by the way, ignored by other writers here, despite its huge role in modern US politics. Here again, the basic enigma is that the traditional eighteenth-century tripartite separation of powers meshes poorly with twenty-first-century trends: powerful military leaders can now regularly play different branches of govemment against one another in ways that undermine meaningful civilian oversight. Top officers possess far-reaching opportunities "to become an independent political force—allowing them to tip the balance of political support in one direction, then another," as the competing branches struggle for power (2010, 49). For Ackerman, the emergence of nationally prominent and media-savvy figures such as Colin Powell and David Petraeus, who at crucial junctures have communicated controversial policy positions to a broader public,'^ suggests that this long-standing structural flaw has recently gotten worse. The Goldwater-Nichols Act of 1996, for example, transformed the chair of the Joint Chiefs of Staff from a mediator for the competing services into the military's principal—and hugely influential—spokesperson within the National Security Council (2010, 50). Not only does the military constitute a hugely significant segment of the administrative machinery, but it is now embodied—both in govemment and the public eye—in a single leader whose views carry tremendous weight. The fact that opinion surveys show that the officer corps is increasingly conservative in its partisan orientation, Ackerman notes, only adds to the dangers. Americans need not fear an imminent military putsch, along the lines that destroyed other presidential regimes elsewhere. Nonetheless, we would do well not to be "lulled into a false sense of security" (2010, 87). Having painted a foreboding portrait of institutional trends, Ackerman points to paths we might take to ward off the worst. In light of the obvious seriousness of the illness he has diagnosed, however, his antidotes tend to disappoint: he proposes that we treat cancer with some useful but limited home remedies. Like Shane, Ackerman wants to improve popular deliberation by reforming the mass media and institutionalizing "Deliberation Day" (2010, 125-40). Yet how such otherwise potentially appealing initiatives might counteract the symbiotic relationship between presidentialism and crisis government remains ambiguous. A modernized electoral college, for example, might simply engender executives better positioned to claim to stand in for "we the people" than their historical predecessors. Given Ackerman's own worries about plebiscitarianism, this reform might compound rather than alleviate our problems. More innovatively, Ackerman endorses the idea of a quasi-judicial check within the executive branch, a "Supreme Executive Tribunal" given the task of expeditiously determining the legality of proposed executive action, whose members would be appointed to staggered terms and subject to Senate confirmation. Forced to gain a seal of approval from jurists relatively insulated from sitting presidents, the executive tribunal would act more quickly than an ordinary court and thereby help put a "brake on the presidential dynamic before it can gather steam" (2010,143). Before the president could take the first political move and potentially alter the playing field, he or she might first have to clear the move with a body of legal experts, a requirement that presumably over time would work to undergird the executive branch's commitment to legality. The proposed tribunal could allow the president and Congress to resolve many of their standoffs more expeditiously than is typical today (2010, 146). Congressional representatives, for example, might rely on the tribunal to challenge executive signing statements. Existing exemptions for a significant number of major executive-level actors (e.g., the president's National Security Advisor) from Senate confirmation also need to be abandoned, while the military should promulgate a new Canon of Military Ethics, aimed at clarifying what civilian control means in contemporary real-life settings, in order to counteract its ongoing politicization. Goldwater-Nichols could be revised so as better to guarantee the subordination of military leaders to the Secretary of Defense (2010, 153-65). Ackerman also repeats his previous calls for creating an explicit legal framework for executive emergency action: Congress could temporarily grant the president broad discretionary emergency powers while maintaining effective authority to revoke them if the executive proved unable to gain ever more substantial support from the legislature (2010, 165-70; see also Ackerman 2006). Each of these suggestions demands more careful scrutiny than possible here. Nonetheless, even if many of them seem potentially useful, room for skepticism remains. Why, for example, would the proposed executive tribunal not become yet another site for potentially explosive standoffs between presidents and Congress? Might not highlevel political conflicts end up simply taking the forms of destructive (and misleadingly legalistic) duels? To the extent that one of the tribunal's goals is to decelerate executive decision making, its creation would perhaps leave our already sluggish and slow-moving political system even less able than at the present to deal with fast-paced challenges. Faced with time constraints and the need to gain popular support, executives might then feel even more pressed than at present to circumvent legality. As Ackerman knows, even as it presently operates, the Senate confirmation process is a mess. His proposal to extend its scope might simply end up reproducing at least some familiar problems. Last but not least, given the perils he so alarmingly describes, his proposed military reforms seem unsatisfying. Why not instead simply cut our bloated military apparatus and abandon US imperial pretensions? The obvious Achilles heel is that none of the proposals really deals head-on with what Ackerman himself conceives as the fundamental root of executive-centered government: an independently elected president strictly separated from legislative bodies with which he periodically clashes in potentially destructive ways. Despite Ackerman's ambition, his proposals do not provide structural reform: he concludes that US-based reformers should "take the independently elected presidency as a fixture" (2010, 124). Thus, presidential government is here to stay; reformers can also forget about significantly altering our flawed system of presidential primaries, activist government, and powerful military that intervenes frequently abroad (2010, 124). Given contemporary political developments, one can certainly appreciate why Ackerman is skeptical that the US system might finally be ripe for a productive institutional overhaul. Nonetheless, this just makes an already rather bleak book look even bleaker. His book's title. The Decline and Fall of the Arnerican Republic, is out of step with the somewhat upbeat reformist proposals detailed in its final chapters. Regretfully, the title better captures his core message. Only Ackerman's ultimately disturbing book both adeptly rejects the tendency among recent students of executive power to revert to constitutional nostalgia while forthrightly identifying the very real dangers posed by recent institutional trends. In an age of permanent or at least seemingly endless emergencies, where the very attempt to cleanly distinguish dire crises from "normal" political and social challenges becomes exceedingly difficult, the executive threatens to become an even more predominant— and potentially lawless—institutional player Unfortunately, US-style presidential democracy may be particularly vulnerable to this trend. Ackerman proves more successful than the other authors discussed here because he is best attuned to a rich body of comparative constitutional and political science scholarship that has raised legitimate doubts about the alleged virtues of US-style liberal democracy. Not surprisingly, some of his own reform ideas—for example, his proposed system of emergency law making—draw heavily on foreign examples, including Canada and new democracies such as South Africa. He convincingly argues that we might at least ameliorate the widespread tendency among presidents to manipulate crises for narrow partisan reasons, for example, by relying on the clever idea of a supermajoritarian escalator, which would require every legislative renewal of executive emergency authority to rest on ever more numerous supermajorities (2006). Ackerman is right to suggest that the United States needs to look abroad in order to improve our rather deficient system of emergency rule (Scheuerman 2006, 2008). Our system is broken; it is time to see what can be learned from others. Ackerman's latest book's overly cautious reformism thus seems especially peculiar in light of his own powerful and indeed enthusiastic defense of constrained parliamentarism, which he quite plausibly describes as potentially offering a superior approach to emergency government. The key point is not that we can be absolutely sure that the "grass is greener" in new democracies such as postwar Germany or post-Franco Spain; existing empirical evidence offers, frankly, a mixed picture. Contemporary Germany, for example, has certainly experienced its own fair share of emergency executive excesses (Frankenberg 2010). Scholars have criticized not only the empirical thesis that presidentialism and a strict separation of powers can help explain the substantial growth of executive discretion (Carolan 2009; Gross and Ni Aolain 2006), but also more farreaching assertions about their alleged structural disadvantages (Cheibub 2006). Still others argue that parliamentary regimes even of the "old type" (i.e., the UK Westminster model) have done relatively well in maintaining the rule of law during serious crises (Ewing and Gearty 2000; Bellamy 2007, 249-53). Unfortunately, we still lack wellconceived empirical studies comparing constrained parliamentarism with US-style presidentialism. Too much existing scholarship focuses on single countries, or relies on "foreign" cases but only in a highly selective and anecdotal fashion. Until we have more properly designed comparative studies, however, it seems inaccurate to assume a priori that core institutional features of US presidential democracy are well equipped to tackle the many challenges at hand. As I have tried to argue here, a great deal of initial evidence suggests that this simply is not the case. Admittedly, every variety of liberal democracy confronts structural tendencies favoring the augmentation of executive power: many of the social and economic roots (e.g., social acceleration) of executive-centered crisis govemment represent more-or-less universal phenomena, likely to rattle even well-designed constitutional systems. One can also easily imagine that in decades to come, extreme "natural" catastrophes— increasingly misnamed, because of their links to human-based climate change— justifying declarations of martial law or states of emergency will proliferate, providing novel possibilities for executives to expand their authority.^° So it would be naive to expect any easy constitutional or political-institutional fix. However, this sobering reality should not lead us to abandon creative institutional thinking. On the contrary, it arguably requires of us that we try to come up with new institutional models, distinct both from existing US-style presidentialism and parliamentarism, constrained or otherwise.

#### Enframing of security makes macro-political violence inevitable

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This essay develops a theory about the causes of war -- and thus aims to generate lines of action and critique for peace -- that cuts beneath analyses based either on a given sequence of events, threats, insecurities and political manipulation, or the play of institutional, economic or political interests (the 'military-industrial complex'). Such factors are important to be sure, and should not be discounted, but they flow over a deeper **bedrock of modern reason** that has not only come to form a powerful structure of common sense but **the apparently solid ground of the real itself**. In this light, the two 'existential' and 'rationalist' discourses of war-making and justification mobilised in the Lebanon war are more than merely arguments, rhetorics or even discourses. Certainly they mobilise forms of knowledge and power together; providing political leaderships, media, citizens, bureaucracies and military forces with organising systems of belief, action, analysis and rationale. But they run deeper than that. They are truth-systems of the most powerful and fundamental kind that we have in modernity: **ontologies, statements about truth and being which claim a rarefied privilege to state what is and how it must be maintained** as it is.I am thinking of ontology in both its senses: ontology as both a statement about the nature and ideality of being (in this case political being, that of the nation-state), and as a statement of epistemological truth and certainty, of methods and processes of arriving at certainty (in this case, the development and application of strategic knowledge for the use of armed force, and the creation and maintenance of geopolitical order, security and national survival). These derive from the classical idea of ontology as a speculative or positivistic inquiry into the fundamental nature of truth, of being, or of some phenomenon; the desire for a solid metaphysical account of things inaugurated by Aristotle, an account of 'being qua being and its essential attributes'.17 In contrast, drawing on Foucauldian theorising about truth and power, I see ontology as a particularly powerful claim to truth itself: a claim to the status of an underlying systemic foundation for truth, identity, existence and action; one that is not essential or timeless, but is thoroughly historical and contingent, that is deployed and mobilised in a fraught and conflictual socio-political context of some kind. In short, ontology is the 'politics of truth'18 in its most sweeping and powerful form. I see such a drive for ontological certainty and completion as particularly problematic for a number of reasons. Firstly, when it takes the form of the existential and rationalist ontologies of war, it amounts to a hard and exclusivist claim: **a drive for ideational hegemony and closure that limits debate and questioning**, **that confines it within the boundaries of a particular, closed system of logic, one that is grounded in the truth of being**, in the truth of truth as such. The second is its intimate relation with violence: the dual ontologies represent a simultaneously social and conceptual structure that generates violence. Here **we are witness to an epistemology of violence (strategy) joined to an ontology of violence (the national security state)**. When we consider their relation to war, the two ontologies are especially dangerous because each alone (and doubly in combination) tends both to **quicken the resort to war and to lead to its escalation** either in scale and duration, or in unintended effects. In such a context **violence is not so much a tool that can be picked up and used on occasion**, at limited cost and with limited impact -- **it permeates being.** This essay describes firstly the ontology of the national security state (by way of the political philosophy of Thomas Hobbes, Carl Schmitt and G. W. F. Hegel) and secondly the rationalist ontology of strategy (by way of the geopolitical thought of Henry Kissinger), showing how they crystallise into a mutually reinforcing system of support and justification, especially in the thought of Clausewitz. This creates both a profound ethical and pragmatic problem. The ethical problem arises because of their militaristic force -- they embody and reinforce a norm of war -- and because they enact what Martin Heidegger calls an 'enframing' image of technology and being in which **humans are merely utilitarian instruments** for use, control and destruction, and force -- in the words of one famous Cold War strategist -- can be thought of as a 'power to hurt'.19 The pragmatic problem arises because force so often produces neither the linear system of effects imagined in strategic theory nor anything we could meaningfully call security, but rather **turns in upon itself in a nihilistic spiral of pain and destruction**. In the era of a 'war on terror' dominantly conceived in Schmittian and Clausewitzian terms,20 the arguments of Hannah Arendt (that violence collapses ends into means) and Emmanuel Levinas (that 'every war employs arms that turn against those that wield them') take on added significance. Neither, however, explored what occurs when war and being are made to coincide, other than Levinas' intriguing comment that in war persons 'play roles in which they no longer recognises themselves, making them betray not only commitments but their own substance'. 21 What I am trying to describe in this essay is a complex relation between, and interweaving of, epistemology and ontology. But it is not my view that these are distinct modes of knowledge or levels of truth, because in the social field named by security, statecraft and violence they are made to blur together, continually referring back on each other, like charges darting between electrodes. Rather they are related systems of knowledge with particular systemic roles and intensities of claim about truth, political being and political necessity. Positivistic or scientific claims to epistemological truth supply an air of predictability and reliability to policy and political action, which in turn support larger ontological claims to national being and purpose, drawing them into a common horizon of certainty that is one of the central features of past-Cartesian modernity. Here it may be useful to see ontology as a more totalising and metaphysical set of claims about truth, and epistemology as more pragmatic and instrumental; but while a distinction between epistemology (knowledge as technique) and ontology (knowledge as being) has analytical value, it tends to break down in action. The epistemology of violence I describe here (strategic science and foreign policy doctrine) claims positivistic clarity about techniques of military and geopolitical action which use force and coercion to achieve a desired end, an end that is supplied by the ontological claim to national existence, security, or order. However in practice, technique quickly passes into ontology. This it does in two ways. First, **instrumental violence is married to an ontology of insecure national existence which itself admits no questioning**. The nation and its identity are known and essential, prior to any conflict, and the resort to violence becomes an equally essential predicate of its perpetuation. In this way knowledge-as-strategy claims, in a positivistic fashion, to achieve a calculability of effects (power) for an ultimate purpose (securing being) that it must always assume. Second, strategy as a technique not merely becomes an instrument of state power but ontologises itself in a technological image of 'man' as a maker and user of things, including **other humans, which have no essence or integrity outside their value as objects**. In Heidegger's terms, **technology becomes being; epistemology immediately becomes technique, immediately being**. This combination could be seen in the aftermath of the 2006 Lebanon war, whose obvious strategic failure for Israelis generated fierce attacks on the army and political leadership and forced the resignation of the IDF chief of staff. Yet in its wake neither ontology was rethought. Consider how a reserve soldier, while on brigade-sized manoeuvres in the Golan Heights in early 2007, was quoted as saying: 'we are ready for the next war'. Uri Avnery quoted Israeli commentators explaining the rationale for such a war as being to 'eradicate the shame and restore to the army the "deterrent power" that was lost on the battlefields of that unfortunate war'. In 'Israeli public discourse', he remarked, 'the next war is seen as a natural phenomenon, like tomorrow's sunrise.' 22 The danger obviously raised here is that these dual ontologies of war link being, means, events and decisions into a single, unbroken chain whose very process of construction cannot be examined. As is clear in the work of Carl Schmitt, being implies action, the action that is war. This chain is also obviously at work in the U.S. neoconservative doctrine that argues, as Bush did in his 2002 West Point speech, that 'the only path to safety is the path of action', which begs the question of whether strategic practice and theory can be detached from strong ontologies of the insecure nation-state.23 This is the direction taken by much realist analysis critical of Israel and the Bush administration's 'war on terror'.24 Reframing such concerns in Foucauldian terms, we could argue that obsessive ontological commitments have led to especially disturbing 'problematizations' of truth.25 However such rationalist critiques rely on a one-sided interpretation of Clausewitz that seeks to disentangle strategic from existential reason, and to open up choice in that way. However without interrogating more deeply how they form a conceptual harmony in Clausewitz's thought -- and thus in our dominant understandings of politics and war -- tragically violent 'choices' will continue to be made. The essay concludes by pondering a normative problem that arises out of its analysis: if the divisive ontology of the national security state and the violent and instrumental vision of 'enframing' have, as Heidegger suggests, come to define being and drive 'out every other possibility of revealing being', how can they be escaped?26 How can other choices and alternatives be found and enacted? How is there any scope for agency and resistance in the face of them? Their social and discursive power -- one that aims to take up the entire space of the political -- needs to be respected and understood. However, we are far from powerless in the face of them. **The need is to critique dominant images of political being and dominant ways of securing that being at the same time**, and to act and choose such that we bring into the world a more sustainable, peaceful and non-violent global rule of the political. Friend and Enemy: Violent Ontologies of the Nation-State In his Politics Among Nations Hans Morgenthau stated that 'the national interest of a peace-loving nation can only be defined in terms of national security, which is the irreducible minimum that diplomacy must defend with adequate power and without compromise'. While Morgenthau defined security relatively narrowly -- as the 'integrity of the national territory and its institutions' -- in a context where security was in practice defined expansively, as synonymous with a state's broadest geopolitical and economic 'interests', what was revealing about his formulation was not merely the ontological centrality it had, but the sense of urgency and priority he accorded to it: it must be defended 'without compromise'.27 Morgenthau was a thoughtful and complex thinker, and understood well the complexities and dangers of using armed force. However his formulation reflected an influential view about the significance of the political good termed 'security'. When this is combined with the way in which security was conceived in modern political thought as an existential condition -- a sine qua non of life and sovereign political existence -- and then married to war and instrumental action, it provides a basic underpinning for either the limitless resort to strategic violence without effective constraint, or the perseverance of limited war (with its inherent tendencies to escalation) as a permanent feature of politics. While he was no militarist, Morgenthau did say elsewhere (in, of all places, a far-reaching critique of nuclear strategy) that the 'quantitative and qualitative competition for conventional weapons is a rational instrument of international politics'.28 The conceptual template for such an image of national security state can be found in the work of Thomas Hobbes, with his influential conception of the political community as a tight unity of sovereign and people in which their bodies meld with his own to form a 'Leviathan', and which must be defended from enemies within and without. His image of effective security and sovereignty was one that was intolerant of internal difference and dissent, legitimating a strong state with coercive and exceptional powers to preserve order and sameness. This was a vision not merely of political order but of existential identity, set off against a range of existential others who were sources of threat, backwardness, instability or incongruity.29 It also, in a way set out with frightening clarity by the theorist Carl Schmitt and the philosopher Georg Hegel, exchanged internal unity, identity and harmony for permanent alienation from other such communities (states). Hegel presaged Schmitt's thought with his argument that individuality and the state are single moments of 'mind in its freedom' which 'has an infinitely negative relation to itself, and hence its essential character from its own point of view is its singleness': Individuality is awareness of one's existence as a unit in sharp distinction from others. It manifests itself here in the state as a relation to other states, each of which is autonomous vis-a-vis the others...this negative relation of the state to itself is embodied in the world as the relation of one state to another and as if the negative were something external.30 Schmitt is important both for understanding the way in which such alienation is seen as a definitive way of imagining and limiting political communities, and for understanding how such a rigid delineation is linked to the inevitability and perpetuation of war. Schmitt argued that the existence of a state 'presupposes the political', which must be understood through 'the specific political distinction...between friend and enemy'. The enemy is 'the other, the stranger; and it sufficient for his nature that he is, in a specially intense way, existentially something different and alien, so that in an extreme case conflicts with him are possible'.31 The figure of the enemy is constitutive of the state as 'the specific entity of a people'.32 Without it society is not political and a people cannot be said to exist: Only the actual participants can correctly recognise, understand and judge the concrete situation and settle the extreme case of conflict...to judge whether the adversary intends to negate his opponent's way of life and therefore must be repulsed or fought in order to preserve one's own form of existence.33 Schmitt links this stark ontology to war when he states that the political is only authentic 'when a fighting collectivity of people confronts a similar collectivity. The enemy is solely the public enemy, because everything that has a relationship to such a collectivity of men, particularly to the whole nation, becomes public by virtue of such a relationship...in its entirety the state as an organised political entity decides for itself the friend-enemy distinction'.34 War, in short, is an existential condition: the entire life of a human being is a struggle and every human being is symbolically a combatant. The friend, enemy and combat concepts receive their real meaning precisely because they refer to the real possibility of physical killing. War follows from enmity. War is the existential negation of the enemy.35 Schmitt claims that his theory is not biased towards war as a choice ('It is by no means as though the political signifies nothing but devastating war and every political deed a military action...it neither favours war nor militarism, neither imperialism nor pacifism') but it is hard to accept his caveat at face value.36 When such a theory takes the form of a social discourse (which it does in a general form) such an ontology can only support, as a kind of originary ground, the basic Clausewitzian assumption that war can be a rational way of resolving political conflicts -- because the import of Schmitt's argument is that such 'political' conflicts are ultimately expressed through the possibility of war. As he says: 'to the enemy concept belongs the ever-present possibility of combat'.37 Where Schmitt meets Clausewitz, as I explain further below, the existential and rationalistic ontologies of war join into a closed circle of mutual support and justification. This closed circle of existential and strategic reason generates a number of dangers. Firstly, the emergence of conflict can generate military action almost automatically simply because the world is conceived in **terms of the distinction between friend and enemy**; because **the very existence of the other constitutes an unacceptable threat**, rather than a chain of actions, judgements and decisions. (As the Israelis insisted of Hezbollah, they 'deny our right to exist'.) **This effaces agency, causality and responsibility from policy and political discourse: our actions can be conceived as independent of the conflict or quarantined from critical enquiry**, as necessities that achieve an instrumental purpose but do not contribute to a new and unpredictable causal chain. Similarly the Clausewitzian idea of force -- which, by transporting a Newtonian category from the natural into the social sciences, assumes the very effect it seeks -- further encourages the resort to military violence. **We ignore the complex history of a conflict, and thus the alternative paths to its resolution that such historical analysis might provide, by portraying conflict as fundamental and existential in nature; as possibly containable or exploitable, but always irresolvable**. Dominant portrayals of the war on terror, and the Israeli-Arab conflict, are arguably examples of such ontologies in action. Secondly, the militaristic force of such an ontology is visible, in Schmitt, in the absolute sense of vulnerability whereby a people can judge whether their 'adversary intends to negate his opponent's way of life'.38 Evoking the kind of thinking that would become controversial in the Bush doctrine, Hegel similarly argues that: ...a state may regard its infinity and honour as at stake in each of its concerns, however minute, and it is all the more inclined to susceptibility to injury the more its strong individuality is impelled as a result of long domestic peace to seek and create a sphere of activity abroad. ....the state is in essence mind and therefore cannot be prepared to stop at just taking notice of an injury after it has actually occurred. On the contrary, there arises in addition as a cause of strife the idea of such an injury...39 **Identity**, even more than physical security or autonomy, is put at stake in such thinking and can be defended and redeemed through warfare (or, when taken to a further extreme of an absolute demonisation and dehumanisation of the other, by mass killing, 'ethnic cleansing' or genocide). However anathema to a classical realist like Morgenthau, for whom prudence was a core political virtue, these have been influential ways of defining national security and defence during the twentieth century and persists into the twenty-first. They infused Cold War strategy in the United States (with the key policy document NSC68 stating that 'the Soviet-led assault on free institutions is worldwide now, and ... a defeat of free institutions anywhere is a defeat everywhere')40 and frames dominant Western responses to the threat posed by Al Qaeda and like groups (as Tony Blair admitted in 2006, 'We could have chosen security as the battleground. But we didn't. We chose values.')41 It has also become influential, in a particularly tragic and destructive way, in Israel, where memories of the Holocaust and (all too common) statements by Muslim and Arab leaders rejecting Israel's existence are mobilised by conservatives to justify military adventurism and a rejectionist policy towards the Palestinians. On the reverse side of such ontologies of national insecurity we find pride and hubris, the belief that martial preparedness and action are vital or healthy for the existence of a people. Clausewitz's thought is thoroughly imbued with this conviction. For example, his definition of war as an act of policy does not refer merely to the policy of cabinets, but expresses the objectives and will of peoples: When whole communities go to war -- whole peoples, and especially civilized peoples -- the reason always lies in some political situation and the occasion is always due to some political object. War, therefore, is an act of policy.42 Such a perspective prefigures Schmitt's definition of the 'political' (an earlier translation reads 'war, therefore, is a political act'), and thus creates an inherent tension between its tendency to fuel the escalation of conflict and Clausewitz's declared aim, in defining war as policy, to prevent war becoming 'a complete, untrammelled, absolute manifestation of violence'.43 Likewise his argument that war is a 'trinity' of people (the source of 'primordial violence, hatred and enmity'), the military (who manage the 'play of chance and probability') and government (which achieve war's 'subordination as an instrument of policy, which makes it subject to reason alone') merges the existential and rationalistic conceptions of war into a theoretical unity.44 The idea that national identities could be built and redeemed through war derived from the 'romantic counter-revolution' in philosophy which opposed the cosmopolitanism of Kant with an emphasis on the absolute state -- as expressed by Hegel's Philosophy of Right, Bismarkian Realpolitik and politicians like Wilhelm Von Humbolt. Humbolt, a Prussian minister of Education, wrote that war 'is one of the most wholesome manifestations that plays a role in the education of the human race', and urged the formation of a national army 'to inspire the citizen with the spirit of true war'. He stated that war 'alone gives the total structure the strength and the diversity without which facility would be weakness and unity would be void'.45 In the Phenomenology of Mind Hegel made similar arguments that to for individuals to find their essence 'Government has from time to time to shake them to the very centre by war'.46 The historian Azar Gat points to the similarity of Clausewitz's arguments that 'a people and a nation can hope for a strong position in the world only if national character and familiarity with war fortify each other by continual interaction' to Hegel's vision of the ethical good of war in his Philosophy of Right.47 Likewise Michael Shapiro sees Clausewitz and Hegel as alike in seeing war 'as an ontological investment in both individual and national completion...Clausewitz figures war as passionate ontological commitment rather than cool political reason...war is a major aspect of being.'48 Hegel's text argues that war is 'a work of freedom' in which 'the individual's substantive duty' merges with the 'independence and sovereignty of the state'.49 Through war, he argues, the ethical health of peoples is preserved in their indifference to the stabilization of finite institutions; just as the blowing of the winds preserves the sea from the foulness which would be the result of a prolonged calm, so the corruption in nations would be the product of a prolonged, let alone 'perpetual' peace.50 Hegel indeed argues that 'sacrifice on behalf of the individuality of the state is a substantial tie between the state and all its members and so is a universal duty...if the state as such, if its autonomy, is in jeopardy, all its citizens are duty bound to answer the summons to its defence'.51 Furthermore, this is not simply a duty, but a form of self-realisation in which the individual dissolves into the higher unity of the state: The intrinsic worth of courage as a disposition of mind is to be found in the genuine, absolute, final end, the sovereignty of the state. The work of courage is to actualise this end, and the means to this end is the sacrifice of personal actuality. This form of experience thus contains the harshness of extreme contradictions: a self-sacrifice which yet is the real existence of one's freedom; the maximum self-subsistence of individuality, yet only a cog playing its part in the mechanism of an external organisation; absolute obedience, renunciation of personal opinions and reasonings, in fact complete absence of mind, coupled with the most intense and comprehensive presence of mind and decision in the moment of acting; the most hostile and so most personal action against individuals, coupled with an attitude of complete indifference or even liking towards them as individuals.52 A more frank statement of the potentially lethal consequences of patriotism -- and its simultaneously physical and conceptual annihilation of the individual human being -- is rarely to be found, one that is repeated today in countless national discourses and the strategic world-view in general. (In contrast, one of Kant's fundamental objections to war was that it involved using men 'as mere machines or instruments'.53) Yet however bizarre and contradictory Hegel's argument, it constitutes a powerful social ontology: an apparently irrefutable discourse of being. It actualises the convergence of war and the social contract in the form of the national security state. Strategic Reason and Scientific Truth By itself, such an account of the nationalist ontology of war and security provides only a general insight into the perseverance of military violence as a core element of politics. It does not explain why so many policymakers think military violence works. As I argued earlier, such an ontology is married to a more rationalistic form of strategic thought that claims to link violent means to political ends predictably and controllably, and which, by doing so, combines military action and national purposes into a common -- and thoroughly modern -- horizon of certainty. Given Hegel's desire to decisively distil and control the dynamic potentials of modernity in thought, it is helpful to focus on the modernity of this ontology -- one that is modern in its adherence to modern scientific models of truth, reality and technological progress, and in its insistence on imposing images of scientific truth from the physical sciences (such as mathematics and physics) onto human behaviour, politics and society. For example, the military theorist and historian Martin van Creveld has argued that one of the reasons Clausewitz was so influential was that his 'ideas seemed to have chimed in with the rationalistic, scientific, and technological outlook associated with the industrial revolution'.54 Set into this epistemological matrix, modern politics and government engages in a sweeping project of mastery and control in which **all of the world's resources -- mineral, animal, physical, human -- are made part of a machinic process of which war and violence are viewed as normal features.** These are the deeper claims and implications of Clausewitzian strategic reason. One of the most revealing contemporary examples comes from the writings (and actions) of Henry Kissinger, a Harvard professor and later U.S. National Security Adviser and Secretary of State. He wrote during the Vietnam war that after 1945 U.S. foreign policy was based 'on the assumption that technology plus managerial skills gave us the ability to reshape the international system and to bring about domestic transformations in emerging countries'. This 'scientific revolution' had 'for all practical purposes, removed technical limits from the exercise of power in foreign policy'.55 Kissinger's conviction was based not merely in his pride in the vast military and bureaucratic apparatus of the United States, but in a particular epistemology (theory of knowledge). Kissinger asserted that the West is 'deeply committed to the notion that the real world is external to the observer, that knowledge consists of recording and classifying data -- the more accurately the better'. This, he claimed, has since the Renaissance set the West apart from an 'undeveloped' world that contains 'cultures that have escaped the early impact of Newtonian thinking' and remain wedded to the 'essentially pre-Newtonian view that the real world is almost entirely internal to the observer'.56 At the same time, Kissinger's hubris and hunger for control was beset by a corrosive anxiety: that, in an era of nuclear weapons proliferation and constant military modernisation, of geopolitical stalemate in Vietnam, and the emergence and militancy of new post-colonial states, order and mastery were harder to define and impose. He worried over the way 'military bipolarity' between the superpowers had 'encouraged political multipolarity', which 'does not guarantee stability. Rigidity is diminished, but so is manageability...equilibrium is difficult to achieve among states widely divergent in values, goals, expectations and previous experience' (emphasis added). He mourned that 'the greatest need of the contemporary international system is an agreed concept of order'.57 Here were the driving obsessions of the modern rational statesman based around a hunger for stasis and certainty that would entrench U.S. hegemony: For the two decades after 1945, our international activities were based on the assumption that technology plus managerial skills gave us the ability to reshape the international system and to bring about domestic transformations in "emerging countries". This direct "operational" concept of international order has proved too simple. Political multipolarity makes it impossible to impose an American design. Our deepest challenge will be to evoke the creativity of a pluralistic world, to base order on political multipolarity even though overwhelming military strength will remain with the two superpowers.58 Kissinger's statement revealed that such cravings for order and certainty continually confront chaos, resistance and uncertainty: clay that won't be worked, flesh that will not yield, enemies that refuse to surrender. This is one of the most powerful lessons of the Indochina wars, which were to continue in a phenomenally destructive fashion for six years after Kissinger wrote these words. Yet as his sinister, Orwellian exhortation to 'evoke the creativity of a pluralistic world' demonstrated, Kissinger's hubris was undiminished. **This is a vicious, historic irony: a desire to control nature, technology, society and human beings that is continually frustrated, but never abandoned or rethought**. By 1968 U.S. Secretary of Defense Robert McNamara, the rationalist policymaker par excellence, had already decided that U.S. power and technology could not prevail in Vietnam; Nixon and Kissinger's refusal to accept this conclusion, to abandon their Cartesian illusions, **was to condemn hundreds of thousands** **more to die** in Indochina and the people of Cambodia to two more decades of horror and misery.59 In 2003 there would be a powerful sense of déja vu as another Republican Administration crowned more than decade of failed and destructive policy on Iraq with a deeply controversial and divisive war to remove Saddam Hussein from power. In this struggle with the lessons of Vietnam, revolutionary resistance, and rapid geopolitical transformation, we are witness to an enduring political and cultural theme: of **a craving for order, control and certainty in the face of continual uncertainty**. Closely related to this anxiety was the way that Kissinger's thinking -- and that of McNamara and earlier imperialists like the British Governor of Egypt Cromer -- was embedded in instrumental images of technology and the machine: the machine as both a tool of power and an image of social and political order. In his essay 'The Government of Subject Races' Cromer envisaged effective imperial rule -- over numerous societies and billions of human beings -- as best achieved by a central authority working 'to ensure the harmonious working of the different parts of the machine'.60 Kissinger analogously invoked the virtues of 'equilibrium', 'manageability' and 'stability' yet, writing some six decades later, was anxious that technological progress no longer brought untroubled control: the Westernising 'spread of technology and its associated rationality...does not inevitably produce a similar concept of reality'.61 We sense the rational policymaker's frustrated desire: the world is supposed to work like a machine, ordered by a form of power and governmental reason which deploys machines and whose desires and processes are meant to run along ordered, rational lines like a machine. Kissinger's desire was little different from that of Cromer who, wrote Edward Said: ...envisions a seat of power in the West and radiating out from it towards the East a great embracing machine, sustaining the central authority yet commanded by it. What the machine's branches feed into it from the East -- human material, material wealth, knowledge, what have you -- is processed by the machine, then converted into more power...the immediate translation of mere Oriental matter into useful substance.62 This desire for order in the shadow of chaos and uncertainty -- the constant war with an intractable and volatile matter -- has **deep roots in modern thought**, and was a major impetus to the development of technological reason and its supporting theories of knowledge. As Kissinger's claims about the West's Newtonian desire for the 'accurate' gathering and classification of 'data' suggest, modern strategy, foreign policy and Realpolitik have been thrust deep into the apparently stable soil of natural science, in the hope of finding immovable and unchallengeable roots there. While this process has origins in ancient Judaic and Greek thought, it crystallised in philosophical terms most powerfully during and after the Renaissance. The key figures in this process were Francis Bacon, Galileo, Isaac Newton, and René Descartes, who all combined a hunger for political and ontological certainty, a positivist epistemology and a naïve faith in the goodness of invention. Bacon sought to create certainty and order, and with it a new human power over the world, through a new empirical methodology based on a harmonious combination of experiment, the senses and the understanding. With this method, he argued, we can 'derive hope from a purer alliance of the faculties (the experimental and rational) than has yet been attempted'.63 In a similar move, Descartes sought to conjure certainty from uncertainty through the application of a new method that moved progressively out from a few basic certainties (the existence of God, the certitude of individual consciousness and a divinely granted faculty of judgement) in a search for pure fixed truths. Mathematics formed the ideal image of this method, with its strict logical reasoning, its quantifiable results and its uncanny insights into the hidden structure of the cosmos.64 Earlier, Galileo had argued that scientists should privilege 'objective', quantifiable qualities over 'merely perceptible' ones; that 'only by means of an exclusively quantitative analysis could science attain certain knowledge of the world'.65 Such doctrines of mathematically verifiable truth were to have powerful echoes in the 20th Century, in the ascendancy of systems analysis, game theory, cybernetics and computing in defense policy and strategic decisions, and in the awesome scientific breakthroughs of nuclear physics, which unlocked the innermost secrets of matter and energy and applied the most advanced applications of mathematics and computing to create the atomic bomb. Yet this new scientific power was marked by a terrible irony: as even Morgenthau understood, the control over matter afforded by the science could never be translated into the control of the weapons themselves, into political utility and rational strategy.66 Bacon thought of the new scientific method not merely as way of achieving a purer access to truth and epistemological certainty, but as liberating a new power that would enable the creation of a new kind of Man. He opened the Novum Organum with the statement that 'knowledge and human power are synonymous', and later wrote of his 'determination...to lay a firmer foundation, and extend to a greater distance the boundaries of human power and dignity'.67 In a revealing and highly negative comparison between 'men's lives in the most polished countries of Europe and in any wild and barbarous region of the new Indies' -- one that echoes in advance Kissinger's distinction between post-and pre-Newtonian cultures -- Bacon set out what was at stake in the advancement of empirical science: anyone making this comparison, he remarked, 'will think it so great, that man may be said to be a god unto man'.68 We may be forgiven for blinking, but in Bacon's thought 'man' was indeed in the process of stealing a new fire from the heavens and seizing God's power over the world for itself. Not only would the new empirical science lead to 'an improvement of mankind's estate, and an increase in their power over nature', but would reverse the primordial humiliation of the Fall of Adam: For man, by the fall, lost at once his state of innocence, and his empire over creation, both of which can be partially recovered even in this life, the first by religion and faith, the second by the arts and sciences. For creation did not become entirely and utterly rebellious by the curse, but in consequence of the Divine decree, 'in the sweat of thy brow thou shalt eat bread'; she is now compelled by our labours (not assuredly by our disputes or magical ceremonies) at length to afford mankind in some degree his bread...69 There is a breathtaking, world-creating hubris in this statement -- one that, in many ways, came to characterise western modernity itself, and which is easily recognisable in a generation of modern technocrats like Kissinger. The Fall of Adam was the Judeo-Christian West's primal creation myth, one that marked humankind as flawed and humbled before God, condemned to hardship and ambivalence. Bacon forecast here a return to Eden, but one of man's own making. This truly was the death of God, of putting man into God's place, and no pious appeals to the continuity or guidance of faith could disguise the awesome epistemological violence which now subordinated creation to man. Bacon indeed argued that inventions are 'new creations and imitations of divine works'. As such, there is nothing but good in science: 'the introduction of great inventions is the most distinguished of human actions...inventions are a blessing and a benefit without injuring or afflicting any'.70 And what would be mankind's 'bread', the rewards of its new 'empire over creation'? If the new method and invention brought modern medicine, social welfare, sanitation, communications, education and comfort, it also enabled the **Armenian genocide, the Holocaust and two world wars; napalm, the B52, the hydrogen bomb, the Kalashnikov rifle and military strategy**. Indeed some of the 20th Century's most far-reaching inventions -- radar, television, rocketry, computing, communications, jet aircraft, the Internet -- would be the product of drives for national security and militarisation. Even the inventions Bacon thought so marvellous and transformative -- printing, gunpowder and the compass -- brought in their wake upheaval and tragedy: printing, dogma and bureaucracy; gunpowder, the rifle and the artillery battery; navigation, slavery and the genocide of indigenous peoples. In short, the legacy of the new empirical science would be ambivalence as much as certainty; degradation as much as enlightenment; the destruction of nature as much as its utilisation. Doubts and Fears: Technology as Ontology If Bacon could not reasonably be expected to foresee many of these developments, the idea that scientific and technological progress could be destructive did occur to him. However it was an anxiety he summarily dismissed: ...let none be alarmed at the objection of the arts and sciences becoming depraved to malevolent or luxurious purposes and the like, for the same can be said of every worldly good; talent, courage, strength, beauty, riches, light itself...Only let mankind regain their rights over nature, assigned to them by the gift of God, and obtain that power, whose exercise will be governed by right reason and true religion.71 By the mid-Twentieth Century, after the destruction of Hiroshima and Nagasaki, such fears could no longer be so easily wished away, as the physicist and scientific director of the Manhattan Project, J. Robert Oppenheimer recognised. He said in a 1947 lecture: We felt a particularly intimate responsibility for suggesting, for supporting and in the end in large measure achieving the realization of atomic weapons...In some sort of crude sense which no vulgarity, no humor, no over-statement can quite extinguish, the physicists have known sin, and this is a knowledge they cannot lose.72 Adam had fallen once more, but into a world which refused to acknowledge its renewed intimacy with contingency and evil. Man's empire over creation -- his discovery of the innermost secrets of matter and energy, of the fires that fuelled the stars -- had not 'enhanced human power and dignity' as Bacon claimed, but instead brought destruction and horror. Scientific powers that had been consciously applied in the defence of life and in the hope of its betterment **now threatened its total and absolute destruction**. This would not prevent a legion of scientists, soldiers and national security policymakers later attempting to apply Bacon's faith in invention and Descartes' faith in mathematics to make of the Bomb a rational weapon. Oppenheimer -- who resolutely opposed the development of the hydrogen bomb -- understood what the strategists could not: that the weapons resisted control, resisted utility, that 'with the release of atomic energy quite revolutionary changes had occurred in the techniques of warfare'.73 Yet Bacon's legacy, one deeply imprinted on the strategists, was his view that truth and utility are 'perfectly identical'.74 In 1947 Oppenheimer had clung to the hope that 'knowledge is good...it seems hard to live any other way than thinking it was better to know something than not to know it; and the more you know, the better'; by 1960 he felt that 'terror attaches to new knowledge. It has an unmooring quality; it finds men unprepared to deal with it.'75 Martin Heidegger questioned this mapping of natural science onto the social world in his essays on technology -- which, as 'machine', has been so crucial to modern strategic and geopolitical thought as an image of perfect function and order and a powerful tool of intervention. He commented that, given that modern technology 'employs exact physical science...the deceptive illusion arises that modern technology is applied physical science'.76 Yet as the essays and speeches of Oppenheimer attest, technology and its relation to science, society and war cannot be reduced to a noiseless series of translations of science for politics, knowledge for force, or force for good. Instead, Oppenheimer saw a process frustrated by roadblocks and ruptured by irony; in his view there was no smooth, unproblematic translation of scientific truth into social truth, and technology was not its vehicle. Rather his comments raise profound and painful ethical questions that resonate with terror and uncertainty. Yet this has not prevented technology becoming a potent object of desire, not merely as an instrument of power but as a promise and conduit of certainty itself. In the minds of too many rational soldiers, strategists and policymakers, technology brings with it the truth of its enabling science and spreads it over the world. It turns epistemological certainty into political certainty; it turns control over 'facts' into control over the earth. Heidegger's insights into this phenomena I find especially telling and disturbing -- because they underline the ontological force of the instrumental view of politics. In The Question Concerning Technology, Heidegger's striking argument was that in the modernising West technology is not merely a tool, a 'means to an end'. Rather **technology has become a governing image of the modern universe, one that has come to order, limit and define human existence as a 'calculable coherence of forces' and a 'standing reserve' of energy**. Heidegger wrote: 'the threat to man does not come in the first instance from the potentially lethal machines and apparatus of technology. The actual threat has already affected man in his essence.'77 This process Heidegger calls 'Enframing' and through it the scientific mind **demands that 'nature reports itself** in some way or other that is identifiable through calculation and remains orderable as a system of information'. Man is not a being who makes and uses machines as means, choosing and limiting their impact on the world for his ends; rather man has imagined the world as a machine and humanity everywhere becomes **trapped within its logic**. Man, he writes, 'comes to the very brink of a precipitous fall...where **he himself will have to be taken as standing-reserve**. Meanwhile Man, precisely as the one so threatened, exalts himself to the posture of lord of the earth.'78 Technological man not only becomes the name for a project of lordship and mastery over the earth, but incorporates humanity within this project as a calculable resource. **In strategy, warfare and geopolitics human bodies, actions and aspirations are caught, transformed and perverted by such calculating, enframing reason: human lives are reduced to tools, obstacles, useful or obstinate matter.** This tells us much about the enduring power of crude instrumental versions of strategic thought, which relate not merely to the actual use of force but to broader geopolitical strategies that see, as limited war theorists like Robert Osgood did, force as an 'instrument of policy short of war'. It was from within this strategic ontology that figures like the Nobel prize-winning economist Thomas Schelling theorised the strategic role of threats and coercive diplomacy, and spoke of strategy as 'the power to hurt'.79 In the 2006 Lebanon war we can see such thinking in the remark of a U.S. analyst, a former Ambassador to Israel and Syria, who speculated that by targeting civilians and infrastructure Israel aimed 'to create enough pain on the ground so there would be a local political reaction to Hezbollah's adventurism'.80 Similarly a retired Israeli army colonel told the Washington Post that 'Israel is attempting to create a rift between the Lebanese population and Hezbollah supporters by exacting a heavy price from the elite in Beirut. The message is: If you want your air conditioning to work and if you want to be able to fly to Paris for shopping, you must pull your head out of the sand and take action toward shutting down Hezbollah-land.'81 Conclusion: Violent Ontologies or Peaceful Choices? I was motivated to begin the larger project from which this essay derives by a number of concerns. I felt that the available critical, interpretive or performative languages of war -- realist and liberal international relations theories, just war theories, and various Clausewitzian derivations of strategy -- failed us, because they either perform or refuse to **place under suspicion the underlying political ontologies** that I have sought to unmask and question here. Many realists have quite nuanced and critical attitudes to the use of force, but ultimately affirm strategic thought and remain embedded within the existential framework of the nation-state. Both liberal internationalist and just war doctrines seek mainly to improve the accountability of decision-making in security affairs and to limit some of the worst moral enormities of war, but (apart from the more radical versions of cosmopolitanism) they fail to question the ontological claims of political community or strategic theory.82 In the case of a theorist like Jean Bethke Elshtain, just war doctrine is in fact allied to a softer, liberalised form of the Hegelian-Schmittian ontology. She dismisses Kant's Perpetual Peace as 'a fantasy of at-oneness...a world in which differences have all been rubbed off' and in which 'politics, which is the way human beings have devised for dealing with their differences, gets eliminated.'83 She remains a committed liberal democrat and espouses a moral community that stretches beyond the nation-state, which strongly contrasts with Schmitt's hostility to liberalism and his claustrophobic distinction between friend and enemy. However her image of politics -- which at its limits, she implies, requires the resort to war as the only existentially satisfying way of resolving deep-seated conflicts -- reflects much of Schmitt's idea of the political and Hegel's ontology of a fundamentally alienated world of nation-states, in which war is a performance of being. She categorically states that any effort to dismantle security dilemmas 'also requires the dismantling of human beings as we know them'.84 Whilst this would not be true of all just war advocates, I suspect that even as they are so concerned with the ought, moral theories of violence grant too much unquestioned power to the is. The problem here lies with the confidence in being -- of 'human beings as we know them' -- which ultimately fails to escape a Schmittian architecture and thus eternally exacerbates (indeed **reifies) antagonisms**. Yet we know from the work of Deleuze and especially William Connolly that **exchanging an ontology of being for one of becoming**, where the boundaries and nature of the self contain new possibilities through agonistic relation to others, provides a less destructive and violent way of acknowledging and dealing with conflict and difference.85 My argument here, whilst normatively sympathetic to Kant's moral demand for the eventual abolition of war, militates against excessive optimism.86 Even as I am arguing that war is not an enduring historical or anthropological feature, or a neutral and rational instrument of policy -- that it is rather the product of **hegemonic forms of knowledge** about political action and community -- my analysis does suggest some sobering conclusions about its power as an idea and formation. Neither the progressive flow of history nor the pacific tendencies of an international society of republican states will save us. The violent ontologies I have described here in fact dominate the conceptual and policy frameworks of modern republican states and have come, against everything Kant hoped for, to stand in for progress, modernity and reason. Indeed what Heidegger argues, I think with some credibility, is that the enframing world view has come to stand in for being itself. Enframing, argues Heidegger, 'does not simply endanger man in his relationship to himself and to everything that is...it **drives out every other possibility of revealing**...the rule of Enframing threatens man with the possibility that it could be denied to him to enter into a more original revealing and hence to experience the call of a more primal truth.'87 What I take from Heidegger's argument -- one that I have sought to extend by analysing the militaristic power of modern ontologies of political existence and security -- is a view that the challenge is posed not merely by a few varieties of weapon, government, technology or policy, but **by an overarching system of thinking and understanding that lays claim to our entire space of truth and existence**. Many of the most destructive features of contemporary modernity -- militarism, repression, coercive diplomacy, covert intervention, geopolitics, economic exploitation and ecological destruction -- derive not merely from particular choices by policymakers based on their particular interests, but from **calculative, 'empirical' discourses of scientific and political truth rooted in powerful enlightenment images of being. Confined within such an epistemological and cultural universe, policymakers' choices become necessities, their actions become inevitabilities, and humans suffer and die**. Viewed in this light, 'rationality' is the name we give the chain of reasoning which builds one structure of truth on another until a course of action, however violent or dangerous, becomes preordained through that reasoning's very operation and existence. It creates both discursive constraints -- available choices may simply not be seen as credible or legitimate -- and material constraints that derive from the mutually reinforcing cascade of discourses and events which then **preordain militarism and violence as necessary policy responses**, however ineffective, dysfunctional or chaotic. The force of my own and Heidegger's analysis does, admittedly, tend towards a deterministic fatalism. On my part this is quite deliberate; it is important to allow this possible conclusion to weigh on us. Large sections of modern societies -- especially parts of the media, political leaderships and national security institutions -- are utterly trapped within the Clausewitzian paradigm, within the instrumental utilitarianism of 'enframing' and the stark ontology of the friend and enemy. They are certainly tremendously aggressive and energetic in continually stating and reinstating its force. But is there a way out? Is there no possibility of agency and choice? Is this not the key normative problem I raised at the outset, of how the modern ontologies of war efface agency, causality and responsibility from decision making; the responsibility that comes with having choices and making decisions, with exercising power? (In this I am much closer to Connolly than Foucault, in Connolly's insistence that, even in the face of the anonymous power of discourse to produce and limit subjects, selves remain capable of agency and thus incur responsibilities.88) There seems no point in following Heidegger in seeking a more 'primal truth' of being -- that is to reinstate ontology and obscure its worldly manifestations and consequences from critique. However we can, while refusing Heidegger's unworldly89 nostalgia, appreciate that he was searching for a way out of the modern system of calculation; that he was searching for **a 'questioning', 'free relationship' to technology that would not be immediately recaptured by the strategic, calculating vision of enframing**. Yet his path out is somewhat chimerical -- his faith in 'art' and the older Greek attitudes of 'responsibility and indebtedness' offer us valuable clues to the kind of sensibility needed, but little more. When we consider the problem of policy, the force of this analysis suggests that choice and agency can be all too often limited; they can remain confined (sometimes quite wilfully) within the overarching strategic and security paradigms. Or, more hopefully, policy choices could aim to bring into being a more enduringly inclusive, cosmopolitan and peaceful logic of the political. But this **cannot be done without seizing alternatives from outside the space of enframing and utilitarian strategic thought**, by being aware of its presence and weight and activating a very different concept of existence, security and action.90 **This would seem to hinge upon 'questioning'** as such -- on the questions we put to the real and our efforts to create and act into it. Do security and strategic policies seek to exploit and direct humans as material, as energy, or do they seek to protect and enlarge human dignity and autonomy? Do they seek to impose by force an unjust status quo (as in Palestine), or to remove one injustice only to replace it with others (the U.S. in Iraq or Afghanistan), or do so at an unacceptable human, economic, and environmental price? Do we see our actions within an instrumental, amoral framework (of 'interests') and a linear chain of causes and effects (the idea of force), or do we see them as folding into a complex interplay of languages, norms, events and consequences which are less predictable and controllable?91 And most fundamentally: Are we seeking to coerce or persuade? Are less violent and more sustainable choices available? Will our actions perpetuate or help to end the global rule of insecurity and violence? Will our thought?

#### Reject the affirmative’s security discourse – this untimely intervention is the only chance for a counter-discourse

Calkivik 10 – PhD in Poli Sci @ Univ Minnesota (Emine Asli, 10/2010, "DISMANTLING SECURITY," PhD dissertation submitted to Univ Minnesota for Raymond Duvall, http://conservancy.umn.edu/bitstream/99479/1/Calkivik\_umn\_0130E\_11576.pdf)

It is this self-evidence of security even for critical approaches and the antinomy stemming from dissident voices reproducing the language of those they dissent from that constitutes the starting point for this chapter, where I elaborate on the meaning of dismantling security as untimely critique. As mentioned in the vignette in the opening section, the suggestion to dismantle security was itself deemed as an untimely pursuit in a world where lives of millions were rendered brutally insecure by poverty, violence, disease, and ongoing political conflicts. Colored by the tone of a call to conscience in the face of the ongoing crisis of security, it was not the time, interlocutors argued, for self-indulgent critique. I will argue that it is the element of being untimely, the effort, in the words of Walter Benjamin, “to brush history against the grain” that gives critical thinking its power.291 It might appear as a trivial discussion to bring up the relation between time and critique because conceptions of critical thinking in the discipline of International Relations already possess the notion that critical thought needs to be untimely. In the first section, I will tease out what this notion of untimeliness entails by visiting ongoing conversations within the discipline about critical thought and political time. Through this discussion, I hope to clarify what sets apart dismantling security as untimely critique from the notion of untimeliness at work in critical international relations theory. The latter conception of the untimely, I will suggest, paradoxically calls on critical thought to be “on time” in that it champions a particular understanding of what it means for critical scholarship to be relevant and responsible for its times. This notion of the untimely demands that critique be strategic and respond to political exigency, that it provide answers in this light instead of raising more questions about which questions could be raised or what presuppositions underlie the questions that are deemed to be waiting for answers. After elaborating in the first section such strategic conceptions of the untimeliness of critical theorizing, in the second section I will turn to a different sense of the untimely by drawing upon Wendy Brown’s discussion of the relation between critique, crisis, and political time through her reading of Benjamin’s “Theses on the Philosophy of History.”292 In contrast to a notion of untimeliness that demands strategic thinking and punctuality, Brown’s exegesis provides a conception of historical materialism where critique is figured as a force of disruption, a form of intervention that reconfigures the meaning of the times and “contest[s] the very senses of time invoked to declare critique ‘untimely’.”293 Her exposition overturns the view of critique as a self-indulgent practice as it highlights the immediately political nature of critique and reconfigures the meaning of what it means for critical thought to be relevant.294 It is in this sense of the untimely, I will suggest, that dismantling security as a critique hopes to recover. I should point out that in this discussion my intention is neither to construct a theory of critique nor to provide an exhaustive review and evaluation of the forms of critical theorizing in International Relations. Rather, my aim is to contribute to the existing efforts that engage with the question of what it means to be critical apart from drawing the epistemological and methodological boundaries so as to think about how one is critical.295 While I do not deny the importance of epistemological questions, I contend that taking time to think about the meaning of critique beyond these issues presents itself as an important task. This task takes on additional importance within the context of security studies where any realm of investigation quickly begets its critical counterpart. The rapid emergence and institutionalization of critical terrorism studies when studies on terrorism were proliferating under the auspices of the so-called Global War on Terror provides a striking example to this trend. 296 Such instances are important reminders that, to the extent that epistemology and methodology are reified as the sole concerns in defining and assessing critical thinking297 or “wrong headed refusals”298 to get on with positive projects and empirical research gets branded as debilitating for critical projects, what is erased from sight is the political nature of the questions asked and what is lost is the chance to reflect upon what it means for critical thinking to respond to its times. In his meditation on the meaning of responding and the sense of responsibility entailed by writing, Jean-Luc Nancy suggests that “all writing is ‘committed.’” 299 This notion of commitment diverges from the programmatic sense of committed writing. What underlies this conception is an understanding of writing as responding: writing is a response to the voice of an other.In Nancy’s words, “[w]hoever writes responds” 300 and “makes himself responsible to in the absolute sense.”301 Suggesting that there is always an ethical commitment prior to any particular political commitment, such a notion of writing contests the notion of creative autonomy premised on the idea of a free, self-legislating subject who responds. In other words, it discredits the idea of an original voice by suggesting that there is no voice that is not a response to a prior response. Hence, to respond is configured as responding to an expectation rather than as an answer to a question and responsibility is cast as an “anticipated response to questions, to demands, to still-unformulated, not exactly predictable expectations.”302 Echoing Nancy, David Campbell makes an important reminder as he suggests that as international relations scholars “we are always already engaged,” although the sites, mechanisms and quality of engagements might vary.303 The question, then, is not whether as scholars we are engaged or not, but what the nature of this engagement is. Such a re-framing of the question is intended to highlight the political nature of all interpretation and the importance of developing an “ethos of political criticism that is concerned with assumptions, limits, their historical production, social and political effects, and the possibility of going beyond them in thought and action.”304 Taking as its object assumptions and limits, their historical production and social and political effects places the relevancy of critical thought and responsibility of critical scholarship on new ground. It is this ethos of critique that dismantling security hopes to recover for a discipline where security operates as the foundational principle and where critical thinking keeps on contributing to security’s impressing itself as a self-evident condition. Critical Theory and Punctuality Within the context of International Relations, critical thought’s orientation toward its time comes out strongly in Kimberley Hutchings’s formulation.305 According to Hutchings, no matter what form it takes, what distinguishes critical international relations theory from other forms of theorizing is “its orientation towards change and the possibility of futures that do not reproduce the hegemonic power of the present.”306 What this implies about the nature of critical thought is that it needs to be not only diagnostic, but also self-reflexive. In the words of Hutchings, “all critical theories lay claim to some kind of account not only of the present of international politics and its relation to possible futures, but also of the role of critical theory in the present and future in international politics.” 307 Not only analyzing the present, but also introducing the question of the future into analysis places political time at the center of critical enterprise and makes the problem of change a core concern. It is this question of change that situates different forms of critical thinking on a shared ground since they all attempt to expose the way in which what is presented as given and natural is historically produced and hence open to change. With their orientation to change, their efforts to go against the dominant currents and challenge the hegemony of existing power relations by showing how contemporary practices and discourses contribute to the perpetuation of structures of power and domination, critical theorists in general and critical security studies specialists in particular take on an untimely endeavor. It is this understanding of the untimely aspect of critical thinking that is emphasized by Mark Neufeld, who regards the development of critical approaches to security as “one of the more hopeful intellectual developments in recent years.”308 Despite nurturing from different theoretical traditions and therefore harboring “fundamental differences between modernist and postmodernist commitments,” writes Neufeld, scholars who are involved in the critical project nevertheless “share a common concern with calling into question ‘prevailing social and power relationships and the institutions into which they are organized.’” 309 The desire for change—through being untimely and making the way to alternative futures that would no longer resemble the present—have led some scholars to emphasize the utopian element that must accompany all critical thinking. Quoting Oscar Wilde’s aphorism—a map of the world that does not include Utopia is not even worth glancing at, Ken Booth argues for the need to restore the role and reputation of utopianism in the theory and practice of international politics. 310 According to Booth, what goes under the banner of realism—“ethnocentric self-interest writ large”311 — falls far beyond the realities of a drastically changed world political landscape at the end of the Cold War. He describes the new reality as “an egg-box containing the shells of sovereignty; but alongside it a global community omelette [sic] is cooking.”312 Rather than insisting on the inescapability of war in the international system as political realists argue, Booth argues for the need and possibility to work toward the utopia of overcoming the condition of war by banking on the opportunities provided by a globalizing world. The point that critical thought needs to be untimely by going against its time is also emphasized by Dunne and Wheeler, who assert that, regardless of the form it takes, “critical theory purport[s] to ‘think against’ the prevailing current” and that “[c]ritical security studies is no exception” to this enterprise.313 According to the authors, the function of critical approaches to security is to problematize what is taken for granted in the disciplinary production of knowledge about security by “resist[ing], transcend[ing] and defeat[ing]…theories of security, which take for granted who is to be secured (the state), how security is to be achieved (by defending core ‘national’ values, forcibly if necessary) and from whom security is needed (the enemy).”314 While critical theory in this way is figured as untimely, I want to suggest that this notion of untimeliness gets construed paradoxically in a quite timely fashion. With a perceived disjuncture between writing the world from within a discipline and acting in it placed at the center of the debates, the performance of critical thought gets evaluated to the extent that it is punctual and in synch with the times. Does critical thought provide concrete guidance and prescribe what is to be done? Can it move beyond mere talk and make timely political interventions by providing solutions? Does it have answers to the strategic questions of progressive movements? Demanding that critical theorizing come clean in the court of these questions, such conceptions of the untimely demand that critique respond to its times in a responsible way, where being responsible is understood in stark contrast to a notion of responding and responsibility that I briefly discussed in the introductory pages of this chapter (through the works of Jean-Luc Nancy and David Campbell). Let me visit two recent conversations ensuing from the declarations of the contemporary crisis of critical theorizing in order to clarify what I mean by a timely understanding of untimely critique. The first conversation was published as a special issue in the Review of International Studies (RIS), one of the major journals of the field. Prominent figures took the 25th anniversary of the journal’s publication of two key texts—regarded as canonical for the launching and development of critical theorizing in International Relations—as an opportunity to reflect upon and assess the impact of critical theory in the discipline and interrogate what its future might be. 315 The texts in question, which are depicted as having shaken the premises of the static world of the discipline, are Robert Cox’s 1981 essay entitled on “Social Forces, States, and World Orders”316 and Richard Ashley’s article, “Political Realism and Human Interests.”317 In their introductory essay to the issue, Rengger and Thirkell-White suggest that the essays by Cox and Ashley—followed by Andrew Linklater’s Men and Citizens in the Theory of International Relations318 —represent “the breach in the dyke” of the three dominant discourses in International Relations (i.e., positivists, English School, and Marxism), unleashing “a torrent [that would] soon become a flood” as variety of theoretical approaches in contemporary social theory (i.e., feminism, Neo-Gramscianism, poststructuralism, and post-colonialism) would get introduced through the works of critical scholars.319 After elaborating the various responses given to and resistance raised against the critical project in the discipline, the authors provide an overview and an assessment of the current state of critical theorizing in International Relations. They argue that the central question for much of the ongoing debate within the critical camp in its present state—a question that it cannot help but come to terms with and provide a response to—concerns the relation between critical thought and political practice. As they state, the “fundamental philosophical question [that] can no longer be sidestepped” by critical International Relations theory is the question of the relation between “knowledge of the world and action in it.”320 One of the points alluded to in the essay is that forms of critical theorizing, which leave the future “to contingency, uncertainty and the multiplicity of political projects” and therefore provide “less guidance for concrete political action”321 or, again, those that problematize underlying assumptions of thought and “say little about the potential political agency that might be involved in any subsequent struggles”322 may render the critical enterprise impotent and perhaps even suspect. This point comes out clearly in Craig Murphy’s contribution to the collection of essays in the RIS’s special issue. 323 Echoing William Wallace’s argument that critical theorists tend to be “monks,”324 who have little to offer for political actors engaged in real world politics, Murphy argues that the promise of critical theory is “partially kept” because of the limited influence it has had outside the academy towards changing the world.Building a different world, he suggests, requires more than isolated academic talk; that it demands not merely “words,” but “deeds.”325 This, according to Murphy, requires providing “knowledge that contributes to change.”326 Such knowledge would emanate from connections with the marginalized and would incorporate observations of actors in their everyday practices. More importantly, it would create an inspiring vision for social movements, such as the one provided by the concept of human development, which, according to Murphy, was especially powerful “because it embodied a value-oriented way of seeing, a vision, rather than only isolated observations.”327 In sum, if critical theory is to retain its critical edge, Murphy’s discussion suggests, it has to be in synch with political time and respond to its immediate demands. The second debate that is revelatory of this conception of the timing of critical theory—i.e., that critical thinking be strategic and efficient in relation to political time—takes place in relation to the contemporary in/security environment shaped by the so-called Global War on Terror. The theme that bears its mark on these debates is the extent to which critical inquiries about the contemporary security landscape become complicit in the workings of power and what critique can offer to render the world more legible for progressive struggles.328 For instance, warning critical theorists against being co-opted by or aligned with belligerence and war-mongering, Richard Devetak asserts that critical international theory has an urgent “need to distinguish its position all the more clearly from liberal imperialism.”329 While scholars such as Devetak, Booth,330 and Fierke331 take the critical task to be an attempt to rescue liberal internationalism from turning into liberal imperialism, others announce the “crisis of critical theorizing” and suggest that critical writings on the nature of the contemporary security order lack the resources to grasp their actual limitations, where the latter is said to reside not in the realm of academic debate, but in the realm of political practice.332 It is amidst these debates on critique, crisis, and political time that Richard Beardsworth raises the question of the future of critical philosophy in the face of the challenges posed by contemporary world politics.333 Recounting these challenges, he provides the matrix for a proper form of critical inquiry that could come to terms with “[o]ur historical actuality.”334 He describes this actuality as the “thick context” of modernity (“an epoch, delimited by the capitalization of social relations,” which imposes its own philosophical problematic—“that is, the attempt, following the social consequences of capitalism, to articulate the relation between individuality and collective spirit”335 ), American unilateralism in the aftermath of the attacks on September 11, 2001, and the growing political disempowerment of people worldwide. Arguing that “contemporary return of religion and new forms of irrationalism emerge, in large part, out of the failure of the second response of modernity to provide a secular solution to the inequalities of the nation-state and colonization,”336 he formulates the awaiting political task for critical endeavors as constructing a world polity to resist the disintegration of the world under the force of capital.It is with this goal in mind that he suggests that “responsible scholarship needs to rescue reason in the face irrational war”337 and that intellectuals need to provide “the framework for a world ethical community of law, endowed with political mechanisms of implementation in the context of a regulated planetary economy.”338 He suggests that an aporetic form of thinking such as Jacques Derrida’s—a thinking that “ignores the affirmative relation between the determining powers of reason and history”339 —would be an unhelpful resource because such thinking “does not open up to where work needs to be done for these new forms of polity to emerge.”340 In other words, critical thinking, according to Beardsworth, needs to articulate and point out possible political avenues and to orient thought and action in concrete ways so as to contribute to progressive political change rather than dwelling on the encounter of the incalculable and calculation and im-possibility of world democracy in a Derridean fashion. In similar ways to the first debate on critique that I discussed, critical thinking is once again called upon to respond to political time in a strategic and efficient manner. As critical inquiry gets summoned up to the court of reason in Beardsworth’s account, its realm of engagement is limited to that which the light of reason can be shed upon, and its politics is confined to mapping out the achievable and the doable in a given historical context without questioning or disrupting the limits of what is presented as “realistic” choices. Hence, if untimely critical thought is to be meaningful it has to be on time by responding to political exigency in a practical, efficient, and strategic manner. In contrast to this prevalent form of understanding the untimeliness of critical theory, I will now turn to a different account of the untimely provided by Wendy Brown whose work informs the project of dismantling security as untimely critique. Drawing from her discussion of the relationship between critique, crisis, and political time, I will suggest that untimely critique of security entails, simultaneously, an attunement to the times and an aggressive violation of their self-conception. It is in this different sense of the untimely that the suggestion of dismantling security needs to be situated. Critique and Political Time As I suggested in the Prelude to this chapter, elevating security itself to the position of major protagonist and extending a call to “dismantle security” was itself declared to be an untimely pursuit in a time depicted as the time of crisis in security. Such a declaration stood as an exemplary moment (not in the sense of illustration or allegory, but as a moment of crystallization) for disciplinary prohibitions to think and act otherwise—perhaps the moment when a doxa exhibits its most powerful hold. Hence, what is first needed is to overturn the taken-for-granted relations between crisis, timeliness, and critique. The roots krisis and kritik can be traced back to the Greek word krinõ, which meant “to separate”, to “choose,” to “judge,” to “decide.”341 While creating a broad spectrum of meanings, it was intimately related to politics as it connoted a “divorce” or “quarrel,” but also a moment of decision and a turning point. It was also used as a jurisprudential term in the sense of making a decision, reaching a verdict or judgment (kritik) on an alleged disorder so as to provide a way to restore order. Rather than being separated into two domains of meaning—that of “subjective critique” and “objective crisis”—krisis and kritik were conceived as interlinked moments. Koselleck explains this conceptual fusion: [I]t wasin the sense of “judgment,” “trial,” “legal decision,” and ultimately “court” that crisis achieved a high constitutionalstatus, through which the individual citizen and the community were bound together. The “for and against” wastherefore present in the original meaning of the word and thisin a manner that already conceptually anticipated the appropriate judgment. 342 Recognition of an objective crisis and subjective judgments to be passed on it so as to come up with a formula for restoring the health of the polity by setting the times right were thereby infused and implicated in each other.343 Consequently, as Brown notes, there could be no such thing as “mere critique” or “untimely critique” because critique always entailed a concern with political time: “[C]ritique as political krisis promise[d] to restore continuity by repairing or renewing the justice that gives an order the prospect of continuity, that indeed ma[de] it continuous.”344 The breaking of this intimate link between krisis and kritik, the consequent depoliticization of critique and its sundering from crisis coincides with the rise of modern political order and redistribution of the public space into the binary structure of sovereign and subject, public and private.345 Failing to note the link between the critique it practiced and the looming political crisis, emerging philosophies of history, according Koselleck, had the effect of obfuscating this crisis. As he explains, “[n]ever politically grasped, [this political crisis] remained concealed in historico-philosophical images of the future which cause the day’s events to pale.”346 It is this intimate, but severed, link between crisis and critique in historical narratives that Wendy Brown’s discussion brings to the fore and re-problematizes. She turns to Walter Benjamin’s “Theses on the Philosophy of History” and challenges conventional understandings of historical materialism, which conceives of the present in terms of unfolding laws of history.347 According to Brown, the practice of critical theory appeals to a concern with time to the extent that “[t]he crisis that incites critique and that critique engages itself signals a rupture of temporal continuity, which is at the same time a rupture in political imaginary.”348 Cast in these terms, it is a particular experience with time, with the present, that Brown suggests Benjamin’s theses aim to capture. Rather than an unmoving or an automatically overcome present (a present that is out of time), the present is interpreted as an opening that calls for a response to it. This call for a response highlights the idea that, far from being a luxury, critique is non-optional in its nature. Such an understanding of critical thought is premised on a historical consciousness that grasps the present historically so as to break with the selfconception of the age. Untimely critique transforms into a technique to blow up the present through fracturing its apparent seamlessness by insisting on alternatives to its closed political and epistemological universe.349 Such a conception resonates with the distinction that Žižek makes between a political subjectivity that is confined to choosing between the existing alternatives—one that takes the limits of what is given as the limits to what is possible—and a form of subjectivity that creates the very set of alternatives by “transcend[ing] the coordinates of a given situation [and] ‘posit[ing] the presuppositions’ of one's activity” by redefining the very situation within which one is active.”350 With its attempt to grasp the times in its singularity, critique is cast neither as a breaking free from the weight of time (which would amount to ahistoricity) nor being weighed down by the times (as in the case of teleology).351 It conceives the present as “historically contoured but not itself experienced as history because not necessarily continuous with what has been.”352 It is an attitude that renders the present as the site of “non-utopian possibility” since it is historically situated and constrained yet also a possibility since it is not historically foreordained or determined.353 It entails contesting the delimitations of choice and challenging the confinement of politics to existing possibilities. Rather than positing history as existing objectively outside of narration, what Brown’s discussion highlights is the intimate relation between the constitution of political subjectivity vis-à-vis the meaning of history for the present. It alludes to “the power of historical discourse,” which Mowitt explains as a power “to estrange us from that which is most familiar, namely, the fixity of the present” because “what we believe to have happened to us bears concretely on what we are prepared to do with ourselves both now and in the future.”354 Mark Neocleous concretizes the political stakes entailed in such encounters with history—with the dead—from the perspective of three political traditions: a conservative one, which aims to reconcile the dead with the living, a fascist one, which aims to resurrect the dead to legitimate its fascist program, and a historical materialist one, which seeks redemption with the dead as the source of hope and inspiration for the future.355 Brown’s discussion of critique and political time is significant for highlighting the immediately political nature of critique in contrast to contemporary invocations that cast it as a self-indulgent practice, an untimely luxury, a disinterested, distanced, academic endeavor. Her attempt to trace critique vis-à-vis its relation to political time provides a counter-narrative to the conservative and moralizing assertions that shun untimely critique of security as a luxurious interest that is committed to abstract ideals rather than to the “reality” of politics—i.e., running after utopia rather than modeling “real world” solutions. Dismantling security as untimely critique entails a similar claim to unsettle the accounts of “what the times are” with a “bid to reset time.”356 It aspires to be untimely in the face of the demands on critical thought to be on time; aims to challenge the moralizing move, the call to conscience that arrives in the form of assertions that saying “no!” to security, that refusing to write it, would be untimely. Rather than succumbing to the injunction that thought of political possibility is to be confined within the framework of security, dismantling security aims to open up space for alternative forms, for a different language of politics so as to “stop digging” the hole politics of security have dug us and start building a counter-discourse. Conclusion As an attempt to push a debate that is fixated on security to the limit and explore what it means to dismantle security, my engagement with various aspects of this move is not intended as an analysis raised at the level of causal interpretations or as an attempt to find better solutions to a problem that already has a name. Rather, it tries to recast what is taken-for-granted by attending to the conceptual assumptions, the historical and systemic conditions within which the politics of security plays itself out. As I tried to show in this chapter, it also entails a simultaneous move of refusing to be a disciple of the discipline of security. This implies overturning not only the silent disciplinary protocols about which questions are legitimate to ask, but also the very framework that informs those questions. It is from this perspective that I devoted two chapters to examining and clarifying the proposal to dismantle security as a claim on time. After explicating, in Chapter 4, the temporal structure that is enacted by politics of security and elaborating on how security structures the relation between the present and the future, in this chapter, I approached the question of temporality from a different perspective, by situating it in relation to disciplinary times in order to clarify what an untimely critique of security means. I tried to elaborate this notion of the untimely by exploring the understanding of untimeliness that informs certain conceptions of critical theorizing in International Relations. I suggested that such a notion of the untimely paradoxically calls on critical thought to be on time in the sense of being punctual and strategic. Turning to Wendy Brown’s discussion of the relation between critique and political time, I elaborated on the sense of untimely critique that dismantling security strives for—a critique that goes against the times that are saturated by the infinite passion to secure and works toward taking apart the architecture of security.

### 6

#### CP TEXT: The United States federal government should no longer use the law of armed conflict as a justification for targeted killlings outside of armed conflict.

#### Solves the first advantage – prevents blurring just as much as the aff

## on

### Adv 1

#### Aff can’t solve –

#### 1. Plan only restricts self-defense within armed conflict – doesn’t prevent us from using LOAC justifications outside of armed conflict

#### 2. Plan only affects targeted killing – doesn’t affect broader military precedent that LOAC is referencing

#### Their legal codification crushes LOAC adherence

Corn 13 (Geoff – South Texas College of Law, Professor of Law and Presidential Research Professor, J.D., Laurie Blank – Director, International Humanitarian Law Clinic, Emory Law School, Christopher Jenks – SMU Director of the Criminal Justice Clinic and Assistant Professor of Law, and Eric Talbot Jensen – BYU Law Professor, LOAC Expert, “Corn, Blank, Jenks, and Jensen Respond to Goodman on Capture-Instead-of-Kill”, 2/25, http://www.lawfareblog.com/2013/02/corn-blank-jenks-and-jensen-respond-to-goodman-on-capture-instead-of-kill/)

In a provocative essay on drone strikes in Slate, Professor Ryan Goodman claims that the Law of Armed Conflict (LOAC) imposes a capture before kill requirement when targeting members of an enemy belligerent group. Goodman writes that “Here’s a fact that you didn’t hear at the confirmation hearings for John Brennan, Obama’s pick for next CIA chief, or from the administration’s white paper on drone killings: The international rules of warfare require nations to capture instead of kill enemy fighters, especially when lethal force is not the only way to take them off the battlefield.” Not only is this claim flawed, it’s a dangerous misinterpretation of the legal limitations applicable to targeting in armed conflict. It is erroneous to assert a legal obligation to exhaust the option to capture before employing deadly force against enemy belligerent operatives. Support for imposing this constraint on belligerent targeting authority simply does not exist in LOAC treaties, customary international law, or the actual practice and opinio juris of states. More specifically, his assertion that the general principles of military necessity and humanity impose this least-restrictive-means (LRM) limitation on the targeting of enemy belligerents is a fundamental misrepresentation of LOAC’s principles and foundations, derived from what appears to be a misconception that the objective of employing force is to defeat individuals, as opposed to the enemy in the collective sense. To the contrary, the LOAC, as established, interpreted and implemented by states, has long recognized the authority to lethally target members of an enemy belligerent force based solely on their status as members – an authority unrestricted by an express or implied duty to exclude the feasibility of less-than-lethal means or methods of attack prior to employing lethal force. The LRM assertion seeks, however, to limit this well accepted authority with what is in effect a proportionality constraint applicable not to protected civilians, but to combatants and other belligerents. Nothing in the law supports this approach. The provisions of the 1977 Additional Protocol I (API) to the Geneva Conventions offer the clearest evidence that no such LRM rule applies to belligerents. That treaty, derived from the humanitarian tradition of the Geneva Conventions, established the most comprehensive positive LOAC rules providing both the authority to attack lawful targets and the limitations on that authority. A LRM requirement is not among thos limitations. Most relevant to the present discussion is Article 52, which defines lawful objects of attack as “those objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage.” It is a LOAC axiom that members of an enemy belligerent force are per se military objectives within the meaning of Article 52. This is reflected not only in the doctrinal publications of most militaries around the world, but also in the International Committee of the Red Cross Commentary to Article 52 itself, which notes “that the definition [of military objective] is limited to objects but it is clear that members of the armed forces are military objectives, for, as the Preamble of the Declaration of St. Petersburg states: ‘the only legitimate object which States should endeavour to accomplish during war is to weaken the military forces of the enemy; [...] for this purpose it is sufficient to disable the greatest possible number of men.’” State practice validates that the authority to attack members of the armed forces applies with equal force to attacking members of any organized armed group engaged in armed conflict, whether international or non-international in nature; a view supported by a majority of LOAC experts. This LOAC axiom is further reflected in Article 43, which provided the first treaty definition of “combatant”, and as the associated Commentary indicates, “it should be explicitly stated that all members of the armed forces [with the exception of medical and similar non-combatant members] can participate directly in hostilities, i.e., attack and be attacked.” This principle, that “belligerent group membership” triggers lawful attack authority, is extended by custom and practice to other belligerent operatives who do not qualify as combatants within the meaning of Article 43. The LOAC imposes only two limitations on this established authority. First, the prohibition against attacking an individual who “clearly expresses an intention to surrender” or is otherwise rendered hors de combat (placing the obligation to manifest surrender on the potential object of attack, not the attacking force). Second, the prohibition against employing a method or means of warfare calculated to cause unnecessary suffering or superfluous injury (which necessarily implies the authority to inflict necessary suffering and injury on these lawful objects of attack). The assertion that this latter prohibition imposes an LRM obligation is fundamentally inconsistent with the established meaning and understanding of the principle of “unnecessary suffering”, which has never prohibited or limited a party’s authority to lethally target an opponent prior to the opponent becoming hors de combat. Indeed, the very nature of the lethality inherent in the weapons provided to armed forces and the tactics utilized to employ these weapons systems provides an almost irrefutable rebuttal to the LRM theory. Of course AP I also includes a proportionality rule in Article 51. However, civilians are the exclusive beneficiaries of this protection – the potential victims of incidental injury from otherwise lawful attacks against combatants and belligerents. This proportionality protection is simply inapplicable to the intended object of attack, i.e. belligerents. This rule is part of a broader mosaic of rules in AP I that function to limit targeting authority, all of which share a common purpose: protection of civilians. The specific absence of a parallel rule of proportionality applicable to combatants and belligerents is clear indication of the shared view of AP I’s drafters and signatories that no such limitation exists. How this fact can be reconciled with the asserted LRM obligation is simply perplexing. Had states intended to protect belligerents with an analogous proportionality or LRM limitation, AP I would be the logical locus of that rule. It is undisputed that the LOAC reflects a balance between the principles of military necessity and humanity that has evolved over time and is reflected in numerous treaty provisions and state practice. This law establishes that lethal attack against enemy belligerents is lawful when: 1) the target qualifies as a lawful military objective, 2) the expected incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof will not be excessive in relation to the concrete and direct military advantage expected to be gained, and 3) all feasible precautions are taken to spare the civilian population, civilians, and civilian objects from the effects of attacks. These rules incorporate the general principles of military necessity and humanity; the law is clear that the principles in no way superimpose an additional lesser-means exhaustion requirement on the positive rules. Contrary to Professor Goodman’s assertion, it is the capture rather than kill theory that rests on a weak foundation, including the authorities he cites. In fact, the LRM claim is not novel. The International Committee of the Red Cross introduced the very same assertion in Section IX of its 2009 Interpretive Guidance on the Notion of Direct Participation in Hostilities under International Law. The now infamous inclusion of this assertion was a principal motivation for a majority of the participating experts to withdraw publicly from the project, causing the ICRC to take the unusual step of publishing the Interpretive Guidance without identifying participants and with a caveat that the views expressed were solely those of the ICRC. Many of those experts, as well as others, have subsequently published severe criticisms of the Interpretive Guidance’s LRM discussion, with only the chapter’s author offering a responsive pleading in defense (and himself admitting that the LRM proposal is not reflective of, nor mandated by, governing law). Nor is the great weight of evidence contradicting the LRM assertion overcome by reference to Jean Pictet’s single aspirational statement, written in his private capacity in 1985 after retiring as head of the ICRC: “If we can put a soldier out of action by capturing him we should not wound him, if we can obtain the same result by wounding him, we must not kill him, if there are two means to achieve the same military advantage we must choose the one which causes the lesser evil.” As a matter of policy, few would disagree with this admonition, which is unsurprising, as there are abundant examples of military commanders imposing policy limitations on the full scope of LOAC authorities. Indeed, Administration officials have in fact consistently articulated a preference for capturing enemy belligerents when feasible. This preference has been correctly stated, even in the context of targeting enemy belligerents who hold US citizenship, as a matter of policy. As a matter of formulating international law, however, Mr. Pictet’s statement lacks constitutive, or even significant interpretive value. States establish international law, not commentators. They do so by negotiating treaties or by establishing custom evidenced by consistent practice motivated by a sense of legal obligation. Even a cursory review of these sources of law demonstrates the fallacy of asserting an LRM principle as a matter of law. Equally unpersuasive is the citation to the Israeli Targeted Killing case. In that case, the Israeli Supreme Court required the Israel Defense Forces to use the least harmful means feasible when targeting civilians who are directly participating in hostilities. However, because the Court concluded that the individuals subject to the attacks at issue in that case could not qualify as combatants, it never addressed the applicability of this LRM rule to anyone other than civilians directly participating in hostilities. Second, even in that context, it is generally recognized that the ruling is limited to the unique set of facts applicable to a decades-long occupation of Palestinian territories. In those circumstances, infusion of human rights principles, which would include a LRM rule in certain circumstances, is not overly controversial. But that analysis is wholly inapposite to situations of armed conflict not involving the additional norms applicable to belligerent occupation. Accordingly, the ruling does not support a broader capture rather than kill obligation. Anyone who has ever had to carry a loaded weapon into hostilities, contemplate the duty to kill inherent in military service, order the employment of combat power against enemy personnel, or train and advise them on the legal parameters applicable to such actions understands just how operationally impractical a capture rather than kill obligation would be to implement. Clarity in belligerent targeting is simply an essential aspect of the authority provided by the principle of military necessity to take all measures, not otherwise prohibited by international law, to bring about the prompt submission of the enemy (in the collective, as opposed to individual sense). The law provides this clarity through a presumption of hostility triggered by belligerent status, and by placing the burden on the enemy belligerent to rebut that presumption by surrender. The asserted LRM constraint would dilute the permissible scope of this authority and inject potentially deadly hesitation into the targeting process. Confusing what the law is with what one might believe it should be, however, especially when doing so undermines the clarity and initiative central to the effective execution of combat operations against enemy belligerents, can result in deadly consequences for those called upon to fight and win our wars.

#### U.S. can’t effectively signal

Zenko 13 (Micah, Council on Foreign Relations Center for Preventive Action Douglas Dillon fellow, "The Signal and the Noise," Foreign Policy, 2-2-13, www.foreignpolicy.com/articles/2013/02/20/the\_signal\_and\_the\_noise)

Later, Gen. Austin observed of cutting forces from the Middle East: "Once you reduce the presence in the region, you could very well signal the wrong things to our adversaries." Sen. Kelly Ayotte echoed his observation, claiming that President Obama's plan to withdraw 34,000 thousand U.S. troops from Afghanistan within one year "leaves us dangerously low on military personnel...it's going to send a clear signal that America's commitment to Afghanistan is going wobbly." Similarly, during a separate House Armed Services Committee hearing, Deputy Secretary of Defense Ashton Carter ominously warned of the possibility of sequestration: "Perhaps most important, the world is watching. Our friends and allies are watching, potential foes -- all over the world." These routine and unchallenged assertions highlight what is perhaps the most widely agreed-upon conventional wisdom in U.S. foreign and national security policymaking: the inherent power of signaling. This psychological capability rests on two core assumptions: All relevant international audiences can or will accurately interpret the signals conveyed, and upon correctly comprehending this signal, these audiences will act as intended by U.S. policymakers. Many policymakers and pundits fundamentally believe that the Pentagon is an omni-directional radar that uniformly transmits signals via presidential declarations, defense spending levels, visits with defense ministers, or troop deployments to receptive antennas. A bit of digging, however, exposes cracks in the premises underlying signaling theories. There is a half-century of social science research demonstrating the cultural and cognitive biases that make communication difficult between two humans. Why would this be any different between two states, or between a state and non-state actor? Unlike foreign policy signaling in the context of disputes or escalating crises -- of which there is an extensive body of research into types and effectiveness -- policymakers' claims about signaling are merely made in a peacetime vacuum. These signals are never articulated with a precision that could be tested or falsified, and thus policymakers cannot be judged misleading or wrong. Paired with the faith in signaling is the assumption that policymakers can read the minds of potential or actual friends and adversaries. During the cycle of congressional hearings this spring, you can rest assured that elected representatives and expert witnesses will claim to know what the Iranian supreme leader thinks, how "the Taliban" perceives White House pronouncements about Afghanistan, or how allies in East Asia will react to sequestration. This self-assuredness is referred to as the illusion of transparency by psychologists, or how "people overestimate others' ability to know them, and...also overestimate their ability to know others." Policymakers also conceive of signaling as a one-way transmission: something that the United States does and others absorb. You rarely read or hear critical thinking from U.S. policymakers about how to interpret the signals from others states. Moreover, since U.S. officials correctly downplay the attention-seeking actions of adversaries -- such as Iran's near-weekly pronouncement of inventing a new drone or missile -- wouldn't it be safer to assume that the majority of U.S. signals are similarly dismissed? During my encounters with foreign officials, few take U.S. government pronouncements seriously, and instead assume they are made to appease domestic audiences.

#### U.S. drone use doesn’t set a precedent, restraint doesn’t solve it, and norms don’t apply to drones at all in the first place

Amitai Etzioni 13, professor of international relations at George Washington University, March/April 2013, “The Great Drone Debate,” Military Review, <http://usacac.army.mil/CAC2/MilitaryReview/Archives/English/MilitaryReview_20130430_art004.pdf>

Other critics contend that by the United States using drones, it leads other countries into making and using them. For example, Medea Benjamin, the cofounder of the anti-war activist group CODEPINK and author of a book about drones argues that, “The proliferation of drones should evoke reﬂection on the precedent that the United States is setting by killing anyone it wants, anywhere it wants, on the basis of secret information. Other nations and non-state entities are watching—and are bound to start acting in a similar fashion.”60 Indeed scores of countries are now manufacturing or purchasing drones. There can be little doubt that the fact that drones have served the United States well has helped to popularize them. However, it does not follow that United States should not have employed drones in the hope that such a show of restraint would deter others. First of all, this would have meant that either the United States would have had to allow terrorists in hardto-reach places, say North Waziristan, to either roam and rest freely—or it would have had to use bombs that would have caused much greater collateral damage.

Further, the record shows that even when the United States did not develop a particular weapon, others did. Thus, China has taken the lead in the development of anti-ship missiles and seemingly cyber weapons as well. One must keep in mind that the international environment is a hostile one. Countries—and especially non-state actors— most of the time do not play by some set of self constraining rules. Rather, they tend to employ whatever weapons they can obtain that will further their interests. The United States correctly does not assume that it can rely on some non-existent implicit gentleman’s agreements that call for the avoidance of new military technology by nation X or terrorist group Y—if the United States refrains from employing that technology.

I am not arguing that there are no natural norms that restrain behavior. There are certainly some that exist, particularly in situations where all parties beneﬁt from the norms (e.g., the granting of diplomatic immunity) or where particularly horrifying weapons are involved (e.g., weapons of mass destruction). However drones are but one step—following bombers and missiles—in the development of distant battleﬁeld technologies. (Robotic soldiers—or future ﬁghting machines— are next in line). In such circumstances, the role of norms is much more limited.

#### Zero chance that U.S. self-restraint causes any other country to give up their plans for drones

Max Boot 11, the Jeane J. Kirkpatrick Senior Fellow in National Security Studies at the Council on Foreign Relations, 10/9/11, “We Cannot Afford to Stop Drone Strikes,” Commentary Magazine, <http://www.commentarymagazine.com/2011/10/09/drone-arms-race/>

The New York Times engages in some scare-mongering today about a drone ams race. Scott Shane notes correctly other nations such as China are building their own drones and in the future U.S. forces could be attacked by them–our forces will not have a monopoly on their use forever. Fair enough, but he goes further, suggesting our current use of drones to target terrorists will backfire:

If China, for instance, sends killer drones into Kazakhstan to hunt minority Uighur Muslims it accuses of plotting terrorism, what will the United States say? What if India uses remotely controlled craft to hit terrorism suspects in Kashmir, or Russia sends drones after militants in the Caucasus? American officials who protest will likely find their own example thrown back at them.

“The problem is that we’re creating an international norm” — asserting the right to strike preemptively against those we suspect of planning attacks, argues Dennis M. Gormley, a senior research fellow at the University of Pittsburgh and author of Missile Contagion, who has called for tougher export controls on American drone technology. “The copycatting is what I worry about most.”

This is a familiar trope of liberal critics who are always claiming we should forego “X” weapons system or capability, otherwise our enemies will adopt it too. We have heard this with regard to ballistic missile defense, ballistic missiles, nuclear weapons, chemical and biological weapons, land mines, exploding bullets, and other fearsome weapons. Some have even suggested the U.S. should abjure the first use of nuclear weapons–and cut down our own arsenal–to encourage similar restraint from Iran.

The argument falls apart rather quickly because it is founded on a false premise: that other nations will follow our example. In point of fact, Iran is hell-bent on getting nuclear weapons no matter what we do; China is hell-bent on getting drones; and so forth. Whether and under what circumstances they will use those weapons remains an open question–but there is little reason to think self-restraint on our part will be matched by equal self-restraint on theirs. Is Pakistan avoiding nuking India because we haven’t used nuclear weapons since 1945? Hardly. The reason is that India has a powerful nuclear deterrent to use against Pakistan. If there is one lesson of history it is a strong deterrent is a better upholder of peace than is unilateral disarmament–which is what the New York Times implicitly suggests.

Imagine if we did refrain from drone strikes against al-Qaeda–what would be the consequence? If we were to stop the strikes, would China really decide to take a softer line on Uighurs or Russia on Chechen separatists? That seems unlikely given the viciousness those states already employ in their battles against ethnic separatists–which at least in Russia’s case already includes the suspected assassination of Chechen leaders abroad. What’s the difference between sending a hit team and sending a drone?

While a decision on our part to stop drone strikes would be unlikely to alter Russian or Chinese thinking, it would have one immediate consequence: al-Qaeda would be strengthened and could regenerate the ability to attack our homeland. Drone strikes are the only effective weapon we have to combat terrorist groups in places like Pakistan or Yemen where we don’t have a lot of boots on the ground or a lot of cooperation from local authorities. We cannot afford to give them up in the vain hope it will encourage disarmament on the part of dictatorial states.

#### No international consensus or over drones – too hard for agreement

Carafano 13 (James Jay, vice president for foreign and defense policy studies @ Heritage, 3/25, “The Future of Drones,” <http://nationalinterest.org/commentary/the-future-drones-8264>)

4. Will we get new laws of war?

No. The laws of war were written to be agnostic about technology. They do not need to be rewritten when a new capability appears. At most, as in the case of weapons of mass destruction, new regimes might be created to regulate or ban use. But when it comes to drones, there is really nothing exceptional about the technology they employ. Manned weapons systems use the same technologies. Why would you need new rules for one and not the other?

Further, even if there was a reason to rewrite the laws of war, it won’t happen anytime soon. The UN has melted down over trying to agree on a conventional arms treaty. It is hard to believe any kind of consensus of drone war will emerge any time soon.

#### The US applies by LOAC now globally – no geographic restraint

Chesney 13 (Robert – Charles I. Francis Professor in Law, University of Texas School of Law, “BEYOND THE BATTLEFIELD, BEYOND AL QAEDA: THE DESTABILIZING LEGAL ARCHITECTURE OF COUNTERTERRORISM”, November, 112 Mich. L. Rev. 163, lexis)

Assuming that one overcomes these obstacles, a separate boundary issue involving LOAC then arises: Are there geographic constraints with respect to where LOAC may apply? n62 That is, if we assume that the conditions for recognition of an armed conflict are satisfied in, say, Afghanistan, does it follow that LOAC applies not only in Afghanistan but also in other locations around the world, no matter how remote from Afghanistan, so long as the parties to the conflict in Afghanistan encounter one another there? The U.S. government takes the position that LOAC travels with the parties wherever they might roam. n63 Others disagree. One viewpoint, for example, holds that [\*180] LOAC has no application outside the geographic boundaries of the specific state in which events satisfy the threshold-of-intensity criterion; another accepts that LOAC can apply to persons outside the borders of such a state, but only where their activities in some meaningful sense tie back to the original zone of hostilities (such as by exercising remote command of operations). n64

#### International law doesn’t deter conflict

Wippman 96 (David, Associate Professor – Cornell Law School, Columbia Human Rights Law Review, 27 Colum. Human Rights L. Rev. 435, Spring, Lexis)

What international law has long attempted to prohibit, or at least to regulate, is foreign involvement in internal conflict. [**4**](http://www.lexis.com/research/retrieve?_m=1eaeca8a103666c056688c6d2438e77d&docnum=2&_fmtstr=FULL&_startdoc=1&wchp=dGLbVlb-zSkAb&_md5=60fd9e16efde2ff1d58f663fbab664a0&focBudTerms=What%20international%20law%20has%20long%20and%20particular%20conflict&focBudSel=all#n4) Foreign  [\*436]  participation in an internal conflict heightens the risk that the conflict will spread to other states and transform an internal struggle into an interstate war. In addition, foreign involvement may deny the people of the affected state the right to determine their own political future. As a result, foreign involvement in internal conflicts often undermines two of the principal goals of the international legal order: the containment of conflict and the preservation of the internal autonomy of each state. **[5](http://www.lexis.com/research/retrieve?_m=1eaeca8a103666c056688c6d2438e77d&docnum=2&_fmtstr=FULL&_startdoc=1&wchp=dGLbVlb-zSkAb&_md5=60fd9e16efde2ff1d58f663fbab664a0&focBudTerms=What%20international%20law%20has%20long%20and%20particular%20conflict&focBudSel=all" \l "n5" \t "_self)** Accordingly, contemporary international law is formally non-interventionist: no state is supposed to interfere in civil strife in another state. **[6](http://www.lexis.com/research/retrieve?_m=1eaeca8a103666c056688c6d2438e77d&docnum=2&_fmtstr=FULL&_startdoc=1&wchp=dGLbVlb-zSkAb&_md5=60fd9e16efde2ff1d58f663fbab664a0&focBudTerms=What%20international%20law%20has%20long%20and%20particular%20conflict&focBudSel=all" \l "n6" \t "_self)** Nonetheless, foreign intervention in internal conflicts is more the rule than the exception. **[7](http://www.lexis.com/research/retrieve?_m=1eaeca8a103666c056688c6d2438e77d&docnum=2&_fmtstr=FULL&_startdoc=1&wchp=dGLbVlb-zSkAb&_md5=60fd9e16efde2ff1d58f663fbab664a0&focBudTerms=What%20international%20law%20has%20long%20and%20particular%20conflict&focBudSel=all" \l "n7" \t "_self)** In the past, foreign intervention consisted almost exclusively of unilateral acts by individual states. During the Cold War, political polarization between East and West made it virtually impossible to achieve the consensus necessary to support collective interventions. With the end of the Cold War, however, collective interventions have become more common. When individual states intervene unilaterally in internal conflicts, they typically seek to justify their involvement under legal principles deemed consistent with, or in some cases, deemed more important than, the principle of non-intervention. In some cases, states rely on consent of the affected state, on the theory that the principle of non-intervention only bars conduct that amounts to "dictatorial interference" in a state's internal affairs. [8](http://www.lexis.com/research/retrieve?_m=1eaeca8a103666c056688c6d2438e77d&docnum=2&_fmtstr=FULL&_startdoc=1&wchp=dGLbVlb-zSkAb&_md5=60fd9e16efde2ff1d58f663fbab664a0&focBudTerms=What%20international%20law%20has%20long%20and%20particular%20conflict&focBudSel=all" \l "n8" \t "_self) States also frequently justify intervention as necessary to insulate a state from the effects of another state's prior, illegal intervention, or as necessary to defend a state from an illegal external attack. [9](http://www.lexis.com/research/retrieve?_m=1eaeca8a103666c056688c6d2438e77d&docnum=2&_fmtstr=FULL&_startdoc=1&wchp=dGLbVlb-zSkAb&_md5=60fd9e16efde2ff1d58f663fbab664a0&focBudTerms=What%20international%20law%20has%20long%20and%20particular%20conflict&focBudSel=all" \l "n9" \t "_self) On occasion, states rely on international human rights norms or democratic principles to justify their support for one faction or another in a particular conflict.

### Adv 2

#### Drones are locked in - plan can’t solve

**McDonald 13 (**Jack, lecturer at the Department of War Studies, King’s College London, completed his PhD thesis on targeted killings, has worked with The Centre for Defence Studies, “Losing perspective on proliferation,” <http://kingsofwar.org.uk/2013/01/losing-perspective-on-proliferation/>)

The control of UAV technology is, however, a problem. In short, it isn’t that amenable to control in any meaningful sense of the word. If one wishes to “control” the proliferation of technology automating human behaviour and actions, then there would need to be some form of global bar on research in that area.\* I imagine that MIT and Google might have a problem this idea. Similarly, if someone wants to control the design and building of small unmanned aircraft, well, too late, that horse bolted a long time ago. Of course, you could lock up every amateur geek enthusiast, but that would be a bit pointless. The point is, the technology to build UAVs is embedded into our society to a far greater degree than nuclear weapons, chemical and biological weapons and small arms are. UAVs are effectively an extension of the industrial revolution (mechanisation, automation, replacement of human action by machine). I’m writing this on a laptop that was probably made by a large number of robots. UAVs need to be put into perspective – despite their dangers they can’t make human life as we know it extinct and they likely can’t be controlled by treaty. A little less rhetoric and a little more thought from critics of military UAVs might produce a better critique.

#### Geographic limits undermine the effectiveness of US counter-terror ops

Corn 13 (Geoffrey, South Texas College of Law Presidential Research Professor of Law, former JAG officer and chief of the law of war branch of the international law division of the US Army, Lieutenant Colonel, U.S. Army (Retired), Senate Armed Services Committee Hearing, "The law of armed conflict, the use of military force, and the 2001 Authorization for Use of Military Force," Congressional Documents and Publications, 6-16-13, lexis)

In my opinion, there is no need to amend the AUMF to define the geographic scope of military operations it authorizes. On the contrary, I believe doing so would fundamentally undermine the efficacy of U.S. counter-terror military operations by overtly signaling to the enemy exactly where to pursue safe-haven and de facto immunity from the reach of U.S. power. This concern is similar to that associated with explicitly defining co-belligerents subject to the AUMF, although I believe it is substantially more significant. It is an operational and tactical axiom that insurgent and non-state threats rarely seek the proverbial "toe to toe" confrontation with clearly superior military forces. Al Qaeda is no different. Indeed, their attempts to engage in such tactics in the initial phases of Operation Enduring Freedom proved disastrous, and ostensibly caused the dispersion of operational capabilities that then necessitated the co-belligerent assessment. Imposing an arbitrary geographic limitation of the scope of military operations against this threat would therefore be inconsistent with the strategic objective of preventing future terrorist attacks against the United States. I believe much of the momentum for asserting some arbitrary geographic limitation on the scope of operations conducted to disrupt or disable al Qaeda belligerent capabilities is the result of the commonly used term "hot battlefield." This notion of a "hot" battlefield is, in my opinion, an operational and legal fiction. Nothing in the law of armed conflict or military doctrine defines the meaning of "battlefield." Contrary to the erroneous assertions that the use of combat power is restricted to defined geographic locations such as Afghanistan (and previously Iraq), the geographic scope of armed conflict must be dictated by a totality assessment of a variety of factors, ultimately driven by the strategic end state the nation seeks to achieve. The nature and dynamics of the threat -including key vulnerabilities - is a vital factor in this analysis. These threat dynamics properly influence the assessment of enemy capabilities and vulnerabilities, which in turn drive the formulation of national strategy, which includes determining when, where, and how to leverage national power (including military power) to achieve desired operational effects. Thus, threat dynamics, and not some geographic "box", have historically driven and must continue to drive the scope of armed hostilities. The logic of this premise is validated by (in my opinion) the inability to identify an armed conflict in modern history where the scope of operations was legally restricted by a conception of a "hot" battlefield. Instead, threat dynamics coupled with policy, diplomatic considerations and, in certain armed conflicts the international law of neutrality, dictate such scope. Ultimately, battlefields become "hot" when persons, places, or things assessed as lawful military objectives pursuant to the law of armed conflict are subjected to attack. I do not, however, intend to suggest that it is proper to view the entire globe as a battlefield in the military component of our struggle against al Qaeda, or that threat dynamics are the only considerations in assessing the scope of military operations. Instead, complex considerations of policy and diplomacy have and must continue to influence this assessment. However, suggesting that the proper scope of combat operations is dictated by a legal conception of "hot" battlefield is operationally irrational and legally unsound. Accordingly, placing policy limits on the scope of combat operations conducted pursuant to the legal authority provided by the AUMF is both logical and appropriate, and in my view has been a cornerstone of U.S. use of force policy since the enactment of the AUMF. In contrast, interpreting the law of armed conflict to place legal limits on the scope of such operations to "hot" battlefields, or imposing such a legal limitation in the terms of the AUMF, creates a perverse incentive for the belligerent enemy by allowing [them]~~him~~ to dictate when and where [they]~~he~~ will be subject to lawful attack.

#### Geographic restrictions doom counter-terror - create safe havens

Blank 10 (Laurie, Emory University School of Law International Humanitarian Law Clinic director, "Defining the Battlefield in Contemporary Conflict and Counterterrorism: Understanding the Parameters of the Zone of Combat," Georgia Journal of International and Comparative Law, Vol. 39, No. 1, 9-16-10, http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=1677965)

The ramifications of including areas within the zone of combat, such as the accompanying authority to use lethal force as a first resort, raise a variety of policy considerations. The two primary considerations weigh directly against each other and perhaps, as a result, lend credence to the need for a middle ground in defining the zone of combat. First, some argue that creating geographic limits to the battlefield has the problematic effect of granting terrorists a safe haven. For example, a member of al Qaeda can be a legitimate target as a result of continuous participation in hostilities, thus losing any immunity from attack he might have had by dint of being a civilian.105 If the zone of combat is limited geographically to certain areas, then this member of al Qaeda can avoid being targeted—and thus regain civilian immunity, in essence—simply by crossing an international border even while remaining active in a terrorist organization engaged in a conflict with the U.S.106 Geographic limits designed to curtail the use of governmental military force thus effectively grant terrorists a safe haven and extend the conflict by enabling them to regroup and continue their attacks.

#### Winning War on Terror now – Al Qaeda is on the run

Ackerman 13 (Spencer, Wired senior reporter, Spencer, "Spy Chiefs Point to a Much, Much Weaker Al-Qaida," Wired, 3-13-13, www.wired.com/dangerroom/2013/03/spy-terrorism/, accessed 9-18-13)

Don’t ever expect the heads of the U.S.’ 16-agency spy apparatus to say it outright. But the testimony they provided Tuesday morning to a Senate panel described al-Qaida, the scourge of the U.S. for 12 years, as a threat that’s on the verge of becoming a spent force, if they’re not already. James Clapper, the director of national intelligence, and his colleagues at the CIA, Defense Intelligence Agency, National Counterterrorism Center and State Department, never made that contention outright to the Senate Select Committee on Intelligence on Tuesday. But in their annual public briefing on the threats America faces, they focused on their budgets and on cyber attacks more than they did terrorism. Not only was that itself a big change in the annual exercise, what they said about the threat from al-Qaida was mostly cheerful news. Al-Qaida’s core in Pakistan is so degraded that it is “probably unable to carry out complex, large-scale attacks in the West,” Clapper testified. (.pdf) Its regional affiliates, in Iraq, Somalia and northern Africa, are focused on local attacks. Despite all the online propaganda seeking to radicalize American Muslim, homegrown jihadis will attempt “fewer than ten domestic plots per year.” Last year, the plots hit the single digits; no one died from them. Matt Olsen, the director of the National Counterterrorism Center, testified that those attempts are and are likely to remain “unsophisticated.” Those al-Qaida manages to inspire may be “wayward knuckleheads,” Olsen said, but they’ll remain a challenge for the spy apparatus to monitor and disrupt. The exception is al-Qaida in the Arabian Peninsula, the Yemen affiliate of the organization, which remains the one most inclined to attack the U.S. at home. FBI director Robert Mueller said the threat to U.S. airliners from that affiliate is “undiminished.” Attacking outside Yemen remains a priority for the organization. But Clapper said they’ll have to balance that agenda with both their aspirations in Yemen and the degree to which “they have individuals who can manage, train, and deploy operatives for U.S. operations.” To be clear, not a single spy chief said that al-Qaida is no longer a big deal. Not a single spy chief said that al-Qaida no longer threatens the United States. And not a single spy chief so much as hinted that it’s time for U.S. officials to consider the global war on terrorism finished. Ever since the Benghazi attack of September, those officials and their spy chiefs have stopped predicting that al-Qaida is on the verge of defeat. If anything, Clapper warned that the budget crunch he’s under might make it harder to spot and prevent the next al-Qaida attack. Yet the picture they presented of al-Qaida is no longer one of a determined global movement growing in strength; seeking the world’s deadliest weapons; and capable of pulling off complex, mass-casualty assaults. Benghazi, and the January attack on an Algerian oil field, look like models for the terrorist threats of the future: ones that occur far from U.S. soil, launched by unaffiliated groups that are primarily focused on a local agenda, yet sufficiently inspired by al-Qaida’s rhetoric or sympathetic to its worldview that unsecured western targets of opportunity are in its cross-hairs. Left unsaid and un-debated at the hearing: whether that diminished threat means it’s time to roll back the U.S. global wartime apparatus; or whether it’s only diminished because of an aggressive wartime apparatus that **needs to keep doing what it’s doing, lest the threat re-emerge**.

#### PRISM and detention are massive alt-causes

Kristin Archick, European affairs specialist @ CRS, 9-4-2013, “U.S.-EU Cooperation Against Terrorism,” Congressional Research Service, <http://www.fas.org/sgp/crs/row/RS22030.pdf>

Although the United States and the EU both recognize the importance of sharing information in an effort to track and disrupt terrorist activity, data privacy has been and continues to be a key U.S.-EU sticking point. As noted previously, the EU considers the privacy of personal data a basic right; EU data privacy regulations set out common rules for public and private entities in the EU that hold or transmit personal data, and prohibit the transfer of such data to countries where legal protections are not deemed “adequate.” In the negotiation of several U.S.-EU informationsharing agreements, from those related to Europol to SWIFT to airline passenger data, some EU officials have been concerned about whether the United States could guarantee a sufficient level of protection for European citizens’ personal data. In particular, some Members of the European Parliament (MEPs) and many European civil liberty groups have long argued that elements of U.S.-EU information-sharing agreements violate the privacy rights of EU citizens. In light of the public revelations in June 2013 of U.S. National Security Agency (NSA) surveillance programs and news reports alleging that U.S. intelligence agencies have monitored EU diplomatic offices and computer networks, many analysts are worried about the future of U.S.-EU information-sharing arrangements. As discussed in this section, many of these U.S.-EU information-sharing agreements require the approval of the European Parliament, and many MEPs (as well as many officials from the European Commission and the national governments) have been deeply dismayed by the NSA programs and other spying allegations. In response, the Parliament passed a resolution expressing serious concerns about the U.S. surveillance operations and established a special working group to conduct an in-depth investigation into the reported programs.17 In addition, led by the European Commission and the U.S. Department of Justice, the United States and the EU have convened a joint expert group on the NSA’s surveillance operations, particularly the so-called PRISM program (in which the NSA reportedly collected data from leading U.S. Internet companies), to assess the “proportionality” of such programs and their implications for the privacy rights of EU citizens.18 U.S. officials have sought to reassure their EU counterparts that the PRISM program and other U.S. surveillance activities operate within U.S. law and are subject to oversight by all three branches of the U.S. government. Some observers note that the United States has been striving to demonstrate that it takes EU concerns seriously and is open to improving transparency, in part to maintain European support for existing information-sharing accords, such as SWIFT (which will be up for renewal in 2015), and the U.S.-EU Passenger Name Record agreement (up for renewal in 2019). Nevertheless, many experts predict that the revelations of programs such as PRISM will make the negotiation of future U.S.-EU information-sharing arrangements more difficult, and may make the European Parliament even more cautious and skeptical about granting its approval.

#### No risk of nuclear terrorism---too many obstacles

John J. Mearsheimer 14, R. Wendell Harrison Distinguished Service Professor of Political Science at the University of Chicago, “America Unhinged”, January 2, nationalinterest.org/article/america-unhinged-9639?page=show

Am I overlooking the obvious threat that strikes fear into the hearts of so many Americans, which is terrorism? Not at all. Sure, the United States has a terrorism problem. But it is a minor threat. There is no question we fell victim to a spectacular attack on September 11, but it did not cripple the United States in any meaningful way and another attack of that magnitude is highly unlikely in the foreseeable future. Indeed, there has not been a single instance over the past twelve years of a terrorist organization exploding a primitive bomb on American soil, much less striking a major blow. Terrorism—most of it arising from domestic groups—was a much bigger problem in the United States during the 1970s than it has been since the Twin Towers were toppled.¶ What about the possibility that a terrorist group might obtain a nuclear weapon? Such an occurrence would be a game changer, but the chances of that happening are virtually nil. No nuclear-armed state is going to supply terrorists with a nuclear weapon because it would have no control over how the recipients might use that weapon. Political turmoil in a nuclear-armed state could in theory allow terrorists to grab a loose nuclear weapon, but the United States already has detailed plans to deal with that highly unlikely contingency.¶ Terrorists might also try to acquire fissile material and build their own bomb. But that scenario is extremely unlikely as well: there are significant obstacles to getting enough material and even bigger obstacles to building a bomb and then delivering it. More generally, virtually every country has a profound interest in making sure no terrorist group acquires a nuclear weapon, because they cannot be sure they will not be the target of a nuclear attack, either by the terrorists or another country the terrorists strike. Nuclear terrorism, in short, is not a serious threat. And to the extent that we should worry about it, the main remedy is to encourage and help other states to place nuclear materials in highly secure custody.

#### No impact to terror

Mueller and Stewart 12 [John Mueller is Senior Research Scientist at the Mershon Center for International Security Studies and Adjunct Professor in the Department of Political Science, both at Ohio State University, and Senior Fellow at the Cato Institute in Washington, D.C. Mark G. Stewart is Australian Research Council Professorial Fellow and Professor and Director at the Centre for Infrastructure Performance and Reliability at the University of Newcastle in Australia, “The Terrorism Delusion”, International Security, Vol. 37, No. 1 (Summer 2012), pp. 81–110, Chetan]

It seems increasingly likely that the official and popular reaction to the terrorist attacks of September 11, 2001, has been substantially deluded—massively disproportionate to the threat that al-Qaida has ever actually presented either as an international menace or as an inspiration or model to homegrown amateurs. Applying the extensive datasets on terrorism that have been generated over the last decades, we conclude that the chances of an American perishing at the hands of a terrorist at present rates is one in 3.5 million per year—well within the range of what risk analysts hold to be “acceptable risk.”40 Yet, despite the importance of responsibly communicating risk and despite the costs of irresponsible fearmongering, just about the only official who has ever openly put the threat presented by terrorism in some sort of context is New York’s Mayor Michael Bloomberg, who in 2007 pointed out that people should “get a life” and that they have a greater chance of being hit by lightning than of being a victim of terrorism—an observation that may be a bit off the mark but is roughly accurate.41 (It might be noted that, despite this unorthodox outburst, Bloomberg still managed to be re-elected two years later.) Indeed, much of the reaction to the September 11 attacks calls to mind Hans Christian Andersen’s fable of delusion, “The Emperor’s New Clothes,” in which con artists convince the emperor’s court that they can weave stuffs of the most beautiful colors and elaborate patterns from the delicate silk and purest gold thread they are given. These stuffs, they further convincingly explain, have the property of remaining invisible to anyone who is unusually stupid or unfit for office. The emperor finds this quite appealing because not only will he have splendid new clothes, but he will be able to discover which of his officials are unfit for their posts—or in today’s terms, have lost their effectiveness. His courtiers, then, have great professional incentive to proclaim the stuffs on the loom to be absolutely magnificent even while mentally justifying this conclusion with the equivalent of “absence of evidence is not evidence of absence.” Unlike the emperor’s new clothes, terrorism does of course exist. Much of the reaction to the threat, however, has a distinctly delusionary quality. In Carle’s view, for example, the CIA has been “spinning in self-referential circles” in which “our premises were flawed, our facts used to fit our premises, our premises determined, and our fears justified our operational actions, in a self-contained process that arrived at a conclusion dramatically at odds with the facts.” The process “projected evil actions where there was, more often, muddled indirect and unavoidable complicity, or not much at all.” These “delusional ratiocinations,” he further observes, “were all sincerely, ardently held to have constituted a rigorous, rational process to identify terrorist threats” in which “the avalanche of reporting confirms its validity by its quantity,” in which there is a tendency to “reject incongruous or contradictory facts as erroneous, because they do not conform to accepted reality,” and in which potential dissenters are not-so-subtly reminded of career dangers: “Say what you want at meetings. It’s your decision. But you are doing yourself no favors.”42 Consider in this context the alarming and profoundly imaginary estimates of U.S. intelligence agencies in the year after the September 11 attacks that the number of trained al-Qaida operatives in the United States was between 2,000 and 5,000.43 Terrorist cells, they told reporters, were “embedded in most U.S. cities with sizable Islamic communities,” usually in the “run-down sections,” and were “up and active” because electronic intercepts had found some of them to be “talking to each other.”44 Another account relayed the view of “experts” that Osama bin Laden was ready to unleash an “11,000 strong terrorist army” operating in more than sixty countries “controlled by a Mr. Big who is based in Europe,” but that intelligence had “no idea where thousands of these men are.”45 Similarly, FBI Director Robert Mueller assured the Senate Intelligence Committee on February 11, 2003, that, although his agency had yet to identify even one al-Qaida cell in the United States, “I remain very concerned about what we are not seeing,” a sentence rendered in bold lettering in his prepared text. Moreover, he claimed that such unidentified entities presented “the greatest threat,” had “developed a support infrastructure” in the country, and had achieved both the “ability” and the “intent” to inflict “signi ficant casualties in the US with little warning.”46 Over the course of time, such essentially delusionary thinking has been internalized and institutionalized in a great many ways. For example, an extrapolation of delusionary proportions is evident in the common observation that, because terrorists were able, mostly by thuggish means, to crash airplanes into buildings, they might therefore be able to construct a nuclear bomb. Brian Jenkins has run an internet search to discover how often variants of the term “al-Qaida” appeared within ten words of “nuclear.” There were only seven hits in 1999 and eleven in 2000, but the number soared to 1,742 in 2001 and to 2,931 in 2002.47 By 2008, Defense Secretary Robert Gates was assuring a congressional committee that what keeps every senior government leader awake at night is “the thought of a terrorist ending up with a weapon of mass destruction, especially nuclear.”48 Few of the sleepless, it seems, found much solace in the fact that an al-Qaida computer seized in Afghanistan in 2001 indicated that the group’s budget for research on weapons of mass destruction (almost all of it focused on primitive chemical weapons work) was $2,000 to $4,000.49 In the wake of the killing of Osama bin Laden, officials now have many more al-Qaida computers, and nothing in their content appears to suggest that the group had the time or inclination, let alone the money, to set up and staff a uranium-seizing operation, as well as a fancy, super-high-technology facility to fabricate a bomb. This is a process that requires trusting corrupted foreign collaborators and other criminals, obtaining and transporting highly guarded material, setting up a machine shop staffed with top scientists and technicians, and rolling the heavy, cumbersome, and untested finished product into position to be detonated by a skilled crew—all while attracting no attention from outsiders.50 If the miscreants in the American cases have been unable to create and set off even the simplest conventional bombs, it stands to reason that none of them were very close to creating, or having anything to do with, nuclear weapons—or for that matter biological, radiological, or chemical ones. In fact, with perhaps one exception, none seems to have even dreamed of the prospect; and the exception is José Padilla (case 2), who apparently mused at one point about creating a dirty bomb—a device that would disperse radiation—or even possibly an atomic one. His idea about isotope separation was to put uranium into a pail and then to make himself into a human centrifuge by swinging the pail around in great arcs.51 Even if a weapon were made abroad and then brought into the United States, its detonation would require individuals in-country with the capacity to receive and handle the complicated weapons and then to set them off. Thus far, the talent pool appears, to put mildly, very thin.

#### Using international law to restrict targeted killing undermines the tools and flexibility needed to combat terrorism

Anderson 9 (Kenneth, Professor of Law, Washington College of Law, American University, and Research Fellow, The Hoover Institution, Stanford University and Member of its Task Force on National Security and the Law, "Targeted Killing in U.S. Counterterrorism Strategy and Law," http://www.brookings.edu/~/media/research/files/papers/2009/5/11%20counterterrorism%20anderson/0511\_counterterrorism\_anderson.pdf)

American domestic law—the law codifying the existence of the CIA and defining its ¶ functions—has long accepted implicitly at least some uses of force, including targeted ¶ killing, as self-defense toward ends of vital national security that do not necessarily fall ¶ within the strict terms of armed conflict in the sense meant by the Geneva Conventions ¶ and other international treaties on the conduct of armed conflict. Categories of the use of ¶ force short of armed conflict or war in a juridical sense—by intelligence services such as ¶ the CIA, for example—or by military agents in furtherance of national self defense and ¶ vital security interests, yet outside of the legal condition of armed conflict, date back in ¶ codified law to the founding of the CIA and, in state practice by the United States and ¶ other sovereigns, far further still. Yet as a matter of legal justification, successive ¶ administrations have already begun to cede this ground. Even the Bush Administration, ¶ with its unrivaled enthusiasm for executive power, always sought to cast its killing targets ¶ as the killing of combatants in what it legally characterized as armed conflicts, governed ¶ by the laws of war on the conduct of hostilities, known as “international humanitarian ¶ law” (IHL). This concession, however, if followed by the Obama Administration and ¶ beyond, will likely reduce the practical utility of a policy and security tool of both longstanding provenance and proven current value. It will likely reduce the flexibility of the ¶ United States to respond to emerging threats before they ripen into yet another war with ¶ non-state terrorists, and it will reduce the ability of the United Sates to address terrorist ¶ threats in the most discriminating fashion advancing technology permits.

### Solvency

#### Obama won’t comply with the plan – the battle creates a national diversion and impairs wartime congressional cooperation

Lobel 8 (Jules Lobel – Professor of Law @ University of Pittsburgh , “Conflicts Between the Commander in Chief and Congress: Concurrent Power over the Conduct of War,” Ohio State Law Journal, Vol. 69, 2008, pg. 391)

The critical difficulty with a contextual approach is its inherent ambiguity and lack of clarity, which tends to sharply shift the balance of power in favor of a strong President acting in disregard of congressional will. For example, the application of the Feldman and Issacharoff test asking whether the congressional restriction makes realistic sense in the modern world would yield no coherent separation of powers answer if applied to the current Administration’s confrontation with Congress. It would undoubtedly embolden the President to ignore Congress’s strictures. The President’s advisors would argue that the McCain Amendment’s ban on cruel and inhumane treatment, or FISA’s requirement of a warrant, does not make realistic sense in the context of the contemporary realities of the war on terror in which we face a shadowy, ruthless nonstate enemy that has no respect for laws or civilized conduct, a conclusion hotly disputed by those opposed to the President’s policies. Focusing the debate over whether Congress has the power to control the treatment of detainees on the President’s claim that the modern realities of warfare require a particular approach will merge the separation of powers inquiry of who has the power with the political determination of what the policy ought to be. Such an approach is likely to encourage the President to ignore and violate legislative wartime enactments whenever he or she believes that a statute does not make realistic sense—that is, when it conflicts with a policy the President embraces. 53 The contextual approach has a “zone of twilight” quality that Justice Jackson suggested in Youngstown. 54 Often constitutional norms matter less than political realities—wartime reality often favors a strong President who will overwhelm both Congress and the courts. While it is certainly correct— as Jackson noted—that neither the Court nor the Constitution will preserve separation of powers where Congress is too politically weak to assert its authority, a fluid contextual approach is an invitation to Presidents to push beyond the constitutional boundaries of their powers and ignore legislative enactments that seek to restrict their wartime authority. Moreover, another substantial problem with a contextual approach in the war powers context is that the judiciary is unlikely to resolve the dispute. 55 The persistent refusal of the judiciary to adjudicate the constitutionality of the War Powers Resolution strongly suggests that courts will often refuse to intervene to resolve disputes between the President and Congress over the constitutionality of a statute that a President claims impermissibly interferes with her conduct of an ongoing war. 56 This result leaves the political branches to engage in an intractable dispute over the statute’s constitutionality that saps the nation’s energy, diverts focus from the political issues in dispute, and endangers the rule of law. Additionally, in wartime it is often important for issues relating to the exercise of war powers to be resolved quickly. Prompt action is not usually the forte of the judiciary. If, however, a constitutional consensus exists or could be consolidated that Congress has the authority to check the President’s conduct of warfare, that consensus might help embolden future Congresses to assert their power. Such a consensus might also help prevent the crisis, chaos, and stalemate that may result when the two branches assert competing constitutional positions and, as a practical matter, judicial review is unavailable to resolve the dispute. Moreover, the adoption of a contextual, realist approach will undermine rather than aid the cooperation and compromise between the political branches that is so essential to success in wartime. In theory, an unclear, ambiguous division of power between the branches that leaves each branch uncertain of its legal authority could further compromise and cooperation. However, modern social science research suggests that the opposite occurs. 57 Each side in the dispute is likely to grasp onto aspects or factors within the ambiguous or complex reality to support its own self-serving position. This self-serving bias hardens each side’s position and allows the dispute to drag on, as has happened with the ongoing, unresolved dispute over the constitutionality of the War Powers Resolution. Pg. 407-409

#### That controversy collapses US military power – congressional cooperation is key to threat credibility

Newton 12 (Michael A. Newton – Professor of Law @ Vanderbilt University , “Inadvertent Implications of the War Powers Resolution,” Case Western Reserve Journal of International Law, Vol. 45, No. 1, 2012, Pg. 189-190)

The corollary to this modern reality, and the second of three inadvertent implications of the Resolution, is that our enemies now focus on American political will as the Achilles heel of our vast capabilities. Prior to the War Powers Resolution, President Eisenhower understood that it was necessary to "seek the cooperation of the Congress. Only with that can we give the reassurance needed to deter aggression." 62 President Clinton understood the importance of clear communication with the Congress and the American people in order to sustain the political legitimacy that is a vital element of modern military operations. Justifying his bombing of targets in Sudan, he argued that the "risks from inaction, to America and the world, would be far greater than action, for that would embolden our enemies, leaving their ability and their willingness to strike us intact."13 In his letter to Congress "consistent with the War Powers Resolution," the president reported that the strikes "were a necessary and proportionate response to the imminent threat of further terrorist attacks against U.S. personnel and facilities" and "were intended to prevent and deter additional attacks by a clearly identified terrorist threat."6 ' The following day, in a radio address to the nation, the president explained his decision to take military action, stating, "Our goals were to disrupt bin Laden's terrorist network and destroy elements of its infrastructure in Afghanistan and Sudan. And our goal was to destroy, in Sudan, the factory with which bin Laden's network gas."\*6 Citing "compelling evidence that the bin Laden network was poised to strike at us again" and was seeking to acquire chemical weapons, the president declared that we simply could not ignore the threat posed, and hence ordered the strikes. 66 Similarly, President Clinton understood that intervention in Bosnia could not be successful absent some national consensus, which had been slow to form during the long Bosnian civil war.6 1 Secretary of State George Schultz provided perhaps the most poignant and pointed example of this truism in his testimony to Congress regarding the deployment of US Marines into Lebanon to separate the warring factions in 1982. On September 21, 1983, he testified before the Senate Foreign Relations Committee and provided a chilling premonition of the bombing that would come only one month later and kill 241 Americans, which was the bloodiest day in the Marine Corps since the battle of Iwo Jima.6" Seeking to bolster legislative support and to better explain the strategic objectives, he explained that: It is not the mission of our marines or of the [Multinational Force in Lebanon] as a whole to maintain the military balance in Lebanon by themselves. Nevertheless, their presence remains one crucial pillar of the structure of stability behind the legitimate Government of Lebanon, and an important weight in the scales. To remove the marines would put both the Government and what we are trying to achieve in jeopardy. This is why our domestic controversy over the war powers has been so disturbing. Uncertainty about the American commitment can only weaken our effectiveness. Doubts about our staying power can only cause political aggressors to discount our presence or to intensify their attacks in hopes of hastening our departure. An accommodation between the President and Congress to resolve this dispute will help dispel those doubts about our staying power and strengthen our political hand."

#### Threat credibility solves everything – [terrorism, prolif, East Asia arms race, Iran, China, North Korea, Asian alliances]

Waxman 8/25 – Professor of Law @ Columbia and Adjunct Senior Fellow for Law and Foreign Policy @ CFR (Matthew, “The Constitutional Power to Threaten War,” Forthcoming in Yale Law Journal, vol. 123, August 25, 2013, SSRN)

After the Cold War, the United States continued to rely on coercive force – threatened force to deter or compel behavior by other actors – as a central pillar of its grand strategy. During the 1990s, the United States wielded coercive power with varied results against rogue actors in many cases that, without the overlay of superpower enmities, were considered secondary or peripheral, not vital, interests: Iraq, Somalia, Haiti, Bosnia, and elsewhere. For analysts of U.S. national security policy, a major puzzle was reconciling the fact that the United States possessed overwhelming military superiority in raw terms over any rivals with its difficult time during this era in compelling changes in their behavior.104 As Daniel Byman and I wrote about that decade in our study of threats of force and American foreign policy: U.S. conventional and nuclear forces dwarf those of any adversaries, and the U.S. economy remains the largest and most robust in the world. Because of these overwhelming advantages, the United States can threaten **any conceivable adversary** with little danger of a major defeat or even significant retaliation. Yet coercion remains difficult. Despite the United States’ lopsided edge in raw strength, regional foes persist in defying the threats and ultimatums brought by the United States and its allies. In confrontations with Somali militants, Serb nationalists, and an Iraqi dictator, the U.S. and allied record or coercion has been mixed over recent years…. Despite its mixed record of success, however, coercion will remain a critical element of U.S. foreign policy.105 One important factor that seemed to undermine the effectiveness of U.S. coercive threats during this period was that many adversaries perceived the United States as still afflicted with “Vietnam Syndrome,” unwilling to make good on its military threats and see military operations through.106 Since the turn of the 21st Century, major U.S. security challenges have included non-state **terrorist threats**, the **proliferation of** nuclear and other weapons of mass destruction (**WMD**), and rapidly changing power balances in **East Asia**, and the United States has accordingly been reorienting but retaining its strategic reliance on threatened force. The Bush Administration’s “preemption doctrine” was premised on the idea that some dangerous actors – including terrorist organizations and some states seeking WMD arsenals – are undeterrable, so the United States might have to strike them first rather than waiting to be struck.107 On one hand, this was a move away from reliance on threatened force: “[t]he inability to deter a potential attacker, the immediacy of today’s threats, and the magnitude of potential harm that could be caused by our adversaries’ choice of weapons, do not permit” a reactive posture.108 Yet the very enunciation of such a policy – that “[t]o forestall or prevent such hostile acts by our *adversaries*, the United States will, if necessary, act preemptively”109 – was intended to persuade those adversaries to alter their policies that the United States regarded as destabilizing and threatening. Although the Obama administration pulled back from this rhetoric and placed greater emphasis on international institutions, it has continued to rely on threatened force as a key pillar of its strategy with regard to deterring threats (such as **aggressive Iranian moves**), intervening in humanitarian crises (as in Libya), and **reassuring allies**.110 With regard to East Asia, for example, the credible threat of U.S. military force is a significant element of U.S. strategy for **deterring Chinese and North Korean aggression** as well as reassuring other Asian powers of U.S. protection, to **avert a destabilizing arms race**.111

## 2NC – T, Case

## T

### T – Must Be Prohibit – 2NC Overview

#### Topical affs must use prohibit activities currently under the president’s war powers authority – it’s best –

#### Limits – Including oversight affs explodes the topic. It adds at least three new mechanisms for every aff. Multiplying the number of mechanisms by the hundreds of affs in the four areas of the topic allows for thousands of new affs. It also allows for indirect and zero effects. Affs can have Congress create a new agency or organization to oversee and read a new advantage every week. Prohibition mandates that Congress must ban an action but regulation allows for a variety of indirect regulatory mechanisms.

#### Limits outweigh – they’re the vital access point for any theory impact – its key to fairness – huge research burdens mean we can’t prepare to compete – and its key to education – big topics cause hyper-generics, lack of clash, and shallow debate – and it destroys participation

Rowland 84 (Robert C., Debate Coach – Baylor University, “Topic Selection in Debate”, American Forensics in Perspective, Ed. Parson, p. 53-54)

The first major problem identified by the work group as relating to topic selection is the decline in participation in the National Debate Tournament (NDT) policy debate. As Boman notes: There is a growing dissatisfaction with academic debate that utilizes a policy proposition. Programs which are oriented toward debating the national policy debate proposition, so-called “NDT” programs, are diminishing in scope and size.4 This decline in policy debate is tied, many in the work group believe, to excessively broad topics. The most obvious characteristic of some recent policy debate topics is extreme breath. A resolution calling for regulation of land use literally and figuratively covers a lot of ground. Naitonal debate topics have not always been so broad. Before the late 1960s the topic often specified a particular policy change.5 The move from narrow to broad topics has had, according to some, the effect of limiting the number of students who participate in policy debate. First, the breadth of the topics has all but destroyed novice debate. Paul Gaske argues that because the stock issues of policy debate are clearly defined, it is superior to value debate as a means of introducing students to the debate process.6 Despite this advantage of policy debate, Gaske belives that NDT debate is not the best vehicle for teaching beginners. The problem is that broad policy topics terrify novice debaters, especially those who lack high school debate experience. They are unable to cope with the breadth of the topic and experience “negophobia,”7 the fear of debating negative. As a consequence, the educational advantages associated with teaching novices through policy debate are lost: “Yet all of these benefits fly out the window as rookies in their formative stage quickly experience humiliation at being caugh without evidence or substantive awareness of the issues that confront them at a tournament.”8 The ultimate result is that fewer novices participate in NDT, thus lessening the educational value of the activity and limiting the number of debaters or eventually participate in more advanced divisions of policy debate. In addition to noting the effect on novices, participants argued that broad topics also discourage experienced debaters from continued participation in policy debate. Here, the claim is that it takes so much times and effort to be competitive on a broad topic that students who are concerned with doing more than just debate are forced out of the activity.9 Gaske notes, that “broad topics discourage participation because of insufficient time to do requisite research.”10 The final effect may be that entire programs either cease functioning or shift to value debate as a way to avoid unreasonable research burdens. Boman supports this point: “It is this expanding necessity of evidence, and thereby research, which has created a competitive imbalance between institutions that participate in academic debate.”11 In this view, it is the competitive imbalance resulting from the use of broad topics that has led some small schools to cancel their programs.

### T – Must Be Prohibit – A2: We Meet

#### There's a clear brightline---restrictions require a floor and a ceiling---oversight is a floor but doesn't set a cap on the President's potential actions

USCA 77, UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, 564 F.2d 292, 1977 U.S. App. LEXIS 10899,. 1978 Fire & Casualty Cases (CCH) P317

Continental argues that even if the Aetna and Continental policies provide coverage for the Cattuzzo accident, that coverage should [\*\*8] be limited to a total of $300,000 because Atlas agreed to procure "not less than" $300,000 coverage. The District Court properly found that the subcontract language does not support a restriction on the terms of Continental's policy because the subcontract only sets a floor, not a ceiling, for coverage.

#### Statutory restrictions means to forbid – conclusive evidence proves

Randolph 96 (Judge, UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT, 77 F.3d 1414; 316 U.S. App. D.C. 235; 1996 U.S. App. LEXIS 4493, Arthur David Clifford, et al., Appellants v. Federico F. Pena, Secretary, United States Department of Transportation, et al., Appellees; Consolidated with 95-5239, 95-5240, lexis)

A § 804(b) waiver relieves an operator of the restrictions imposed under § 804(a), the provision barring the operation of foreign-flag vessels competing with American-flag vessels in essential services. We must assume that § 804(a) implements at least some of the objectives set forth in § 1101. And yet we must also assume that requiring strict adherence to § 804(a) could turn out to be counterproductive. Otherwise Congress would have had no reason to enact § 804(b). It therefore does no good for the union to complain that the waiver granted to APL will not accomplish everything the Act set out to achieve, or that permitting APL to operate foreign-flag ships will contradict some of § 1101's objectives. Any waiver of a [\*\*11] statutory restriction will, by definition, allow something otherwise forbidden.

#### Statutory restrictions on authority must prohibit

Becker 74 (Edward, Judge @ UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA, 374 F. Supp. 564; 1974 U.S. Dist. LEXIS 12196; 1974-2 Trade Cas. (CCH) P75,271, lexis)

The power of title insurance companies to insure titles is statutorily defined, § 910-8. There are also further statutory restrictions on their business. They are prohibited from guaranteeing the payment of mortgages on real property, §§ 910-9, 910-10; from engaging in the banking business, § 910-11; from acting [\*\*7] as a trustee, guardian, or similar fiduciary, § 910-12; and from issuing insurance other than title insurance, § 910-13. The foregoing regulation aimed primarily at the structure and powers of title insurance companies is accompanied by extensive regulation of their title insurance operations.

### T – Must Be Prohibit (Notification) – 1NC

#### Restrictions on authority are distinct from conditions – XT

William Conner 78, former federal judge for the United States District Court for the Southern District of New York United States District Court, S. D. New York, CORPORACION VENEZOLANA de FOMENTO v. VINTERO SALES, http://www.leagle.com/decision/19781560452FSupp1108\_11379

Plaintiff next contends that Merban was charged with notice of the restrictions on the authority of plaintiff's officers to execute the guarantees. Properly interpreted, the "conditions" that had been imposed by plaintiff's Board of Directors and by the Venezuelan Cabinet were not "restrictions" or "limitations" upon the authority of plaintiff's agents but rather conditions precedent to the granting of authority. Essentially, then, plaintiff's argument is that Merban should have known that plaintiff's officers were not authorized to act except upon the fulfillment of the specified conditions.

#### Restrictions are prohibitions on action --- the aff is a reporting requirement

Jean Schiedler-Brown 12, Attorney, Jean Schiedler-Brown & Associates, Appellant Brief of Randall Kinchloe v. States Dept of Health, Washington, The Court of Appeals of the State of Washington, Division 1, http://www.courts.wa.gov/content/Briefs/A01/686429%20Appellant%20Randall%20Kincheloe%27s.pdf

3. The ordinary definition of the term "restrictions" also does not include the reporting and monitoring or supervising terms and conditions that are included in the 2001 Stipulation.

Black's Law Dictionary, 'fifth edition,(1979) defines "restriction" as;

A limitation often imposed in a deed or lease respecting the use to which the property may be put. The term "restrict' is also cross referenced with the term "restrain." Restrain is defined as; To limit, confine, abridge, narrow down, restrict, obstruct, impede, hinder, stay, destroy. To prohibit from action; to put compulsion on; to restrict; to hold or press back. To keep in check; to hold back from acting, proceeding, or advancing, either by physical or moral force, or by interposing obstacle, to repress or suppress, to curb.

In contrast, the terms "supervise" and "supervisor" are defined as; To have general oversight over, to superintend or to inspect. See Supervisor. A surveyor or overseer. . . In a broad sense, one having authority over others, to superintend and direct. The term "supervisor" means an individual having authority, in the interest of the employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but required the use of independent judgment.

Comparing the above definitions, it is clear that the definition of "restriction" is very different from the definition of "supervision"-very few of the same words are used to explain or define the different terms. In his 2001 stipulation, Mr. Kincheloe essentially agreed to some supervision conditions, but he did not agree to restrict his license.

### T – Must Be Prohibit – A2: Counter-interpretation

#### --Doesn’t solve limits – that was in the overview

#### --Destroys ground – no stable mechanism – that’s key – core neg ground depends on the aff restricting the president – their interpretation allows for affs that don’t prevent the president from acting but increase oversight – jacks links to politics, prez powers, terrorism, and any core disad in each area because they are based on restrictions

#### On this topic neg ground outweigh aff flex – there’s a ton of affs within each category and few disads – topic explosion causes over-reliance on hyper-generics that consistently lose to aff-specific process advantages, signal advantages and answers. Plus, they get the first and last speech, persuasive value of the 2AR compensates for the neg block, and most of lit advocates decreasing war powers

#### More evidence –

#### Statutory restrictions on authority mean laws must prevent presidential actions

Peterson 11 (Todd, Prof @ GW School of Law, Student Bar Association - George Washington School of Law, "Separation of Powers," http://www.gwsba.com/outlines/Separation%20of%20Powers/Separation%20of%20Powers%20-%20Peterson%20-%20Fall%202011.doc)

Power of each branch

* + 3 zones of executive power (J. Jackson)
    - Most authority with explicit statutory power
    - Intermediate authority (inherent power)
    - Least authority statute take away power
  + Generally, for statutory enhancements of power, the Court is more formalist
  + Generally, for statutory restrictions of power, the Court is more functionalist (Does statute prevent the branch from accomplishing its constitutional function?)

|  |  |  |  |
| --- | --- | --- | --- |
|  | Executive | Legislative | Judicial |
| Statutory Authority | Congress can delegate, box can grow indefinitely | Congress passes statutes to give itself more authority  Limited by bicameralism and presentment | Limited by case or controversy |
| No statute | President’s inherent power: In Re Neagle | Appropriations power |  |
| Statutory Restriction | Congress passes statutes to limit the president’s power |  |  |

#### Statutory restrictions must constrain presidential actions

Barron and Lederman 8 (David and Martin, Prof of Law @ Harvard + Visiting Prof of Law @ Georgetown, "ARTICLE: THE COMMANDER IN CHIEF AT THE LOWEST EBB - FRAMING THE PROBLEM, DOCTRINE, AND ORIGINAL UNDERSTANDING," 121 Harv. L. Rev. 689, lexis)

Since at least the Vietnam War, discussions of constitutional war powers have consistently depicted a Congress so fearful of taking responsibility for wartime judgments that it hardly acts at all. Although there is an important element of truth in this common understanding, it is also misleading. In particular, whatever utility the scholarly paradigm of congressional abdication might once have had, it is inadequate in the special context of the so-called "war on terrorism." n1 The specific methods and means of warfare that this conflict privileges; the unusual and geographically transient nature of the nonstate enemy that it targets; and a host of other factors all conspire to ensure that the President's prosecution of the conflict against al Qaeda will bump up against statutory regulations more often than has been the case in traditional military operations. Moreover, the congressional abdication paradigm is not even adequate to explain important war powers issues that now often arise in more traditional military contexts. It is commonly thought that the de facto expansion since the Korean War of unilateral executive authority to use military force confirms Congress's timidity. But if a war goes badly, or if concerns about its wisdom become significant, the modern Congress has been willing - more than in previous eras - to temper or constrain the President's preferred prosecution of the war, and sometimes even to contract or end the conflict contrary to the President's wishes. For this reason, the Commander in Chief increasingly confronts disabling statutory restrictions even in conducting conventional military operations abroad.

#### Authority is the exercise of power over others

OED 13 (http://www.oed.com/viewdictionaryentry/Entry/13349)

authority, n.

I. Power to enforce obedience.

a. Power or right to enforce obedience; moral or legal supremacy; the right to command, or give an ultimate decision.

b. in authority: in a position of power; in possession of power over others.

#### And, substantial requires an objective, absolute measurement--- there's no way to quantify the impact oversight has on War Powers which means that their interpretation has no coherent way to account for an entire word in the topic

Words & Phrases 64, 40 W&P 759

The words "outward, open, actual, risible, substantial, and exclusive," in connection with a change of possession, mean substantially the same thing. They mean not concealed; not bidden; exposed to view; free from concealment dissimulation, reserve, or disguise; in full existence; denoting that which not merely can be, but is opposed to potential, apparent, constructive, and imaginary; veritable; genuine; certain; absolute; real at present time, as a matter of fact, not merely nominal; opposed to form; actually existing; true; not including, admitting, or pertaining to any others; undivided; sole; opposed to inclusive. Bass v. Pease, 79 111. App. 308, 31R

#### Precision DA – our evidence is in the context of discussing presidential war powers and defines the phrase “statutory restricts” as limiting presidential actions – any other definition is arbitrary and leaves the resolution meaningless – that makes limits and ground impossible

#### Their ev only defines "restrictions," not "restrictions on authority" - that kills predictability

J.A.D. Haneman 59, justice of the Superior Court of New Jersey, Appellate Division. “Russell S. Bertrand et al. v. Donald T. Jones et al.,” 58 NJ Super. 273; 156 A.2d 161; 1959 N.J. Super, Lexis

HN4 In ascertaining the meaning of the word "restrictions" as here employed, it must be considered in context with the entire clause in which it appears. It is to be noted that the exception concerns restrictions "which have been complied with." Plainly, this connotes a representation of compliance by the vendor with any restrictions upon the permitted uses of the subject property. The conclusion that "restrictions" refer solely to a limitation of the manner in which the vendor may [\*\*\*14] use his own lands is strengthened by the further provision found in said clause that the conveyance is "subject to the effect, [\*\*167] if any, of municipal zoning laws." Municipal zoning laws affect the use of property.¶ HN5 A familiar maxim to aid in the construction of contracts is noscitur a sociis. Simply stated, this means that a word is known from its associates. Words of general and specific import take color from each other when associated together, and thus the word of general significance is modified by its associates of restricted sense. 3 Corbin on Contracts, § 552, p. 110; cf. Ford Motor Co. v. New Jersey Department of Labor and Industry, 5 N.J. 494 (1950). The [\*284] word "restrictions," therefore, should be construed as being used in the same limited fashion as "zoning."

#### Err negative – if the community wanted oversight, they would have voted for the floor resolutions that mandated it

Topical version of the aff – Congress prohibits \_\_\_\_\_\_\_\_\_\_\_. That solves all their offense

#### Statutory restrictions remove authority

Pettie 1 (Alan, Partner, Burnet, Duckworth & Palmer LLP, Calgary, Alberta., "Are Royalty Agreements

Required for Canada East Coast Offshore Oil and Gas?," 24 Dalhousie L.J. 151, lexis)

A minister has authority to bind the Crown in contract within his or her departmental mandate unless that authority is restricted by or pursuant to a statute.73 Failure to comply with a mandatory restriction may lead to invalidity of the contract, or it may lead to unenforceability of the contract.74 Statutory requirements for approval of the Governor in Council, for example, are almost always viewed by the courts as statutory restrictions.75 In Canada (Attorney General) v. Saskatchewan Water Corp. 76 the court stated:¶ It seems clear that s. 7 is dealing with a specific situation--federal- provincial agreements--and it means, and is intended to mean, that the minister is only permitted to enter into such an agreement with the approval of the Governor in Council. The section can be, therefore, looked on as being either a specific expansion of the powers under s. 2(2), or as a specific restriction on those powers whereby the power can be exercised only in a particular way.¶ In either case, the section constitutes a "statutory restriction" as that phrase is used in the texts and many reported decisions. . . . I conclude that where there is a statutory requirement of an order in council or other formal approval to authorize a contract, any contract which does not meet that requirement is unenforceable.77

### T – Must Be Prohibit – A2: Reasonability

#### --They aren’t reasonable – the Aff literally explodes the topic and eviscerates ground – they lose under their own standard

#### -- Prefer competing interpretations –

#### A) Only objective standard – reasonability is arbitrary and takes the debate out of the hands of the debaters by encouraging overtly subjective decisions.

#### B) Incentivizes bad debate – Negs would read their worst strategy to prove abuse – don’t punish well-prepared teams.

#### -- Competing interpretations should be judged by both precision and limits – means debate mirrors relevant topic literature with respect to particular resolutional wording – solves race to the bottom

#### It’s arbitrary and undermines research

Resnick 1 Evan- assistant professor of political science – Yeshiva University, “Defining Engagement,” Journal of International Affairs, Vol. 54, Iss. 2

In matters of national security, establishing a clear definition of terms is a precondition for effective policymaking. Decisionmakers who invoke critical terms in an erratic, ad hoc fashion risk alienating their constituencies. They also risk exacerbating misperceptions and hostility among those the policies target. Scholars who commit the same error undercut their ability to conduct valuable empirical research. Hence, if scholars and policymakers fail rigorously to define "engagement," they undermine the ability to build an effective foreign policy.

## Other

### hl

First line of first card is about justifications outside armed conflict

Laurie Blank, Director, International Humanitarian Law Clinic, Emory Law School, 2012, Targeted Strikes: The Consequences of Blurring the Armed Conflict and Self-Defense Justifications, http://www.wmitchell.edu/lawreview/Volume38/documents/11.BlankFINAL.pdf

For the past several years, the United States has relied on both armed conflict and self-defense as legal justifications for targeted strikes outside of the zone of active combat in Afghanistan. A host of interesting questions arise from both the use of targeted strikes and the expansive U.S. justifications for such strikes, including the use of force in self-defense against non-state actors, the use of force across state boundaries, the nature and content of state consent to such operations, the use of targeted killing as a lawful and effective counterterrorism measure, and others.7 Furthermore, each of the justifications—armed conflict and self-defense—raises its own challenging questions regarding the appropriate application of the law and the parameters of the legal paradigm at issue. For example, if the existence of an armed conflict is the justification for certain targeted strikes, the immediate follow-on questions include the determination of a legitimate target within an armed conflict with a terrorist group and the geography of the battlefield. Within the self-defense paradigm, key questions include the very contours of the right to use force in self-defense against individuals and the implementation of the concepts of necessity and imminence, among many others. However, equally fundamental questions arise from the use of both justifications at the same time, without careful distinction delimiting the boundaries between when one applies and when the other applies. From the perspective of the policymaker, the use of both justifications without further distinction surely offers greater flexibility and potential for action in a range of circumstances.8 To the extent such flexibility does not impact the implementation of the relevant law or hinder the development and enforcement of that law in the future, it may well be an acceptable goal. In the case of targeted strikes in the current international environment of armed conflict and counterterrorism operations occurring at the same time, however, the mixing of legal justifications raises significant concerns about both current implementation and future development of the law. One overarching concern is the conflation in general of jus ad bellum and jus in bello. The former is the law governing the resort to force—sometimes called the law of self-defense—and the latter is the law regulating the conduct of hostilities and the protection of persons in conflict—generally called the law of war, the law of armed conflict, or international humanitarian law. International law reinforces a strict separation between the two bodies of law, ensuring that all parties have the same obligations and rights during armed conflict to ensure that all persons and property benefit from the protection of the laws of war. For example, the Nuremberg Tribunal repeatedly held that Germany’s crime of aggression neither rendered all German acts unlawful nor prevented German soldiers from benefitting from the protections of the jus in bello.9 More recently, the Special Court for Sierra Leone refused to reduce the sentences of Civil Defense Forces fighters on the grounds that they fought in a “legitimate war” to protect the government against the rebels.10 The basic principle that the rights and obligations of jus in bello apply regardless of the justness or unjustness of the overall military operation thus remains firmly entrenched. Indeed, if the cause at arms influenced a state’s obligation to abide by the laws regulating the means and methods of warfare and requiring protection of civilians and persons hors de combat, states would justify all departures from jus in bello with reference to the purported justness of their cause. The result: an invitation to unregulated warfare.11

Second card says that collapses legal fw

Laurie Blank, Director, International Humanitarian Law Clinic, Emory Law School, 2012, Targeted Strikes: The Consequences of Blurring the Armed Conflict and Self-Defense Justifications, http://www.wmitchell.edu/lawreview/Volume38/documents/11.BlankFINAL.pdf

In contrast, human rights law’s requirement that force only be used as a last resort when absolutely necessary for the protection of innocent victims of an attack creates an obligation to attempt to capture a suspected terrorist before any lethal targeting.101 A state using force in self-defense against a terrorist cannot therefore target him or her as a first resort but can only do so if there are no alternatives—meaning that an offer of surrender or an attempt at capture has been made or is entirely unfeasible in the circumstances. Thus, if non-forceful measures can foil the terrorist attack without the use of deadly force, then the state may not use force in self-defense.102 The supremacy of the right to life means that “even the most dangerous individual must be captured, rather than killed, so long as it is practically feasible to do so, bearing in mind all of the circumstances.”103 No more, this obligation to capture first rather than kill is not dependent on the target’s efforts to surrender; the obligation actually works the other way: the forces may not use deadly force except if absolutely necessary to protect themselves or innocent persons from immediate danger, that is, self-defense or defense of others. As with any law enforcement operation, “the intended result . . . is the arrest of the suspect,”104 and therefore every attempt must be made to capture before resorting to lethal force. In the abstract, the differences in the obligations regarding surrender and capture seem straightforward. The use of both armed conflict and self-defense justifications for all targeted strikes without differentiation runs the risk of conflating the two very different approaches to capture in the course of a targeting operation. This conflation, in turn, is likely to either emasculate human rights law’s greater protections or undermine the LOAC’s greater permissiveness in the use of force, either of which is a problematic result. An oft-cited example of the conflation of the LOAC and human rights principles appears in the 2006 targeted killings case before the Israeli Supreme Court. In analyzing the lawfulness of the Israeli government’s policy of “targeted frustration,” the Court held, inter alia, that [a] civilian taking a direct part in hostilities cannot be attacked at such time as he is doing so, if a less harmful means can be employed. . . . Indeed, among the military means, one must choose the means whose harm to the human rights of the harmed person is smallest. Thus, if a terrorist taking a direct part in hostilities can be arrested, interrogated, and tried, those are the means which should be employed.105 The Israeli Supreme Court’s finding that targeting is only lawful if no less harmful means are available—even in the context of an armed conflict—“impose[s] a requirement not based in [the LOAC].”106 Indeed, the Israeli Supreme Court “used the kernel of a human rights rule—that necessity must be shown for any intentional deprivation of life, to restrict the application of [a LOAC] rule—that in armed conflict no necessity need be shown for the killing of combatants or civilians taking a direct part in hostilities.”107 Although the holding is specific to Israel and likely influenced greatly by the added layer of belligerent occupation relevant to the targeted strikes at issue in the case,108 it demonstrates some of the challenges of conflating the two paradigms. First, if this added obligation of less harmful means was understood to form part of the law applicable to targeted strikes in armed conflict, the result would be to disrupt the delicate balance of military necessity and humanity and the equality of arms at the heart of the LOAC. Civilians taking direct part in hostilities—who are legitimate targets at least for the time they do so—would suddenly merit a greater level of protection than persons who are lawful combatants, a result not contemplated in the LOAC.109 Second, soldiers faced with an obligation to always use less harmful means may well either refrain from attacking the target—leaving the innocent victims of the terrorist’s planned attack unprotected—or disregard the law as unrealistic and ineffective. Neither option is appealing. The former undermines the protection of innocent civilians from unlawful attack, one of the core purposes of the LOAC. The latter weakens respect for the value and role of the LOAC altogether during conflict, a central component of the protection of all persons in wartime. From the opposing perspective, if the armed conflict rules for capture and surrender were to bleed into the human rights and law enforcement paradigm, the restrictions on the use of force in selfdefense would diminish. Persons suspected of terrorist attacks and planning future terrorist attacks are entitled to the same set of rights as other persons under human rights law and a relaxed set of standards will only minimize and infringe on those rights. Although there is no evidence that targeted strikes using drones are being used in situations where there is an obligation to seek capture and arrest, it is not hard to imagine a scenario in which the combination of the extraordinary capabilities of drones and the conflation of standards can lead to exactly that scenario. If states begin to use lethal force as a first resort against individuals outside of armed conflict, the established framework for the protection of the right to life would begin to unravel. Not only would targeted individuals suffer from reduced rights, but innocent individuals in the vicinity would be subject to significantly greater risk of injury and death as a consequence of the broadening use of force outside of armed conflict.

Third card says this is the biggest instance of blurring

Craig Martin, Associate Professor of Law at Washburn University School of Law, 2011, GOING MEDIEVAL: TARGETED KILLING, SELFDEFENSE AND THE JUS AD BELLUM REGIME, http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=1956141

The United States has been engaging in this practice of using drone-mounted missile systems to kill targeted individuals since at least 2002.98 An increasing number of countries are developing drone capabilities, and other countries have employed different methods of targeted killing that constitute a use of force under jus ad bellum.99 The evidence suggests that the United States intends to continue and indeed expand the program, and there is a growing body of scholarly literature that either defends the policy’s legality, or advocates adjustment in international law to permit such action. There is, therefore, a real prospect that the practice could become more widespread, and that customary international law could begin to shift to reflect the principles implicit in the U.S. justification andin accordance with the rationales developed to support it**.** Some of the implications of such an adjustment in the jus ad bellum regime are obvious from the foregoing analysis. As discussed, there would be a rejection of the narrow principle of self-defense in favor of something much closer to the Grotian concept of defensive war, encompassing punitive measures in response to past attacks and preventative uses of force to halt the development of future threats. The current conditions for a legitimate use of force in self-defense, namely the occurrence or imminence of an armed attack, necessity, and proportionality, would be significantly diluted or abandoned. Not only the doctrine of self-defense, but other aspects of the collective security system would be relaxed as well. Harkening back to Grotian notions of law enforcement constituting a just cause for war, the adjusted jus ad bellum regime would potentially permit the unilateral use of force against and within states for the purpose of attacking NSAs as such, in effect to enforce international law in jurisdictions that were incapable of doing so themselves.100 This would not only further undermine the concept of self-defense, but would undermine the exclusive jurisdiction that the U.N. Security Council currently has to authorize the use of force for purposes of “law enforcement” under Chapter VII of the Charter. Thus, both of the exceptions to the Article 2(4) prohibition on the use of force would be expanded. In addition, however, the targeted killing policy threatens to create other holes in the jus ad bellum regime. This less obvious injury would arise from changes that would be similarly required of the IHL regime, and the resulting modifications to the fundamental relationship between the two regimes. These changes could lead to a complete severance of the remaining connection between the two regimes. Indeed, Ken Anderson, a scholar who has testified more than once on this subject before the U.S. Congress,101 has advocated just such a position, suggesting that the United States should assert that its use of force against other states in the process of targeted killings, while justified by the right to self-defense, does not rise to such a level that it would trigger the existence of an international armed conflict or the operation of IHL principles.102 If customary international law evolved along such lines, reverting to gradations in the types of use of force, the change would destroy the unity of the system comprised of the jus ad bellum and IHL regimes, and there would be legal “black holes” in which states could use force without being subject to the limitations and conditions imposed by the IHL regime. The structure of Harold Koh’s two-pronged justification similarly implies a severance of this relationship between jus ad bellum and IHL, albeit in a different and even more troubling way. His policy justification consists of two apparently independent and alternative arguments—that the United States is in an armed conflict with Al Qaeda and associated groups; and that the actions are justified as an exercise of self-defense. The suggestion seems to be that the United States is entitled on either basis to use armed force not just against the individuals targeted, but also against states in which the terrorist members are located. In other words, the first prong of the argument is that the use of force against another sovereign state, for the purposes of targeting Al Qaeda members, is justified by the existence of an armed conflict with Al Qaeda. If this is indeed what is intended by the policy justification, it represents an extraordinary move, not just because it purports to create a new category of armed conflict (that is, a “transnational” armed conflict without geographic limitation),103 but because it also suggests that there need be no jus ad bellum justification at all for a use of force against another state. Rather, the implication of Koh’s rationale is that the existence of an armed conflict under IHL can by itself provide grounds for exemption from the prohibition against the threat or use of force under the jus ad bellum regime. This interpretation of the justifications cannot be pressed too far on the basis of the language of Mr. Koh’s speech alone, which he hastened to explain at the time was not a legal opinion.104 The two justifications could be explained as being supplementary rather than independent and alternative in nature. But the conduct of the United States in the prosecution of the policy would appear to confirm that it is based on these two independent justifications.105 The strikes against groups and states unrelated to the 9/11 attacks could be explained in part by the novel idea that force can be used against NSAs as such, wherever they may be situated. But even assuming some sort of strict liability for states in which guilty NSAs are found, that explanation still does not entirely account for the failure to tie the use of force against the different groups to specific armed attacks launched by each such group. This suggests that the United States is also relying quite independently on the argument that it is engaged in an armed conflict with all of these groups, and that the existence of such an armed conflict provides an independent justification for the use of force against the states in which the groups may be operating. While the initial use of force in jus ad bellum terms is currently understood to bring into existence an international armed conflict and trigger the operation of IHL, the changes suggested by the policy would turn this on its head, by permitting the alleged existence of a “transnational” armed conflict to justify the initial use of force against third states. Whereas the two regimes currently operate as two components of an overall legal system relating to war, with one regime governing the use of force and the other the conduct of hostilities in the resulting armed conflict, the move attempted by the U.S. policy would terminate these independent but inter-related roles within a single system, and expand the role and scope of IHL to essentially replace aspects of the jus ad bellum regime. This would not only radically erode the jus ad bellum regime’s control over the state use of force, but it could potentially undermine the core idea that war, or in more modern terms the use of force and armed conflict, constitutes a legal state that triggers the operation of special laws that govern the various aspects of the phenomenon. There is a risk of return to a pre-Grotian perspective in which “war” was simply a term used to describe certain kinds of organized violence, rather than constituting a legal institution characterized by a coherent system of laws designed to govern and constrain all aspects of its operation. There is a tendency in the U.S. approach to the so-called “global war on terror” to cherry-pick principles of the laws of war and to apply them in ways and in circumstances that are inconsistent with the very criteria within that legal system that determine when and how it is to operate. This reflects a certain disdain for the idea that the laws of war constitute an internally coherent system of law.106 In short, the advocated changes to the jus ad bellum regime and to the relationship between it and the IHL regime, and thus to the laws of war system as a whole,107 would constitute marked departures from the trajectory the system has been on during its development over the past century, and would be a repudiation of deliberate decisions that were made in creating the U.N. system after the Second World War.108 The premise of my argument is not that any return to past principles is inherently regressive. A rejection of recent innovations in favor of certain past practices might be attractive to some in the face of new transnational threats. The argument here is not even to deny the idea that the international law system may have to adapt to respond to the transnational terrorist threat. The point, rather, is that the kind of changes to the international law system that are implicit in the targeted killing policy, and which are advocated by its supporters, would serve to radically reduce the limitations and constraints on the use of force by states against states. The modern principles that are being abandoned were created for the purpose of limiting the use of force and thus reducing the incidence of armed conflict among nations. The rejection of those ideas and a return to older concepts relating to the law of war would restore aspects of a system in which war was a legitimate tool of statecraft, and international armed conflict was thus far more frequent and widespread.109 The entire debate on targeted killing is so narrowly focused on the particular problems posed by transnational terrorist threats, and how to manipulate the legal limitations that tend to frustrate some of the desired policy choices, that there is insufficient reflection on the broader context, and the consequences that proposed changes to the legal constraints would have on the wider legal system of which they are a part. It may serve the immediate requirements of the American government, in order to legitimize the killing of AQAP members in Yemen, to expand the concept of self-defense, and to suggest that states can use force on the basis of a putative “transnational” armed conflict with NSAs. The problem is that the jus ad bellum regime applies to all state use of force, and it is not being adjusted in some tailored way to deal with terrorism alone. If the doctrine of self-defense is expanded to include preventative and punitive elements, it will be so expanded for all jus ad bellum purposes. The expanded doctrine of self-defense will not only justify the use of force to kill individual terrorists alleged to be plotting future attacks, but to strike the military facilities of states suspected of preparing for future aggression. If the threshold for use of force against states “harboring” NSAs is significantly reduced, the gap between state responsibility and the criteria for use of force will be reduced for all purposes. If the relationship between jus ad bellum and IHL is severed or altered, so as to create justifications for the use of force that are entirely independent of the jus ad bellum regime, then states will be entitled to use force against other states under the pretext of self-proclaimed armed conflict with NSAs generally. We may think about each of these innovations as being related specifically to operations against terrorist groups that have been responsible for heinous attacks, and applied to states that have proven uniquely unwilling or unable to take the actions necessary to deal with the terrorists operating within their territory. But no clear criteria or qualifications are in fact tied to the modifications that are being advanced by the targeted killing policy. Relaxing the current legal constraints on the use of force and introducing new but poorly defined standards, will open up opportunities for states to use force against other states for reasons that have nothing to do with anti-terrorist objectives. Along the lines that Jeremy Waldron argues in chapter 4 in this volume,110 more careful thought ought to be given to the general norms that we are at risk of developing in the interest of justifying the very specific targeted killing policy. Ultimately, war between nations is a far greater threat, and is a potential source of so much more human suffering than the danger posed by transnational terrorism. This is not to trivialize the risks that terrorism represents, particularly in an age when Al Qaeda and others have sought nuclear weapons. But we must be careful not to undermine the system designed to constrain the use of force and reduce the incidence of international armed conflict, in order to address a threat that is much less serious in the grand scheme of things.

### 2NC No Model

#### No modeling – our evidence cites social science between states – prefer it because it addresses the psychology of how other countries perceive us. That’s Zenko – also 1AC author.

#### No reverse modeling - norms can’t solve

Saunders 13 **(**Paul, executive director of The Center for the National Interest and associate publisher of The National Interest. He served in the State Department from 2003 to 2005, “We Won't Always Drone Alone,” <http://nationalinterest.org/commentary/we-wont-always-drone-alone-8177>)

A broader and deeper challenge is how others—outside the United States—will use drones, whether armed or unarmed, and what lessons they will draw from Washington’s approach. Thus far, the principal lesson may well be that drones can be extremely effective in killing your opponents, wherever they are, without risking your own troops and without sending soldiers or law enforcement personnel across another country’s borders. It seems less likely that others will adopt U.S.-style legal standards and oversight procedures, or that they will always ask other governments before sending drones into their airspace.¶ Based on their actions, it is almost as if Obama administration officials believe that the United States and its allies will have a long-term monopoly on drones. How else can one explain their exuberant confidence in launching drone attacks? However, the administration’s dramatic expansion in drone strikes—and their apparent effectiveness—will only further shorten Washington’s reign as the drone capital of the world by increasing the incentives to others eager to develop, refine or buy the technology.¶ Have Obama administration officials given any thought to what the world might look like when armed drones are more widespread and when Americans or U.S. allies and partners could become targets? To an outsider, there is little evidence of this kind of thinking in the administration’s use of drones.¶ This is a serious problem. According to an unclassified July 2012 report by the Government Accountability Office, at least 76 countries already have acquired unmanned aerial vehicles, known as UAVs or drones; the report also states that “countries of concern” are attempting to acquire advanced UAVs from foreign suppliers as well as seeking illegal access to U.S. technology. And a 2012 special report by the United Kingdom’s Guardian newspaper indicated that China has 10 or more models, though not all are armed. Other sources identify additional varieties in China. At least 50 countries are trying to build 900 different types of drones, the GAO writes.¶ More generally, the administration’s expanding use of drones is a powerful endorsement of not only the technology, but of the practice of targeted killing as an instrument of foreign and security policy. Having provided this powerful impetus, the United States should not be surprised if others—with differing legal standards and more creative efforts at self-justification—seize upon it once they have the necessary capabilities. According to the GAO, this is already happening—in government-speak, “while only a limited number of countries have fielded lethal or weaponized UAVs, this threat is anticipated to grow.” From this perspective, it is ironic that a president so critical of his predecessor’s unilateralism would practice it himself—particularly in a manner that other governments will find much easier to emulate than the Bush administration’s larger-scale use of force. How does the Obama administration plan to respond if and when China or Russia uses armed UAVs to attack groups they define as terrorists?

#### Precedent locked in

Jacobson 13 **(**Mark R., senior transatlantic fellow at the German Marshall Fund of the United States. From 2009 to 2011, he served with NATO’s International Security Assistance Force in Afghanistan, “Column: Key Assumptions About Drones Are Based on Misconceptions,” <http://www.vnews.com/opinion/4393278-95/drones-drone-armed-civilian>]

Armed drones are neither as simple as model airplanes nor as complex as high-performance fighter jets. Of course, a remote-controlled helicopter that you can build in your garage is certainly not as capable as the $26.8 million MQ-9 Reaper, the primary U.S. hunter-killer drone. But drones are much less expensive than fighter aircraft, and in an age of increasing austerity, it is tempting for nations to consider replacing jets with drones. More than 50 countries operate surveillance drones, and armed drones will quickly become standard in military arsenals. The challenge is to consider what international rules, if any, should govern the use of armed drones. The United States is setting the precedent; our approach may define the global rules of engagement. Of course, we cannot expect other nations to adopt the oversight and restrictions we have. What doors are we opening for other nations’ use of drones? What happens when terrorist groups acquire them? The United States must prepare for being the prey, not just the predator.

#### US drone model is irrelevant

Wittes and Singh 12 (Benjamin, a Senior Fellow in Governance Studies at the Brookings Institution where he co-directs the Harvard Law School-Brookings Project on Security and Law, specializes in the legal issues surrounding international security and the war on terrorism, member of the Hoover Institution’s Task Force on National Security and the Law, Ritika, a research assistant on law and national security issues at the Brookings Institution. She graduated with majors in International Affairs and Government from Skidmore College, “Drones Are a Challenge — and an Opportunity,” 1-11-12, <http://www.cato-unbound.org/2012/01/11/benjamin-wittes-ritika-singh/drones-are-challenge-opportunity>)

Yes, as Cortright says, a great many other countries are getting into the drone game too—but this is less because the United States is paving the way than because this logic is obvious to those countries too. And this same logic, combined with the reality that robotic technologies are getting cheaper and easier to acquire even as their power increases, means that proliferation will happen irrespective of what the United States does. Indeed, the question is not whether we will live in a world of highly proliferated technologies of robotic attack. It is whether the United States is going to be ahead of this curve or behind it.

### 2NC No Precedent

#### US drone policy doesn’t set a precedent – other countries don’t act based on our use

Boot 12 (Max, Senior Fellow for National Security Studies @ Council on Foreign Relations, "The Incoherence of a Drone-Strike Advocate," http://www.theatlantic.com/international/archive/2012/11/the-incoherence-of-a-drone-strike-advocate/265256/)

Naureen Shah of Columbia Law School, a guest on the show, had raised the possibility that America is setting a dangerous precedent with drone strikes. If other people start doing what America does--fire drones into nations that house somebody they want dead--couldn't this come back to haunt us? And haunt the whole world? Shouldn't the U.S. be helping to establish a global norm against this sort of thing? Host Warren Olney asked Boot to respond.¶ Boot started out with this observation:¶ I think the precedent setting argument is overblown, because I don't think other countries act based necessarily on what we do and in fact we've seen lots of Americans be killed by acts of terrorism over the last several decades, none of them by drones but they've certainly been killed with car bombs and other means.¶ That's true--no deaths by terrorist drone strike so far. But I think a fairly undeniable premise of the question was that the arsenal of terrorists and other nations may change as time passes. So answering it by reference to their current arsenal isn't very illuminating. In 1945, if I had raised the possibility that the Soviet Union might one day have nuclear weapons, it wouldn't have made sense for you to dismiss that possibility by noting that none of the Soviet bombs dropped during World War II were nuclear, right?¶ As if he was reading my mind, Boot immediately went on to address the prospect of drone technology spreading. Here's what he said:¶ You know, drones are a pretty high tech instrument to employ and they're going to be outside the reach of most terrorist groups and even most countries. But whether we use them or not, the technology is propagating out there. We're seeing Hezbollah operate Iranian supplied drones over Israel, for example, and our giving up our use of drones is not going to prevent Iran or others from using drones on their own. So I wouldn't worry too much about the so called precedent it sets..."

#### Other countries won’t model US legal standards or oversight

Saunders 13 (Paul J., executive director of the Center for the National Interest and associate publisher of The National Interest, 3/4, “We Won’t Always Drone Alone,” <http://nationalinterest.org/commentary/we-wont-always-drone-alone-8177?page=1>)

That said, the United States has well-established rules for the use of lethal force in war and in law enforcement operations. There are extensive rules governing surveillance, too. From this perspective, drones represent a new way of doing things that the executive branch has done for some time and do not pose a radical challenge to existing policies and procedures—except, perhaps, for strains imposed by the sheer number of strikes. Ultimately, however, America has had the drone debate before in various guises and will eventually find a way forward that satisfies legal and oversight concerns.¶ A broader and deeper challenge is how others—outside the United States—will use drones, whether armed or unarmed, and what lessons they will draw from Washington’s approach. Thus far, the principal lesson may well be that drones can be extremely effective in killing your opponents, wherever they are, without risking your own troops and without sending soldiers or law enforcement personnel across another country’s borders. It seems less likely that others will adopt U.S.-style legal standards and oversight procedures, or that they will always ask other governments before sending drones into their airspace.

#### The US isn’t key to drone use or proliferation – tech advances and necessities mean that their development is inevitable

Anderson 11 (Kenneth, Professor at Washington College of Law, American University; and Hoover Institution visiting fellow, member of Hoover Task Force on National Security and Law; nonresident senior fellow, Brookings Institution, "What Kind of Drones Arms Race is Coming?," http://www.volokh.com/2011/10/09/what-kind-of-drones-arms-race-is-coming/)

By asserting that “we’re” creating it, this is a claim that there is an arms race among states over military drones, and that it is a consequence of the US creating the technology and deploying it – and then, beyond the technology, changing the normative legal and moral rules in the international community about using it across borders. In effect, the combination of those two, technological and normative, forces other countries in strategic competition with the US to follow suit. (The other unstated premise underlying the whole opinion piece is a studiously neutral moral relativism signaled by that otherwise unexamined phrase “perceived enemies.” Does it matter if they are not merely our “perceived” but are our actual enemies? Irrespective of what one might be entitled to do to them, is it so very difficult to conclude, even in the New York Times, that Anwar al-Awlaki was, in objective terms, our enemy?)¶ It sounds like it must be true. But is it? There are a number of reasons to doubt that moves by other countries are an arms race in the sense that the US “created” it or could have stopped it, or that something different would have happened had the US not pursued the technology or not used it in the ways it has against non-state terrorist actors. Here are a couple of quick reasons why I don’t find this thesis very persuasive, and what I think the real “arms race” surrounding drones will be.¶ Unmanned aerial vehicles have clearly got a big push from the US military in the way of research, development, and deployment. But the reality today is that the technology will transform civil aviation, in many of the same ways and for the same reasons that another robotic technology, driverless cars (which Google is busily plying up and down the streets of San Francisco, but which started as a DARPA project). UAVs will eventually move into many roles in ordinary aviation, because it is cheaper, relatively safer, more reliable – and it will eventually include cargo planes, crop dusting, border patrol, forest fire patrols, and many other tasks. There is a reason for this – the avionics involved are simply not so complicated as to be beyond the abilities of many, many states. Military applications will carry drones many different directions, from next-generation unmanned fighter aircraft able to operate against other craft at much higher G stresses to tiny surveillance drones. But the flying-around technology for aircraft that are generally sizes flown today is not that difficult, and any substantial state that feels like developing them will be able to do so.¶ But the point is that this was happening anyway, and the technology was already available. The US might have been first, but it hasn’t sparked an arms race in any sense that absent the US push, no one would have done this. That’s just a fantasy reading of where the technology in general aviation was already going; Zenko’s ‘original sin’ attribution of this to the US opening Pandora’s box is not a credible understanding of the development and applications of the technology. Had the US not moved on this, the result would have been a US playing catch-up to someone else. For that matter, the off-the-shelf technology for small, hobbyist UAVs is simple enough and available enough that terrorists will eventually try to do their own amateur version, putting some kind of bomb on it.¶ Moving on from the avionics, weaponizing the craft is also not difficult. The US stuck an anti-tank missile on a Predator; this is also not rocket science. Many states can build drones, many states can operate them, and crudely weaponizing them is also not rocket science. The US didn’t spark an arms race; this would occur to any state with a drone. To the extent that there is real development here, it lies in the development of specialized weapons that enable vastly more discriminating targeting. The details are sketchy, but there are indications from DangerRoom and other observers (including some comments from military officials off the record) that US military budgets include amounts for much smaller missiles designed not as anti-tank weapons, but to penetrate and kill persons inside a car without blowing it to bits, for example. This is genuinely harder to do – but still not all that difficult for a major state, whether leading NATO states, China, Russia, or India. The question is whether it would be a bad thing to have states competing to come up with weapons technologies that are … more discriminating.

#### US restrictions won’t deter global drone use and self-interests drive other countries desires to use

Etzioni 13 (Amitai, professor of international relations at George Washington University, March-April 2013 “The Great Drone Debate” MILITARY REVIEW, March-April 2013, <http://usacac.army.mil/CAC2/MilitaryReview/Archives/English/MilitaryReview_20130430_art004.pdf>, 11)

Other critics contend that by the United States using drones, it leads other countries into making and using them. For example, Medea Benjamin, the cofounder of the anti-war activist group CODEPINK and author of a book about drones argues that, “The proliferation of drones should evoke reﬂection on the precedent that the United States is setting by killing anyone it wants, anywhere it wants, on the basis of secret information. Other nations and non-state entities are watching—and are bound to start acting in a similar fashion.”60 Indeed scores of countries are now manufacturing or purchasing drones. There can be little doubt that the fact that drones have served the United States well has helped to popularize them. However, it does not follow that United States should not have employed drones in the hope that such a show of restraint would deter others. First of all, this would have meant that either the United States would have had to allow terrorists in hard to-reach places, say North Waziristan, to either roam and rest freely—or it would have had to use bombs that would have caused much greater collateral damage. ¶ Further, the record shows that even when the United States did not develop a particular weapon, others did. Thus, China has taken the lead in the development of anti-ship missiles and seemingly cyber weapons as well. One must keep in mind that the international environment is a hostile one. Countries—and especially non-state actors— most of the time do not play by some set of self-constraining rules. Rather, they tend to employ whatever weapons they can obtain that will further their interests. The United States correctly does not assume that it can rely on some non-existent implicit gentleman’s agreements that call for the avoidance of new military technology by nation X or terrorist group Y—if the United States refrains from employing that technology. ¶ I am not arguing that there are no natural norms that restrain behavior. There are certainly some that exist, particularly in situations where all parties beneﬁt from the norms (e.g., the granting of diplomatic immunity) or where particularly horrifying weapons are involved (e.g., weapons of mass destruction). However drones are but one step—following bombers and missiles—in the development of distant battleﬁeld technologies. (Robotic soldiers—or future ﬁghting machines— are next in line). In such circumstances, the role of norms is much more limited.

#### No modeling – state interests trump

Metz 13 (Steven, defense analyst and the author of "Iraq and the Evolution of American Strategy." His weekly WPR column, Strategic Horizons, appears every Wednesday 27 Feb 2013 World Politics Review “Strategic Horizons: The Strategy Behind U.S. Drone Strikes” <http://www.worldpoliticsreview.com/articles/12747/strategic-horizons-the-strategy-behind-u-s-drone-strikes>)

Both of these arguments are shaky. There is little or no evidence that nations facing a serious enemy base their response on U.S. actions. States do what they feel they have to do. The implication that if the United States did not use drones against insurgents other nations would not simply defies common sense. On the second point, there is no doubt that drone strikes create anger. Unfortunately, this does tend to be directed at the United States rather than at the extremists who elected to use human shields in the first place. But again there is no evidence that a significant number of potential terrorists or terrorist supporters were motivated exclusively or primarily by American drone strikes.

#### Drone prolif now AND US policy isn’t key

Anderson 10 (Kenneth, law professor at Washington College of Law, American University, a research fellow of the Hoover Institution at Stanford University and a Non-Resident Visiting Fellow at the Brookings Institution, April 10th 2010, “Acquiring UAV Technology”, http://www.volokh.com/2010/04/09/acquiring-uav-technology/)

I’ve noticed a number of posts and comments around the blogosphere on the spread of UAV technology. Which indeed is happening; many states are developing and deploying UAVs of various kinds. The WCL National Security Law Brief blog, for example, notes that India is now acquiring weaponized UAVs: India is reportedly preparing to have “killer” unmanned aerial vehicles (UAVs) in response to possible threats from Pakistan and China. Until now India has denied the use of armed UAVs, but they did use UAVs that can detect incoming missile attacks or border incursions. The importance of obtaining armed UAVs grew enormously after the recent attack on paramilitary forces in Chhattisgarh that killed 75 security personnel. Sources reveal that the Indian Air Force (IAF) has been in contact with Israeli arms suppliers in New Delhi recently. The IAF is looking to operate Israeli Harop armed UAVs from 2011 onwards, and other units of the armed forces will follow. I’ve also read comments various places suggesting that increased use of drone technologies by the United States causes other countries to follow suit, or to develop or acquire similar technologies. In some cases, the dangling implication is that if the US would not get involved in such technologies, others would not follow suit. In some relatively rare cases of weapons technologies, the US refraining from undertaking the R&D, or stopping short of a deployable weapon, might induce others not to build the same weapon. Perhaps the best example is the US stopping its development of blinding laser antipersonnel weapons in the 1990s; if others, particularly the Chinese, have developed them to a deployable weapon, I’m not aware of it. The US stopped partly in relation to a developing international campaign, modeled on the landmines ban campaign, but mostly because of a strong sense of revulsion and pushback by US line officers. Moreover, there was a strong sense that such a weapon (somewhat like chemical weapons) would be not deeply useful on a battlefield – but would be tremendously threatening as a pure terrorism weapon against civilians. In any case, the technologies involved would be advanced for R&D, construction, maintenance, and deployment, at least for a while. The situation is altogether different in the case of UAVs. The biggest reason is that the flying-around part of UAVs – the avionics and control of a drone aircraft in flight – is not particularly high technology at all. It is in range of pretty much any functioning state military that flies anything at all. The same for the weaponry, if all you’re looking to do is fire a missile, such as an anti-tank missile like the Hellfire. It’s not high technology, it is well within the reach of pretty much any state military. Iran? Without thinking twice. Burma? Sure. Zimbabwe? If it really wanted to, probably. So it doesn’t make any substantial difference whether or not the US deploys UAVs, not in relation to a decision by other states to deploy their own. The US decision to use and deploy UAVs does not drive others’ decisions one way or the other. They make that decision in nearly all cases – Iran perhaps being an exception in wanting to be able to show that they can use them in or over the Iraqi border – in relation to their particular security perceptions. Many states have reasons to want to have UAVs, for surveillance as well as use of force. It is not as a counter or defense to the US use of UAVs. The real issue is not flying the plane or putting a missile on it. The question is the sensor technology (and related communication links) – for two reasons. One is the ability to identify the target; the other is to determine the level, acceptable or not, of collateral damage in relation to the target. That’s the technologically difficult part. And yet it is not something important to very many of the militaries that might want to use UAVs, because not that many are going to be worried about the use of UAVs for discrete, targeted killing. Not so discrete and not so targeted will be just fine – and that does not require super-advanced technology. China might decide that it wants an advanced assassination platform that would depend on such sensors, and in any case be interested in investing in such technology for many reasons – but that is not going to describe Iran or very many other places that are capable of deploying and using weaponized UAVs. Iran, for example, won’t have super advanced sensor technology (unless China sells it to them), but they will have UAVs. (The attached weaponry follows the same pattern. Most countries will find a Hellfire type missile just fine. The US will continue to develop smaller weapons finally capable of a single person hit. Few others will develop it, partly because they don’t care and partly because its effectiveness depends on advanced sensors that they are not likely to have.) Robots are broadly defined by three characteristics – computation, sensor inputs, and gross movement. Movement in the case of a weaponized robot includes both movement and the use of its weapon – meaning, flying the UAV and firing a weapon. The first of those, flying the UAV, is available widely; primitive weapons are available widely as well, and so is the fundamental computational power. Sensors are much, much more difficult – but only to the extent that a party cares about discretion in targeting. But it is not the case that they are making these decisions on account of US decisions about UAVs; UAVs are useful for many other reasons for many other parties, all on their own.

#### Other countries will use drones irrespective of US policy – claims of US being key are far-fetched

Anderson 11 (Kenneth, Professor at Washington College of Law, American University; and Hoover Institution visiting fellow, member of Hoover Task Force on National Security and Law; nonresident senior fellow, Brookings Institution, "What Kind of Drones Arms Race is Coming?," http://www.volokh.com/2011/10/09/what-kind-of-drones-arms-race-is-coming/)

It is indeed likely that the future will see more instances of uses of force at a much smaller, often less attributable, more discrete level than conventional war. Those uses will be most easily undertaken against non-state actors, rather than states, though the difference is likely to erode. The idea that it would not have occurred to China or Russia that drones could be used to target non-state actors across borders in safe havens, or that they would not do so because the United States had not done so is far-fetched. That is so not least because the United States has long held that it, or other states threatened by terrorist non-state actors in safe havens across sovereign borders, can be targeted if the sovereign is unable or unwilling to deal with them. There’s nothing new in this as a US view of international law; it goes back decades, and the US has not thought it some special rule benefiting the US alone. So the idea that the US has somehow developed this technology and then changed the rules regarding cross-border attack on terrorists is just wrong; the US has believed this for a long time and thinks it is legally and morally right.

#### The US isn’t the prime mover regarding drone policy

Anderson 11 (Kenneth, Professor at Washington College of Law, American University; and Hoover Institution visiting fellow, member of Hoover Task Force on National Security and Law; nonresident senior fellow, Brookings Institution, "What Kind of Drones Arms Race is Coming?," http://www.volokh.com/2011/10/09/what-kind-of-drones-arms-race-is-coming/)

But return to the Scott Shane article. It is simply implausible to think that countries would not have been developing UAVs for military uses, just as they are being developed and deployed for civilian uses. The US might have been first, but this is where civilian aviation, and a lot of other robotic technologies, have been going even if only now becoming visible to the broader public. The deployment of weaponized drones by the US is even less the morality fable that Zenko suggests and Shane endorses as a moralizing rebuke to the United States in the Times piece. The real struggle begins over counter-technologies to drones, and counters to the counters – and that, ad infinitum.¶ (Update: A friend whose views I always take seriously tells me that I am putting too much weight on “we’re” and overinterpreting Zenko’s remark. That’s possible. However, in that case, simply treat my remarks as against the view that the United States is the prime mover here, by inventing a technology and then altering the prior rules to suit its use. If I misinterpret Zenko or, for that matter, Shane here, my apologies, but I think the general position, against which I’m arguing, is important if not ultimately persuasive.)

#### No global emulation of targeted killing policy

Fisher 7 (Jason, Judicial Clerk to the Honorable James O. Browning, United States District Court for the District of New Mexico, "Targeted Killing, Norms, and International Law," 45 Colum. J. Transnat'l L. 711, lexis)

An international norm's prominence generally depends on the efforts of an actor actively promoting it - a norm entrepreneur - or the status, level of conspicuity, or prestige of the State or States where it initially arises. n155 That a norm permitting the use of targeted killing as a counter-terrorism tactic may be considered to have achieved at least some prominence and likely to achieve a greater degree still, given its adoption by States of the status of the United States and Israel, is uncontroversial. n156 Whether the prominence of targeted killings will increase due to other States' emulation of the American and Israeli practice or the United States' and Israel's active involvement as norm entrepreneurs is less certain.

#### US drone policy isn't modeled - other countries will still target perceived enemies

Boot 12 (Max, Senior Fellow for National Security Studies @ Council on Foreign Relations, "What's the Alternative to Drones," http://webcache.googleusercontent.com/search?q=cache:WC4KuZADJ6UJ:www.commentarymagazine.com/2012/12/11/whats-the-alternative-to-drones/+&cd=3&hl=en&ct=clnk&gl=us)

It is perhaps just as well to have a more open debate about what has so far been a relatively covert policy, which has extended from the battlefields in Iraq and Afghanistan to other lands, from Pakistan to Yemen, where U.S. ground troops are not committed. Critics of drone strikes do, in fairness, make some legitimate points about what criteria are used to designate targets and how, in the absence of judicial review, we can achieve accountability for mistakes. There is also legitimate fear that by creating collateral damage such strikes may create more enemies than they eliminate and, less persuasively, that such strikes could create a precedent for authoritarian regimes to follow suit. (Do countries like Russia and Iran really need American inspiration to target their perceived enemies abroad?)

### AT iLaw

#### -- International law doesn’t deter conflict

Wippman 96 (David, Associate Professor – Cornell Law School, Columbia Human Rights Law Review, 27 Colum. Human Rights L. Rev. 435, Spring, Lexis)

What international law has long attempted to prohibit, or at least to regulate, is foreign involvement in internal conflict. [**4**](http://www.lexis.com/research/retrieve?_m=1eaeca8a103666c056688c6d2438e77d&docnum=2&_fmtstr=FULL&_startdoc=1&wchp=dGLbVlb-zSkAb&_md5=60fd9e16efde2ff1d58f663fbab664a0&focBudTerms=What%20international%20law%20has%20long%20and%20particular%20conflict&focBudSel=all#n4) Foreign  [\*436]  participation in an internal conflict heightens the risk that the conflict will spread to other states and transform an internal struggle into an interstate war. In addition, foreign involvement may deny the people of the affected state the right to determine their own political future. As a result, foreign involvement in internal conflicts often undermines two of the principal goals of the international legal order: the containment of conflict and the preservation of the internal autonomy of each state. [**5**](http://www.lexis.com/research/retrieve?_m=1eaeca8a103666c056688c6d2438e77d&docnum=2&_fmtstr=FULL&_startdoc=1&wchp=dGLbVlb-zSkAb&_md5=60fd9e16efde2ff1d58f663fbab664a0&focBudTerms=What%20international%20law%20has%20long%20and%20particular%20conflict&focBudSel=all#n5) Accordingly, contemporary international law is formally non-interventionist: no state is supposed to interfere in civil strife in another state. [**6**](http://www.lexis.com/research/retrieve?_m=1eaeca8a103666c056688c6d2438e77d&docnum=2&_fmtstr=FULL&_startdoc=1&wchp=dGLbVlb-zSkAb&_md5=60fd9e16efde2ff1d58f663fbab664a0&focBudTerms=What%20international%20law%20has%20long%20and%20particular%20conflict&focBudSel=all#n6) Nonetheless, foreign intervention in internal conflicts is more the rule than the exception. [**7**](http://www.lexis.com/research/retrieve?_m=1eaeca8a103666c056688c6d2438e77d&docnum=2&_fmtstr=FULL&_startdoc=1&wchp=dGLbVlb-zSkAb&_md5=60fd9e16efde2ff1d58f663fbab664a0&focBudTerms=What%20international%20law%20has%20long%20and%20particular%20conflict&focBudSel=all#n7) In the past, foreign intervention consisted almost exclusively of unilateral acts by individual states. During the Cold War, political polarization between East and West made it virtually impossible to achieve the consensus necessary to support collective interventions. With the end of the Cold War, however, collective interventions have become more common. When individual states intervene unilaterally in internal conflicts, they typically seek to justify their involvement under legal principles deemed consistent with, or in some cases, deemed more important than, the principle of non-intervention. In some cases, states rely on consent of the affected state, on the theory that the principle of non-intervention only bars conduct that amounts to "dictatorial interference" in a state's internal affairs. [8](http://www.lexis.com/research/retrieve?_m=1eaeca8a103666c056688c6d2438e77d&docnum=2&_fmtstr=FULL&_startdoc=1&wchp=dGLbVlb-zSkAb&_md5=60fd9e16efde2ff1d58f663fbab664a0&focBudTerms=What%20international%20law%20has%20long%20and%20particular%20conflict&focBudSel=all#n8) States also frequently justify intervention as necessary to insulate a state from the effects of another state's prior, illegal intervention, or as necessary to defend a state from an illegal external attack. [9](http://www.lexis.com/research/retrieve?_m=1eaeca8a103666c056688c6d2438e77d&docnum=2&_fmtstr=FULL&_startdoc=1&wchp=dGLbVlb-zSkAb&_md5=60fd9e16efde2ff1d58f663fbab664a0&focBudTerms=What%20international%20law%20has%20long%20and%20particular%20conflict&focBudSel=all#n9) On occasion, states rely on international human rights norms or democratic principles to justify their support for one faction or another in a particular conflict.

#### -- International law fails –

#### A) Too fragmented

Stark 2 (Barbara, Visiting Professor of Law – Hofstra Law School, “Violations of Human Dignity and Postmodern International Law, Yale Journal of International Law, 27 Yale J. Int'l L. 315, Summer, Lexis)

Unlike domestic law, international law remains fragmentary: there is no Supreme Court to reconcile warring districts, no legislature to fill in doctrinal gaps. Indeed, international "law -making" is often so contentious that no law is made at all; in many areas there are more gaps than law. International law is unapologetically "discontinuous"; the decisions of the International Court of Justice have no precedential value, and those of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) are similarly ad hoc. Treaty law applies only to the specific subject the particular treaty addresses and is binding only on the parties to the treaty. While customary international law ("CIL") applies more broadly, states may persistently dissent from CIL and exempt themselves from its coverage. Many of the broad general principals that comprise CIL, moreover, such as the duty to avoid harm to neighboring states, prove difficult to apply in specific cases.

#### B) Confusion

Stark 2 (Barbara, Visiting Professor of Law – Hofstra Law School, “Violations of Human Dignity and Postmodern International Law, Yale Journal of International Law, 27 Yale J. Int'l L. 315, Summer, Lexis)

The law governing individual accountability for violations of human dignity in internal wars is so fragmentary that it is incoherent. As the symposium demonstrates, the sharpest legal minds in international law are unable to agree on what the law is, let alone its meaning, impact, or application. First, there are two distinct bodies of international law purporting to apply here, international humanitarian law ("IHL") and international human rights law. Neither is particularly clear in this context. Notwithstanding lex specialis; the general rule that the more specific law will apply, the more specific IHL is riddled with exceptions in the context of internal armed conflict. As set out in the four Geneva Conventions, for example, only common Article 3 applies to internal armed conflicts. Common Article 3 only applies, moreover, if the armed conflict occurs "in the territory of one of the high contracting parties." In addition, it only applies to "persons taking no active part in the hostilities," thus eliminating the prisoner of war regime applicable in international armed conflicts. IHL is further muddled because "conflict not of an international character" is nowhere defined. Optional Protocol II, specifically focused on non-international conflicts (whatever they are), is further limited to conflicts among "organized armed groups, which, under responsible command, exercise such control over part of its territory as to enable them to carry out sustained and concerted military operations and to implement this Protocol." Article 1.2, however, explicitly exempts "situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence and other acts of this similar nature, as not being armed conflicts." As Theodor Meron notes, as long as there is a state, it will characterize an armed conflict within its borders as a "disturbance." While conventional human rights law is not explicitly limited to peacetime, during conflict it is subject to derogation under Article 4 of the International Covenant on Civil and Political Rights and Article 4 of the International Covenant on Economic, Social, and Cultural Rights. Specified rights, e.g., the right to life or freedom from arbitrary detention, are nonderogable, but even these may be balanced against the humanitarian law defense of "military necessity."While peremptory norms, i.e., jus cogens norms, from which no derogation is permitted, remain in effect, reliance on other CIL during conflict is problematic.

### 2NC No Program Collapse

#### There will be drones – too late to stop them – industry means we’ll still produce. That’s McDonald.

#### Drone program sustainable

Robert Chesney 12, professor at the University of Texas School of Law, nonresident senior fellow of the Brookings Institution, distinguished scholar at the Robert S. Strauss Center for International Security and Law, 8/29/12, “Beyond the Battlefield, Beyond Al Qaeda: The Destabilizing Legal Architecture of Counterterrorism,” <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2138623>

This multi-year pattern of cross-branch and cross-party consensus gives the impression that the legal architecture of detention has stabilized at last. But the settlement phenomenon is not limited to detention policy. The same thing has happened, albeit to a lesser extent, in other areas.

The military commission prosecution system provides a good example. When the Obama administration came into office, it seemed quite possible, indeed likely, that it would shut down the commissions system. Indeed, the new president promptly ordered all commission proceedings suspended pending a policy review.48 In the end, however, the administration worked with the then Democratic-controlled Congress to pursue a mend-it-don’t-end-it approach culminating in passage of the Military Commissions Act of 2009, which addressed a number of key objections to the statutory framework Congress and the Bush administration had crafted in 2006. In his National Archives address in spring 2009, moreover, President Obama also made clear that he would make use of this system in appropriate cases.49 He has duly done so, notwithstanding his administration’s doomed attempt to prosecute the so-called “9/11 defendants” (especially Khalid Sheikh Mohamed) in civilian courts. Difficult questions continue to surround the commissions system as to particular issues—such as the propriety of charging “material support” offenses for pre-2006 conduct50—but the system as a whole is far more stable today than at any point in the past decade.51

There have been strong elements of cross-party continuity between the Bush and Obama administration on an array of other counterterrorism policy questions, including the propriety of using rendition in at least some circumstances and, perhaps most notably, the legality of using lethal force not just in contexts of overt combat deployments but also in areas physically remote from the “hot battlefield.” Indeed, the Obama administration quickly outstripped the Bush administration in terms of the quantity and location of its airstrikes outside of Afghanistan,52 and it also greatly surpassed the Bush administration in its efforts to marshal public defenses of the legality of these actions.53 What’s more, the Obama administration also succeeded in fending off a lawsuit challenging the legality of the drone strike program (in the specific context of Anwar al-Awlaki, an American citizen and member of AQAP known to be on a list of approved targets for the use of deadly force in Yemen who was in fact killed in a drone strike some months later).54

The point of all this is not to claim that legal disputes surrounding these counterterrorism policies have effectively ended. Far from it; a steady drumbeat of criticism persists, especially in relation to the use of lethal force via drones. But by the end of the first post-9/11 decade, this criticism no longer seemed likely to spill over in the form of disruptive judicial rulings, newly-restrictive legislation, or significant spikes in diplomatic or domestic political pressure, as had repeatedly occurred in earlier years. Years of law-conscious policy refinement—and quite possibly some degree of public fatigue or inurement when it comes to legal criticisms—had made possible an extended period of cross-branch and cross-party consensus, and this in turn left the impression that the underlying legal architecture had reached a stage of stability that was good enough for the time being.

### Links – Transparency

#### Transparency guts drone effectiveness and discloses vital info

Alston 11 (Philip, Professor of Law, New York University, “The CIA and Targeted Killings Beyond Borders.” 2 Harv. Nat'l Sec. J. 283, lexis)

There is thus compelling evidence that both applicable bodies of law require transparency and accountability. Nevertheless, in view of the tendency of those advocating the use of targeted killings to suggest that counter-terrorism requires different rules or that intelligence agencies must operate on a different basis, it is appropriate to consider whether there are circumstances that would warrant the adoption of significantly less demanding standards of accountability. In relation to terrorism, it is often argued that there are unavoidable tradeoffs between security and respect for human rights as well as between security and transparency. In other words, secrecy and limits on rights are part of the price that must be paid for security in a world subject to terrorist threats. While these claims have been thoroughly canvassed in other contexts n97 they call for two particular responses in the present setting. The first is to acknowledge that, in relation [\*315] to targeted killing operations, there are major security and effectiveness concerns that require a strong element of secrecy, rather than disclosure**.** For example, disclosing the identity of an intelligence source or putting an informant at risk of retaliation will limit the extent to which the information justifying a given targeting decision can be publicly divulged. Similarly, it might be argued that significant disclosure would eliminate the fear or uncertainty factor that is designed to constrain the activities of groups who might conclude from published criteria that they were unlikely to be subject to drone attacks. n98 There will thus be certain limits as to how much transparency can be required.

### 1NC Terror

#### No risk of nuclear terrorism---too many obstacles

John J. Mearsheimer 14, R. Wendell Harrison Distinguished Service Professor of Political Science at the University of Chicago, “America Unhinged”, January 2, nationalinterest.org/article/america-unhinged-9639?page=show

Am I overlooking the obvious threat that strikes fear into the hearts of so many Americans, which is terrorism? Not at all. Sure, the United States has a terrorism problem. But it is a minor threat. There is no question we fell victim to a spectacular attack on September 11, but it did not cripple the United States in any meaningful way and another attack of that magnitude is highly unlikely in the foreseeable future. Indeed, there has not been a single instance over the past twelve years of a terrorist organization exploding a primitive bomb on American soil, much less striking a major blow. Terrorism—most of it arising from domestic groups—was a much bigger problem in the United States during the 1970s than it has been since the Twin Towers were toppled.¶ What about the possibility that a terrorist group might obtain a nuclear weapon? Such an occurrence would be a game changer, but the chances of that happening are virtually nil. No nuclear-armed state is going to supply terrorists with a nuclear weapon because it would have no control over how the recipients might use that weapon. Political turmoil in a nuclear-armed state could in theory allow terrorists to grab a loose nuclear weapon, but the United States already has detailed plans to deal with that highly unlikely contingency.¶ Terrorists might also try to acquire fissile material and build their own bomb. But that scenario is extremely unlikely as well: there are significant obstacles to getting enough material and even bigger obstacles to building a bomb and then delivering it. More generally, virtually every country has a profound interest in making sure no terrorist group acquires a nuclear weapon, because they cannot be sure they will not be the target of a nuclear attack, either by the terrorists or another country the terrorists strike. Nuclear terrorism, in short, is not a serious threat. And to the extent that we should worry about it, the main remedy is to encourage and help other states to place nuclear materials in highly secure custody.

#### No impact to terror

Mueller and Stewart 12 [John Mueller is Senior Research Scientist at the Mershon Center for International Security Studies and Adjunct Professor in the Department of Political Science, both at Ohio State University, and Senior Fellow at the Cato Institute in Washington, D.C. Mark G. Stewart is Australian Research Council Professorial Fellow and Professor and Director at the Centre for Infrastructure Performance and Reliability at the University of Newcastle in Australia, “The Terrorism Delusion”, International Security, Vol. 37, No. 1 (Summer 2012), pp. 81–110, Chetan]

It seems increasingly likely that the official and popular reaction to the terrorist attacks of September 11, 2001, has been substantially deluded—massively disproportionate to the threat that al-Qaida has ever actually presented either as an international menace or as an inspiration or model to homegrown amateurs. Applying the extensive datasets on terrorism that have been generated over the last decades, we conclude that the chances of an American perishing at the hands of a terrorist at present rates is one in 3.5 million per year—well within the range of what risk analysts hold to be “acceptable risk.”40 Yet, despite the importance of responsibly communicating risk and despite the costs of irresponsible fearmongering, just about the only official who has ever openly put the threat presented by terrorism in some sort of context is New York’s Mayor Michael Bloomberg, who in 2007 pointed out that people should “get a life” and that they have a greater chance of being hit by lightning than of being a victim of terrorism—an observation that may be a bit off the mark but is roughly accurate.41 (It might be noted that, despite this unorthodox outburst, Bloomberg still managed to be re-elected two years later.) Indeed, much of the reaction to the September 11 attacks calls to mind Hans Christian Andersen’s fable of delusion, “The Emperor’s New Clothes,” in which con artists convince the emperor’s court that they can weave stuffs of the most beautiful colors and elaborate patterns from the delicate silk and purest gold thread they are given. These stuffs, they further convincingly explain, have the property of remaining invisible to anyone who is unusually stupid or unfit for office. The emperor finds this quite appealing because not only will he have splendid new clothes, but he will be able to discover which of his officials are unfit for their posts—or in today’s terms, have lost their effectiveness. His courtiers, then, have great professional incentive to proclaim the stuffs on the loom to be absolutely magnificent even while mentally justifying this conclusion with the equivalent of “absence of evidence is not evidence of absence.” Unlike the emperor’s new clothes, terrorism does of course exist. Much of the reaction to the threat, however, has a distinctly delusionary quality. In Carle’s view, for example, the CIA has been “spinning in self-referential circles” in which “our premises were flawed, our facts used to fit our premises, our premises determined, and our fears justified our operational actions, in a self-contained process that arrived at a conclusion dramatically at odds with the facts.” The process “projected evil actions where there was, more often, muddled indirect and unavoidable complicity, or not much at all.” These “delusional ratiocinations,” he further observes, “were all sincerely, ardently held to have constituted a rigorous, rational process to identify terrorist threats” in which “the avalanche of reporting confirms its validity by its quantity,” in which there is a tendency to “reject incongruous or contradictory facts as erroneous, because they do not conform to accepted reality,” and in which potential dissenters are not-so-subtly reminded of career dangers: “Say what you want at meetings. It’s your decision. But you are doing yourself no favors.”42 Consider in this context the alarming and profoundly imaginary estimates of U.S. intelligence agencies in the year after the September 11 attacks that the number of trained al-Qaida operatives in the United States was between 2,000 and 5,000.43 Terrorist cells, they told reporters, were “embedded in most U.S. cities with sizable Islamic communities,” usually in the “run-down sections,” and were “up and active” because electronic intercepts had found some of them to be “talking to each other.”44 Another account relayed the view of “experts” that Osama bin Laden was ready to unleash an “11,000 strong terrorist army” operating in more than sixty countries “controlled by a Mr. Big who is based in Europe,” but that intelligence had “no idea where thousands of these men are.”45 Similarly, FBI Director Robert Mueller assured the Senate Intelligence Committee on February 11, 2003, that, although his agency had yet to identify even one al-Qaida cell in the United States, “I remain very concerned about what we are not seeing,” a sentence rendered in bold lettering in his prepared text. Moreover, he claimed that such unidentified entities presented “the greatest threat,” had “developed a support infrastructure” in the country, and had achieved both the “ability” and the “intent” to inflict “signi ficant casualties in the US with little warning.”46 Over the course of time, such essentially delusionary thinking has been internalized and institutionalized in a great many ways. For example, an extrapolation of delusionary proportions is evident in the common observation that, because terrorists were able, mostly by thuggish means, to crash airplanes into buildings, they might therefore be able to construct a nuclear bomb. Brian Jenkins has run an internet search to discover how often variants of the term “al-Qaida” appeared within ten words of “nuclear.” There were only seven hits in 1999 and eleven in 2000, but the number soared to 1,742 in 2001 and to 2,931 in 2002.47 By 2008, Defense Secretary Robert Gates was assuring a congressional committee that what keeps every senior government leader awake at night is “the thought of a terrorist ending up with a weapon of mass destruction, especially nuclear.”48 Few of the sleepless, it seems, found much solace in the fact that an al-Qaida computer seized in Afghanistan in 2001 indicated that the group’s budget for research on weapons of mass destruction (almost all of it focused on primitive chemical weapons work) was $2,000 to $4,000.49 In the wake of the killing of Osama bin Laden, officials now have many more al-Qaida computers, and nothing in their content appears to suggest that the group had the time or inclination, let alone the money, to set up and staff a uranium-seizing operation, as well as a fancy, super-high-technology facility to fabricate a bomb. This is a process that requires trusting corrupted foreign collaborators and other criminals, obtaining and transporting highly guarded material, setting up a machine shop staffed with top scientists and technicians, and rolling the heavy, cumbersome, and untested finished product into position to be detonated by a skilled crew—all while attracting no attention from outsiders.50 If the miscreants in the American cases have been unable to create and set off even the simplest conventional bombs, it stands to reason that none of them were very close to creating, or having anything to do with, nuclear weapons—or for that matter biological, radiological, or chemical ones. In fact, with perhaps one exception, none seems to have even dreamed of the prospect; and the exception is José Padilla (case 2), who apparently mused at one point about creating a dirty bomb—a device that would disperse radiation—or even possibly an atomic one. His idea about isotope separation was to put uranium into a pail and then to make himself into a human centrifuge by swinging the pail around in great arcs.51 Even if a weapon were made abroad and then brought into the United States, its detonation would require individuals in-country with the capacity to receive and handle the complicated weapons and then to set them off. Thus far, the talent pool appears, to put mildly, very thin.

### 2NC Terror

#### No risk of terrorism – a Harvard professor says to prefer our study

Walt 12 (Stephen, Belfer Professor of International Affairs – Harvard University, “What Terrorist Threat?,” Foreign Policy, 8-13, http://walt.foreignpolicy.com/posts/2012/08/13/what\_terrorist\_threat)

Remember how the London Olympics were supposedly left vulnerable to terrorists after the security firm hired for the games admitted that it couldn't supply enough manpower? This "humiliating shambles" forced the British government to call in 3,500 security personnel of its own, and led GOP presidential candidate Mitt Romney to utter some tactless remarks about Britain's alleged mismanagement during his official "Foot-in-Mouth" foreign tour last month. Well, surprise, surprise. Not only was there no terrorist attack, the Games themselves came off rather well. There were the inevitable minor glitches, of course, but no disasters and some quite impressive organizational achievements. And of course, athletes from around the world delivered inspiring, impressive, heroic, and sometimes disappointing performances, which is what the Games are all about. Two lessons might be drawn from this event. The first is that the head-long rush to privatize everything -- including the provision of security -- has some obvious downsides. When markets and private firms fail, it is the state that has to come to the rescue. It was true after the 2007-08 financial crisis, it's true in the ongoing euro-mess, and it was true in the Olympics. Bear that in mind when Romney and new VP nominee Paul Ryan tout the virtues of shrinking government, especially the need to privatize Social Security and Medicare. The second lesson is that we continue to over-react to the "terrorist threat." Here I recommend you read John Mueller and Mark G. Stewart's The Terrorism Delusion: America's Overwrought Response to September 11, in the latest issue of International Security. Mueller and Stewart analyze 50 cases of supposed "Islamic terrorist plots" against the United States, and show how virtually all of the perpetrators were (in their words) "incompetent, ineffective, unintelligent, idiotic, ignorant, unorganized, misguided, muddled, amateurish, dopey, unrealistic, moronic, irrational and foolish." They quote former Glenn Carle, former deputy national intelligence officer for transnational threats saying "we must see jihadists for the small, lethal, disjointed and miserable opponents that they are," noting further that al Qaeda's "capabilities are far inferior to its desires." Further, Mueller and Stewart estimate that expenditures on domestic homeland security (i.e., not counting the wars in Iraq or Afghanistan) have increased by more than $1 trillion since 9/11, even though the annual risk of dying in a domestic terrorist attack is about 1 in 3.5 million. Using conservative assumptions and conventional risk-assessment methodology, they estimate that for these expenditures to be cost-effective "they would have had to deter, prevent, foil or protect against 333 very large attacks that would otherwise have been successful every year." Finally, they worry that this exaggerated sense of danger has now been "internalized": even when politicians and "terrorism experts" aren't hyping the danger, the public still sees the threat as large and imminent. As they conclude: ... Americans seems to have internalized their anxiety about terrorism, and politicians and policymakers have come to believe that they can defy it only at their own peril.  Concern about appearing to be soft on terrorism has replaced concern about seeming to be soft on communism, a phenomenon that lasted far longer than the dramatic that generated it ... This extraordinarily exaggerated and essentially delusional response may prove to be perpetual." Which is another way of saying that you should be prepared to keep standing in those pleasant and efficient TSA lines for the rest of your life, and to keep paying for far-flung foreign interventions designed to "root out" those nasty jihadis.

#### No nuclear terror – operation, cohesion and coordination

Mueller and Stewart 12 [John Mueller is Senior Research Scientist at the Mershon Center for International Security Studies and Adjunct Professor in the Department of Political Science, both at Ohio State University, and Senior Fellow at the Cato Institute in Washington, D.C. Mark G. Stewart is Australian Research Council Professorial Fellow and Professor and Director at the Centre for Infrastructure Performance and Reliability at the University of Newcastle in Australia, “The Terrorism Delusion”, International Security, Vol. 37, No. 1 (Summer 2012), pp. 81–110, Chetan]

In the eleven years since the September 11 attacks, no terrorist has been able to detonate even a primitive bomb in the United States, and except for the four explosions in the London transportation system in 2005, neither has any in the United Kingdom. Indeed, the only method by which Islamist terrorists have managed to kill anyone in the United States since September 11 has been with gunfire—inflicting a total of perhaps sixteen deaths over the period (cases 4, 26, 32).11 This limited capacity is impressive because, at one time, small-scale terrorists in the United States were quite successful in setting off bombs. Noting that the scale of the September 11 attacks has “tended to obliterate America’s memory of pre-9/11 terrorism,” Brian Jenkins reminds us (and we clearly do need reminding) that the 1970s witnessed sixty to seventy terrorist incidents, mostly bombings, on U.S. soil every year.12 The situation seems scarcely different in Europe and other Western locales. Michael Kenney, who has interviewed dozens of government officials and intelligence agents and analyzed court documents, has found that, in sharp contrast with the boilerplate characterizations favored by the DHS and with the imperatives listed by Dalmia, Islamist militants in those locations are operationally unsophisticated, short on know-how, prone to making mistakes, poor at planning, and limited in their capacity to learn.13 Another study documents the difficulties of network coordination that continually threaten the terrorists’ operational unity, trust, cohesion, and ability to act collectively.14 In addition, although some of the plotters in the cases targeting the United States harbored visions of toppling large buildings, destroying airports, setting off dirty bombs, or bringing down the Brooklyn Bridge (cases 2, 8, 12, 19, 23, 30, 42), all were nothing more than wild fantasies, far beyond the plotters’ capacities however much they may have been encouraged in some instances by FBI operatives. Indeed, in many of the cases, target selection is effectively a random process, lacking guile and careful planning. Often, it seems, targets have been chosen almost capriciously and simply for their convenience. For example, a would-be bomber targeted a mall in Rockford, Illinois, because it was nearby (case 21). Terrorist plotters in Los Angeles in 2005 drew up a list of targets that were all within a 20-mile radius of their shared apartment, some of which did not even exist (case 15). In Norway, a neo-Nazi terrorist on his way to bomb a synagogue took a tram going the wrong way and dynamited a mosque instead.15 Although the efforts of would-be terrorists have often seemed pathetic, even comical or absurd, the comedy remains a dark one. Left to their own devices, at least a few of these often inept and almost always self-deluded individuals could eventually have committed some serious, if small-scale, damage.16

#### Even if there is an attack – it would be small scale and disorganized

Mueller and Stewart 12 [John Mueller is Senior Research Scientist at the Mershon Center for International Security Studies and Adjunct Professor in the Department of Political Science, both at Ohio State University, and Senior Fellow at the Cato Institute in Washington, D.C. Mark G. Stewart is Australian Research Council Professorial Fellow and Professor and Director at the Centre for Infrastructure Performance and Reliability at the University of Newcastle in Australia, “The Terrorism Delusion”, International Security, Vol. 37, No. 1 (Summer 2012), pp. 81–110, Chetan]

Calculating the Costs of the Counterterrorism Delusion Delusion is a quality that is difficult to quantify. Nevertheless, there may be a way to get a sense of its dimensions—or at least of its cost consequences. We have argued that terrorism is a limited problem with limited consequences and that the reaction to it has been excessive, and even delusional. Some degree of effort to deal with the terrorism hazard is, however, certainly appropriate—and is decidedly not delusional. The issue then is a quantitative one: At what point does a reaction to a threat that is real become excessive or even delusional? At present rates, as noted earlier, an American’s chance of being killed by terrorism is one in 3.5 million in a given year. This calculation is based on history (but one that includes the September 11 attacks in the count), and things could, of course, become worse in the future. The analysis here, however, suggests that terrorists are not really all that capable, that terrorism tends to be a counterproductive exercise, and that September 11 is increasingly standing out as an aberration, not a harbinger. Moreover, it has essentially become officially accepted that the likelihood of a large-scale organized attack such as September 11 has declined and that the terrorist attacks to fear most are ones that are small scale and disorganized.66 Attacks such as these can inflict painful losses, of course, but they are quite limited in their effect and, even if they do occur, they would not change the fatality risk for the American population very much.

#### Al Qaeda is crumbling internally by alienating foreign supporters

Mueller and Stewart 12 [John Mueller is Senior Research Scientist at the Mershon Center for International Security Studies and Adjunct Professor in the Department of Political Science, both at Ohio State University, and Senior Fellow at the Cato Institute in Washington, D.C. Mark G. Stewart is Australian Research Council Professorial Fellow and Professor and Director at the Centre for Infrastructure Performance and Reliability at the University of Newcastle in Australia, “The Terrorism Delusion”, International Security, Vol. 37, No. 1 (Summer 2012), pp. 81–110, Chetan]

In fact, it is unclear whether al-Qaida central, now holed up in Pakistan and under sustained attack, has done much of anything since September 11 except issue videos filled with empty, self-infatuated, and essentially delusional threats. For example, it was in October 2002 that Osama bin Laden proclaimed, “Understand the lesson of New York and Washington raids, which came in response to some of your previous crimes. . . . God is my witness, the youth of Islam are preparing things that will fill your hearts with fear. They will target key sectors of your economy until you stop your injustice and aggression or until the more short-lived of us die.” And in January 2006, he insisted that the “delay” in carrying out operations in the United States “was not due to failure to breach your security measures,” and that “operations are under preparation, and you will see them on your own ground once they are finished, God willing.”18 Bin Laden’s tiny group of 100 or so followers does appear to have served as something of an inspiration to some Muslim extremists, may have done some training, has contributed a bit to the Taliban’s far larger insurgency in Afghanistan, and may have participated in a few terrorist acts in Pakistan.19 In his examination of the major terrorist plots against the West since September 11, Mitchell Silber finds only two (cases 1 and 20) that could be said to be under the “command and control” of al-Qaida central (as opposed to ones suggested, endorsed, or inspired by the organization), and there are questions about how full its control was even in these two instances.20 This highly limited record suggests that Carle was right in 2008 when he warned, “We must not take fright at the specter our leaders have exaggerated. In fact, we must see jihadists for the small, lethal, disjointed and miserable opponents that they are.” Al-Qaida “has only a handful of individuals capable of planning, organizing and leading a terrorist organization,” and although it has threatened attacks, “its capabilities are far inferior to its desires.”21 Impressively, bin Laden appears to have remained in a state of self-delusion even to his brutal and abrupt end. He continued to cling to the belief that another attack such as September 11 might force the United States out of the Middle East, and he was unfazed that the first such effort had proven to be spectacularly counterproductive in this respect by triggering a deadly invasion of his base in Afghanistan and an equally deadly pursuit of his operatives.22 Other terrorist groups around the world affiliated or aligned or otherwise connected to al-Qaida may be able to do intermittent damage to people and infrastructure, but nothing that is very sustained or focused. In all, extremist Islamist terrorism—whether associated with al-Qaida or not—has claimed 200 to 400 lives yearly worldwide outside war zones. That is 200 to 400 too many, of course, but it is about the same number as bathtub drownings every year in the United States.23 In addition to its delusional tendencies, al-Qaida has, as Patrick Porter notes, a “talent at self-destruction.”24 With the September 11 attacks and subsequent activity, bin Laden and his followers mainly succeeded in uniting the world, including its huge Muslim population, against their violent global jihad.25 These activities also turned many radical Islamists against them, including some of the most prominent and respected.26 No matter how much states around the world might disagree with the United States on other issues (most notably on its war in Iraq), there is a compelling incentive for them to cooperate to confront any international terrorist problem emanating from groups and individuals connected to, or sympathetic with, al-Qaida. Although these multilateral efforts, particularly by such Muslim states as Libya, Pakistan, Sudan, Syria, and even Iran, may not have received sufficient publicity, these countries have felt directly threatened by the militant network, and their diligent and aggressive efforts have led to important breakthroughs against the group.27 Thus a terrorist bombing in Bali in 2002 galvanized the Indonesian government into action and into making extensive arrests and obtaining convictions. When terrorists attacked Saudis in Saudi Arabia in 2003, the government became considerably more serious about dealing with internal terrorism, including a clampdown on radical clerics and preachers. The main result of al-Qaida-linked suicide terrorism in Jordan in 2005 was to outrage Jordanians and other Arabs against the perpetrators. In polls conducted in thirty-five predominantly Muslim countries by 2008, more than 90 percent condemned bin Laden’s terrorism on religious grounds.28 In addition, the mindless brutalities of al-Qaida-affiliated combatants in Iraq—staging beheadings at mosques, bombing playgrounds, taking over hospitals, executing ordinary citizens, performing forced marriages—eventually turned the Iraqis against them, including many of those who had previously been fighting the U.S. occupation either on their own or in connection with the group.29 In fact, they seem to have managed to alienate the entire population: data from polls in Iraq in 2007 indicate that 97 percent of those surveyed opposed efforts to recruit foreigners to fight in Iraq; 98 percent opposed the militants’ efforts to gain control of territory; and 100 percent considered attacks against Iraqi civilians “unacceptable.”30 In Iraq as in other places, “al-Qaeda is its own worst enemy,” notes Robert Grenier, a former top CIA counterterrorism official. “Where they have succeeded initially, they very quickly discredit themselves.”31 Grenier’s improbable company in this observation is Osama bin Laden, who was so concerned about al-Qaida’s alienation of most Muslims that he argued from his hideout that the organization should take on a new name.32 Al-Qaida has also had great difficulty recruiting Americans. The group’s most important, and perhaps only, effort at this is the Lackawanna experience, when a smooth-talking operative returned to the upstate New York town in early 2000 and tried to convert young Yemini-American men to join the cause (case 5). In the summer of 2001, seven agreed to accompany him to an al-Qaida training camp, and several more were apparently planning to go later. Appalled at what they found there, however, six of the seven returned home and helped to dissuade those in the next contingent.

## 1NR - Politics

### Impact – 2NC

#### Impact outweighs –

#### Israeli strikes are the only way to simultaneously trigger economic collapse, international backlash, and nuclear standoff—even if they have defense, crisis synergy overwhelms normal conflict resolution and leads to World War 3 – that’s Reuveny. It also says that the US response independently leads to miscalc due to high alert – draws in all major powers and escalates

#### Also faster – talks are on the brink now and our link is based on Israel’s response to diplomatic progress – none of their impacts are perception based

#### Strikes trigger biological warfare and draw in Russia and China

Morgan 9 (Dennis Ray Morgan, Hankuk University of Foreign Studies, Yongin Campus - South Korea, Futures, Volume 41, Issue 10, December 2009, Pages 683-693)

This scenario has gained even more plausibility since a January 2007 Sunday Times report [13] of an Israeli intelligence leak that Israel was considering a strike against Iran, using low-yield bunker busting nukes to destroy Iran’s supposedly secret underground nuclear facilities. In Moore’s scenario, non-nuclear neighboring countries would then respond with conventional rockets and chemical, biological and radiological weapons. Israel then would retaliate with nuclear strikes on several countries, including a pre-emptive strike against Pakistan, who then retaliates with an attack not only on Israel butpre-emptively striking India as well. Israel then initiates the ‘‘Samson option’’ with attacks on other Muslim countries, Russia, and possibly the ‘‘anti-Semitic’’ cities of Europe. At that point, all-out nuclear war ensues as the U.S. retaliates with nuclear attacks on Russia and possibly on China as well.11

#### Extinction

Sandberg 8 (Anders Sandberg, is a James Martin Research Fellow at the Future of Humanity Institute at Oxford University; Jason G. Matheny, PhD candidate in Health Policy and Management at Johns Hopkins Bloomberg School of Public Health and special consultant to the Center for Biosecurity at the University of Pittsburgh Medical Center; Milan M. Ćirković, senior research associate at the Astronomical Observatory of Belgrade and assistant professor of physics at the University of Novi Sad in Serbia and Montenegro, 9/8/8, “How can we reduce the risk of human extinction?,” Bulletin of the Atomic Scientists,<http://www.thebulletin.org/web-edition/features/how-can-we-reduce-the-risk-of-human-extinction>)

The risks from anthropogenic hazards appear at present larger than those from natural ones. Although great progress has been made in reducing the number of nuclear weapons in the world, humanity is still threatened by the possibility of a global thermonuclear war and a resulting nuclear winter. We may face even greater risks from emerging technologies. Advances in synthetic biology might make it possible to engineer pathogens capable of extinction-level pandemics. The knowledge, equipment, and materials needed to engineer pathogens are more accessible than those needed to build nuclear weapons. And unlike other weapons, pathogens are self-replicating, allowing a small arsenal to become exponentially destructive. Pathogens have been implicated in the extinctions of many wild species. Although most pandemics "fade out" by reducing the density of susceptible populations, pathogens with wide host ranges in multiple species can reach even isolated individuals. The intentional or unintentional release of engineered pathogens with high transmissibility, latency, and lethality might be capable of causing human extinction. While such an event seems unlikely today, the likelihood may increase as biotechnologies continue to improve at a rate rivaling Moore's Law.

#### Turns case & their legal regimes advantage – sets a precedent to delegate authority – draws us into war

**Richman 13** (Sheldon, Counterpunch, “AIPAC's Stranglehold Congress Must Not Cede Its War Power to Israel”, <http://www.counterpunch.org/2013/12/27/congress-must-not-cede-its-war-power-to-israel/>)

The American people should know that pending right now in Congress is a bipartisan bill that would virtually commit the United States to go to war against Iran if Israel attacks the Islamic Republic. “The bill outsources any decision about resort to military action to the government of Israel,” Columbia University Iran expert Gary Sick wrote to Sen. Chuck Schumer (D-NY) in protest, one of the bill’s principal sponsors. The mind boggles at the thought that Congress would let a foreign government decide when America goes to war, so here is the language (PDF): If the government of Israel is compelled to take military action in legitimate self-defense against Iran’s nuclear weapon program, the United States Government should stand with Israel and provide, in accordance with the law of the United States and the constitutional responsibility of Congress to authorize the use of military force, diplomatic, military and economic support to the Government of Israel in its defense of its territory, people and existence. This section is legally nonbinding, but given the clout of the bill’s chief supporter outside of Congress — the American-Israel Public Affairs Committee (AIPAC [PDF]), leader of the pro-Israel lobby — that is a mere formality. Since AIPAC wants this bill passed, it follows that so does the government of Israeli Prime Minister Benjamin Netanyahu, who opposes American negotiations with Iran and has repeatedly threatened to attack the Islamic Republic. Against all evidence, Netanyahu insists the purpose of Iran’s nuclear program is to build a weapon with which to attack Israel. Iran says its facilities, which are routinely inspected, are for peaceful civilian purposes: the generation of electricity and the production of medical isotopes. The bill, whose other principal sponsors are Sen. Robert Menendez (D-NJ) and Sen. Mark Kirk (R-IL), has a total of 26 Senate cosponsors. If it passes when the Senate reconvenes in January, it could provoke a historic conflict between Congress and President Obama, whose administration is engaged in negotiations with Iran at this time. Aside from declaring that the U.S. government should assist Israel if it attacks Iran, the bill would also impose new economic sanctions on the Iranian people. Obama has asked the Senate not to impose additional sanctions while his administration and five other governments are negotiating with Iran on a permanent settlement of the nuclear issue. A six-month interim agreement is now in force, one provision of which prohibits new sanctions on Iran. “The [Menendez-Schumer-Kirk] bill allows Obama to waive the new sanctions during the current talks by certifying every 30 days that Iran is complying with the Geneva deal and negotiating in good faith on a final agreement,” Ali Gharib writes at Foreign Policy magazine. That would effectively give Congress the power to undermine negotiations. As Iran’s foreign minister, Javad Zarif, told Time magazine, if Congress imposes new sanctions, even if they are delayed for six months, “The entire deal is dead. We do not like to negotiate under duress.” Clearly, the bill is designed to destroy the talks with Iran, which is bending over backward to demonstrate that its nuclear program has no military aims.

#### --Turns terror

Brookes, National security affairs senior fellow, 07

(Peter, 4-2-07, “Iran Emboldened: Tehran Seeks to Dominate Middle East Politics”, DOA: 10-10-13, <http://www.heritage.org/research/commentary/2007/04/iran-emboldened-tehran-seeks-to-dominate-middle-east-politics>, llc)

According to the U.S. State Department, Iran continues to be the world's most active state sponsor of terrorism. At the request of senior Iranian leadership, Iran's Ministry of Intelligence and Security (MOIS) and Islamic Revolutionary Guard Corps (IRGC) support Palestinian terrorist groups such as Hamas, Palestinian Islamic Jihad, the al Aqsa Martyrs Brigade and the Popular Front for the Liberation of Palestine-General Command with funding, training and weapons. Hezbollah - a Lebanese Shiite terrorist group - is a particular favorite. In fact, Iran established Hezbollah to parry Israel's 1982 invasion of Lebanon. Tehran may fund Hezbollah to the tune of $100 million per year. Last summer, Tehran's military support for Hezbollah was evident. Iran likely gave Hezbollah the green light to ambush an Israeli patrol and kidnap soldiers, which ultimately kicked off the monthlong conflict. In the ensuing days, Hezbollah indiscriminately fired as many as 10,000 Iran-supplied rockets and missiles into Israel. In addition, many were stunned when a C-802 cruise missile struck an Israeli naval vessel off the coast of Lebanon. While the shooter was never identified, the Chinese C-802 is in Iran's inventory. It could have been fired by either Hezbollah or the IRGC. Today, Hezbollah, with Iranian and Syrian support, is threatening to topple Lebanon's democratically elected government unless it is given additional cabinet seats - potentially giving it veto power over Beirut's decisions. Iran would love to add Lebanon to Syria as a client state in its effort to form an arc of Iranian influence across the region. Iran has made a number of not-so-veiled threats that it would deploy its irregular forces and terrorist allies against the U.S. and American interests, if necessary. This is likely not an idle threat. American blood is already on the hands of Iran and its terrorist proxies as a result of the 1983 Beirut Marine barracks attack and the 1996 Khobar Towers bombing in Saudi Arabia, and in Iraq today. It is almost without question that Tehran sees its ability to hold U.S. interests at risk across the globe - including in the U.S. - as leverage against American military action over its nuclear program or meddling in Iraq. Perhaps the most frightening scenario is that Iran might transfer weapons of mass destruction capability to a terrorist ally. While this is risky behavior, it is a possibility. Iran could transfer nuclear capability to a Hezbollah-dominated government in Lebanon, or a Hamas-led Palestinian Authority, significantly increasing the threat to Israeli security. Osama bin Laden has not been shy about his desire for WMD or al-Qaida's readiness to use them. The insurgency's recent use of chlorine gas in Iraq is evidence of a terrorist group's willingness to employ WMD.

### PC Key – 2NC

#### Says Obama has political capital he is utilizing with Senate Democrats – that’s effective Also their evidence doesn’t assume the possibility of a veto – PC key to prevent override specifically

#### Obama retains political capital on foreign policy

**Ziaberi 1/24**­ (Kourosh – interview with Kaveh Afrasiabi, the author of several books on Iran’s foreign policy and a former advisor of Center for Strategic Research , “Congress New Sanctions Bill Scuttles the Geneva Deal” Iran Review, <http://www.iranreview.org/content/Documents/Congress-New-Sanctions-Bill-Scuttles-the-Geneva-Deal.htm>)

Q: Can we interpret the conflicts and disputes between the White House and the Congress as a power struggle which has manifested itself in the nuclear standoff? Is it that the complexity of the decision-making hierarchy in the United States has resulted in a conflict between the government and the two chambers of the Congress?

A: Well, certainly this can be viewed from many different angles, such as the ‘checks’ and balance’ and Congressional role in foreign policy, not to mention traditional party politics. Since the Clinton Administration, Congress has organically inserted itself in the Iran policy and even more so during the “Obama era,” as a result of which White House’s moves on Iran are subject to intense congressional scrutiny. But, given Secretary John Kerry’s long tenure in the Senate, compared to the first Obama administration, I would say that the second Obama administration has a greater sway on Congress’s foreign policy input, otherwise the Geneva deal would not have survived the criticisms.

#### Obama’s investing all PC to block sanctions – he’s winning and has momentum

**Benen 1/17** (Steve – American political writer and blogger, an MSNBC contributor, and a producer for The Rachel Maddow Show , “Support for new Iran sanctions wanes”

<http://www.msnbc.com/rachel-maddow-show/support-new-iran-sanctions-wanes>)

A week ago, it was practically a foregone conclusion that such a bill would pass the House and Senate; the question is whether President Obama’s veto could be overridden. Just of the last few days, however, the odds of such a bill even reaching the president’s desk have dropped unexpectedly. The Hill, for example, reported yesterday that House Republicans “are moving away from a proposal to adopt new Iran sanctions.” House Democrats who were otherwise sympathetic to the idea became “irked” by GOP political tactics “and the idea appears to have been at least temporarily shelved.” In the Senate, meanwhile, BuzzFeed reports that Sen. Bob Corker (R-Tenn.), a co-sponsor of the legislation, has “proposed the idea of scheduling a vote on Iran sanctions six months from now, after the interim nuclear agreement has run its course, instead of voting on sanctions right now.” In other words, lawmakers could at least wait to see if the talks bear fruit before sabotaging them in advance. Corker’s idea isn’t ideal – it would reportedly lock in the Senate for a vote on July 21, exactly six months after the current deal is implemented, regardless of the status of the diplomacy – but in the larger context it suggests even sanctions supporters are starting to see value in waiting. Indeed, an unnamed senator who supports the sanctions bill told Greg Sargent this week that opponents have the momentum. The senator added, “At the moment, there’s no rush to put the bill on the floor. I’m not aware of any deadline in anyone’s head.” Keep in mind, the sanctions legislation was introduced in the Senate on Dec. 19 with a bipartisan group of 26 sponsors. Over the course of just three weeks, that total more than doubled to 59 sponsors. But the last addition was eight days ago – and no other senators have signed on since. What changed the direction of the debate? To be sure, White House pressure has made a difference, reinforced by President Obama’s direct lobbying to Democratic senators this week. I also talked to a Senate staffer yesterday who said public pressure has also increased, with more voters contacting the Hill with phone calls and emails, voicing opposition to the bill.

#### Their PC ev doesn’t assume a major decrease on a foreign policy issue

**Krasuhaar 13** (Josh, National Journal, “The Iran Deal Puts Pro-Israel Democrats in a Bind” <http://www.nationaljournal.com/magazine/the-iran-deal-puts-pro-israel-democrats-in-a-bind-20131121>)

All of this puts Democrats, who routinely win overwhelming support from Jewish Americans on Election Day, in an awkward position. Do they stand with the president on politically sensitive foreign policy issues, or stake their own course? That difficult dynamic is currently playing out in Congress, where the Obama administration is resisting a Senate push to maintain tough sanctions against Iran. This week, Obama met with leading senators on the Banking and Foreign Relations committees to dissuade them from their efforts while diplomacy is underway. "There's a fundamental disagreement between the vast majority of Congress and the president when it comes to increasing Iran sanctions right now," said one Democratic operative involved in the advocacy efforts. "Pro-Israel groups, like AIPAC, try to do things in a bipartisan way; they don't like open confrontation. But in this instance, it's hard." That awkwardness has been evident in the lukewarm reaction from many of Obama's Senate Democratic allies to the administration's outreach to Iran. Senate Foreign Relations Committee Chairman Robert Menendez of New Jersey said last week he was concerned that the administration seems "to want the deal almost more than the Iranians." Normally outspoken Sen. Chuck Schumer of New York, a reliable ally of Israel, has been conspicuously quiet about his views on the negotiations. In a CNN interview this month, Democratic Rep. Debbie Wasserman Schultz of Florida, whose job as chairwoman of the Democratic National Committee is to defend the president, notably declined to endorse the administration's approach, focusing instead on Obama's past support of sanctions. This, despite the full-court press from Secretary of State John Kerry, a former congressional colleague. On Tuesday, after meeting with Obama, Menendez and Schumer signed a bipartisan letter to Kerry warning the administration about accepting a deal that would allow Iran to continue its nuclear program. The letter was also signed by Sens. John McCain, R-Ariz., Lindsey Graham, R-S.C., Susan Collins, R-Maine, and Robert Casey, D-Pa. Democrats, of course, realize that the president plays an outsized role in the policy direction of his party. Just as George W. Bush moved the Republican Party in a more hawkish direction during his war-riven presidency, Obama is nudging Democrats away from their traditionally instinctive support for the Jewish state. "I can't remember the last time the differences [between the U.S. and Israel] were this stark," said one former Democratic White House official with ties to the Jewish community. "There's now a little more freedom [for progressive Democrats] to say what they want to say, without fear of getting their tuchus kicked by the organized Jewish community." A Gallup survey conducted this year showed 55 percent of Democrats sympathizing with the Israelis over the Palestinians, compared with 78 percent of Republicans and 63 percent of independents who do so. A landmark Pew poll of American Jews, released in October, showed that 35 percent of Jewish Democrats said they had little or no attachment to Israel, more than double the 15 percent of Jewish Republicans who answered similarly. At the 2012 Democratic National Convention, many delegates booed a platform proposal supporting the move of the U.S. Embassy in Israel from Tel Aviv to Jerusalem. In 2011, Democrats lost Anthony Weiner's heavily Jewish, solidly Democratic Brooklyn House seat because enough Jewish voters wanted to rebuke the president's perceived hostility toward Israel. Pro-Israel advocacy groups rely on the mantra that support for Israel carries overwhelming bipartisan support, a maxim that has held true for decades in Congress. But most also reluctantly acknowledge the growing influence of a faction within the Democratic Party that is more critical of the two countries' close relationship. Within the Jewish community, that faction is represented by J Street, which positions itself as the home for "pro-Israel, pro-peace Americans" and supports the Iran negotiations. "Organizations that claim to represent the American Jewish community are undermining [Obama's] approach by pushing for new and harsher penalties against Iran," the group wrote in an action alert to its members. Some supporters of Israel view J Street with concern. "There's a small cadre of people that comes from the progressive side of the party that are in the business of blaming Israel first. There's a chorus of these guys," said a former Clinton administration foreign policy official. "But that doesn't make them the dominant folks in the policy space of the party, or the Hill." Pro-Israel activists worry that one of the ironies of Obama's situation is that as his poll numbers sink, his interest in striking a deal with Iran will grow because he'll be looking for any bit of positive news that can draw attention away from the health care law's problems. Thus far, Obama's diminished political fortunes aren't deterring Democrats from protecting the administration's prerogatives. Congressional sources expect the Senate Banking Committee, chaired by South Dakota Democrat Tim Johnson, to hold off on any sanctions legislation until there's a resolution to the Iranian negotiations. But if Obama's standing continues to drop, and negotiations produce a deal that Israel doesn't like, don't be surprised to see Democrats become less hesitant about going their own way.

#### Key to influence

RollCall 1-16 [By Humberto Sanchez; “As Obama Presses Senate, Reid Holds Cards Close on Iran”; 1/16/2014; http://blogs.rollcall.com/wgdb/reid-holds-cards-close-on-iran-as-obama-presses-senate/]

President Barack Obama and his administration are engaged in an all-out press to get the Senate to back off a new round of Iran sanctions which they believe risk unraveling talks and could even prompt war — including a personal appeal to Senate Democrats on Wednesday night. So far, the White House efforts appear to be holding the line, although Sen. Majority Leader Harry Reid, D-Nev., continues to hold his cards close to the vest on when, or whether, he might allow a vote on the bipartisan bill by Sens. Robert Menendez, D-N.J., and Mark S. Kirk, R-Ill., that had been heading toward a veto-proof majority. “He did spend a little time on the Iran issue,” Reid said of the president. “As I said Tuesday … people on both sides of this issue are working in good faith to try to come up with a result that’s favorable result,” Reid said. “The result is going to be the fact the Iran is not going to get a nuclear weapon.” Sen. Charles E. Schumer, D-N.Y., who is a co-sponsor of the bill, said, “We are united in our goal to not have a nuclear Iran and the new agreement is only in effect for a day or two. That’s all I’d say on that.”

### Impact – A2: Defense – 2NC

#### ---Doesn’t assume the scenario – their impact evidence just says Israel hasn’t striked because they haven’t seen the need or justification to – the deal would change the incentive for strikes

#### Deal failure itself causes global war

**PressTV 11/13/13** (“Global nuclear conflict between US, Russia, China likely if Iran talks fail,” <http://www.presstv.ir/detail/2013/11/13/334544/global-nuclear-war-likely-if-iran-talks-fail/>)

A global conflict between the US, Russia, and China is likely in the coming months should the world powers fail to reach a nuclear deal with Iran, an American analyst says. “If the talks fail, if the agreements being pursued are not successfully carried forward and implemented, then there would be enormous international pressure to drive towards a conflict with Iran before [US President Barack] Obama leaves office and that’s a very great danger that no one can underestimate the importance of,” senior editor at the Executive Intelligence Review Jeff Steinberg told Press TV on Wednesday. “The United States could find itself on one side and Russia and China on the other and those are the kinds of conditions that can lead to miscalculation and general roar,” Steinberg said. “So the danger in this situation is that if these talks don’t go forward, we could be facing a global conflict in the coming months and years and that’s got to be avoided at all costs when you’ve got countries like the United States, Russia, and China with” their arsenals of “nuclear weapons,” he warned. The warning came one day after the White House told Congress not to impose new sanctions against Tehran because failure in talks with Iran could lead to war.

#### Israel will escalate to nuclear first-use---they perceive Iran as an existential threat

James M. Lindsay 10, Senior Vice President, Director of Studies, and Maurice R. Greenberg Chair at the Council on Foreign Relations, and Ray Takeyh, Senior Fellow at the Council on Foreign Relations, March/April 2010, “After Iran Gets the Bomb,” Foreign Affairs§ Marked 10:07 § , Vol. 89, No. 2

Such a doomsday scenario could pan out. Whether it did would depend greatly on how the United States and others, starting with Israel, responded to Iran's nuclearization. Whether Israeli Prime Minister Benjamin Netanyahu forgoes a preventive strike against Iran's nuclear facilities or opts for launching an attack and it fails, the Israeli government will continue to regard the Iranian regime as an existential threat to Israel that must be countered by any means possible, including the use of nuclear weapons. Given Israel's unique history and Ahmadinejad's contemptible denials of the Holocaust, no Israeli prime minister can afford to think otherwise.

#### No impact defense---pressure for escalation would be intense and short-term

Colin H. Kahl 12, Associate Professor in the Security Studies Program at Georgetown’s School of Foreign Service and Senior Fellow at the Center for a New American Security, January 17, 2012, “Not Time to Attack Iran,” online: http://www.foreignaffairs.com/articles/137031/colin-h-kahl/not-time-to-attack-iran?page=show#

To make matters worse, in the heat of battle, Iran would face powerful incentives to escalate. In the event of a conflict, both sides would come under significant pressure to stop the fighting due to the impact on international oil markets. Since this would limit the time the Iranians would have to reestablish deterrence, they might choose to launch a quick, all-out response, without care for redlines. Iranian fears that the United States could successfully disrupt its command-and-control infrastructure or preemptively destroy its ballistic missile arsenal could also tempt Iran to launch as many missiles as possible early in the war. And the decentralized nature of Iran's Islamic Revolutionary Guard Corps, especially its navy, raises the prospect of unauthorized responses that could rapidly expand the fighting in the crowded waters of the Persian Gulf.¶ Controlling escalation would be no easier on the U.S. side. In the face of reprisals by Iranian proxies, "token missile strikes against U.S. bases and ships," or "the harassment of commercial and U.S. naval vessels," Kroenig says that Washington should turn the other cheek and constrain its own response to Iranian counter-attacks. But this is much easier said than done. Just as Iran's likely expectation of a short war might encourage it to respond disproportionately early in the crisis, so the United States would also have incentives to move swiftly to destroy Iran's conventional forces and the infrastructure of the Revolutionary Guard Corps. And if the United States failed to do so, proxy attacks against U.S. civilian personnel in Lebanon or Iraq, the transfer of lethal rocket and portable air defense systems to Taliban fighters in Afghanistan, or missile strikes against U.S. facilities in the Gulf could cause significant U.S. casualties, creating irresistible political pressure in Washington to respond. Add to this the normal fog of war and the lack of reliable communications between the United States and Iran, and Washington would have a hard time determining whether Tehran's initial response to a strike was a one-off event or the prelude to a wider campaign. If it were the latter, a passive U.S. approach might motivate Iran to launch even more dangerous attacks -- and this is a risk Washington may choose not to take. The sum total of these dynamics would make staying within Kroenig's proscribed limits exceedingly difficult.¶

#### Israel strikes cause global nuclear war

Trabanco 9 (José Miguel Alonso, Independent researcher of geopoltical and military affairs, “The Middle Eastern Powder Keg Can Explode at Anytime,” 1-13, http://www.globalresearch.ca/index.php?context=va&aid=11762)

In case of an Israeli and/or American attack against Iran, Ahmadinejad's government will certainly respond. A possible countermeasure would be to fire Persian ballistic missiles against Israel and maybe even against American military bases in the regions. Teheran will unquestionably resort to its proxies like Hamas or Hezbollah (or even some of its Shiite allies it has in Lebanon or Saudi Arabia) to carry out attacks against Israel, America and their allies, effectively setting in flames a large portion of the Middle East. The ultimate weapon at Iranian disposal is to block the Strait of Hormuz. If such chokepoint is indeed asphyxiated, that would dramatically increase the price of oil, this a very threatening retaliation because it will bring intense financial and economic havoc upon the West, which is already facing significant trouble in those respects. In short, the necessary conditions for a major war in the Middle East are given. Such conflict could rapidly spiral out of control and thus a relatively minor clash could quickly and dangerously escalate by engulfing the whole region and perhaps even beyond. There are many key players: the Israelis, the Palestinians, the Arabs, the Persians and their respective allies and some great powers could become involved in one way or another (America, Russia, Europe, China). Therefore, any miscalculation by any of the main protagonists can trigger something no one can stop. Taking into consideration that the stakes are too high, perhaps it is not wise to be playing with fire right in the middle of a powder keg.

### Won’t Pass/A2 Uniq O/Whelms Link

#### Obama is prevailing now with Dems to stop momentum for the Iran sanctions bill but political winds can change

Sorcher 1/30/14 (Sara, National Security Correspondent @ National Journal, "Inhofe Says There’s Not Enough Support to Override a Veto on Iran Sanctions," http://www.defenseone.com/politics/2014/01/inhofe-says-theres-not-enough-support-override-veto-iran-sanctions/77837/?oref=d-channelriver?oref=d-interstitial-continue?oref=d-interstitial-continue)

President Obama used his State of the Union address Tuesday to threaten a veto of any congressional plan to slap Iran with new sanctions, and he just might have gotten his way.¶ The top Republican on the Senate Armed Services Committee thinks Obama is “naive” to believe the U.S. is having any “great success” in persuading Iran to curb parts of its nuclear program—but he is not optimistic there’s enough momentum in the Senate, all told, to ram through new sanctions against the wishes of the president.¶ “[Obama] said last night he would veto any [new sanctions],” Sen. Jim Inhofe said in an interview. “The question is, is there support to override a veto on that? I say, ‘No.’ ”¶ The Nuclear Weapon Free Iran Act, authored by two senators, Illinois Republican Mark Kirk and New Jersey Democrat Robert Menendez, has 59 cosponsors, and includes measures to punish Iran’s oil industry if it breaches diplomatic commitments. Inhofe does not believe a vote now would result in the majority necessary to override a presidential veto, because enough Democrats would still side with their president.¶ Even some of the Senate bill’s Democratic cosponsors, including Joe Manchin of West Virginia and Christopher Coons of Delaware, have also backed away from the sanctions bill since Obama’s speech, The Hill reported.¶ In his address Tuesday night, Obama defended the interim deal, which he said “has halted the progress of Iran’s nuclear program—and rolled parts of that program back—for the very first time in a decade.” Iran has started eliminating its stockpile of higher levels of enriched uranium, Obama said, and is no longer installing advanced centrifuges. If diplomacy fails, then all options—presumably even military force—remain on the table, Obama promised. “I will be the first to call for more sanctions, and stand ready to exercise all options to make sure Iran does not build a nuclear weapon.”¶ Inhofe, though, isn’t buying it. New Iranian President Hassan Rouhani is not to be trusted; inspections won’t be enough, he said. “They,” Inhofe said, referring to the Obama administration, “seem to think, for some reason, that this new president is a president they can talk to, and negotiate with…. This guy, I don’t think we can trust him more than anybody else, [even former President Mahmoud] Ahmadinejad.”¶ Even though the momentum may be slipping, Inhofe said, Democrats loyal to Obama are quickly becoming “endangered species.” So if talks between world powers and Iran fall apart, or new revelations emerge that Iran is breaking its diplomatic commitments, it’s possible the political winds could shift.

#### Fight not over – Obama is winning for the moment but bill supporters aren’t retreated and are close to veto-proof override

Lander 2/3/14 (Mark, NYT, "Potent Pro-Israel Group Finds Its Momentum Blunted," http://www.nytimes.com/2014/02/04/world/middleeast/potent-pro-israel-group-finds-its-momentum-blunted.html?\_r=0)

Officials at the group insist it never called for an immediate vote and say the legislation may yet pass if Mr. Obama’s effort to negotiate a nuclear agreement with Iran fails or if Iran reneges on its interim deal with the West. But for the moment, Mr. Obama has successfully made the case that passing new sanctions against Tehran now could scuttle the nuclear talks and put America on the road to another war.¶ In doing so, the president has raised questions about the effectiveness of Aipac’s tactics and even its role as the unchallenged voice of the pro-Israel lobby in Washington. Jewish leaders say that pro-Israel groups disagreed on how aggressively to push the legislation, even if all the groups favor additional sanctions.¶ “Some of us see the object as being to target Iran,” said Abraham H. Foxman, the national director of the Anti-Defamation League. “We’re not out there to target the president; we’re out there to target Iran.”¶ With neither side spoiling for a fight or ready to back down, Mr. Foxman said, the sanctions campaign is stalled. Lawmakers confirm that the political climate on Capitol Hill has changed since the bill’s sponsors and Aipac made their push in December.¶ Senator Richard Blumenthal of Connecticut, a staunch supporter of Israel, is one of 16 Democrats who signed on to the bill, along with 43 of the Senate’s 45 Republicans, bringing it to within a few votes of a veto-proof majority. Now Mr. Blumenthal says the Senate should hold off on a vote to give Mr. Obama breathing room for diplomacy.¶ “There’s been an unquestionable, undeniable shift in the perception of national security,” Mr. Blumenthal said. “I’m sensitive to the feelings, the resistance, the aversion of the general public to any kind of American military engagement.”¶ On Monday, 70 House Democrats sent Mr. Obama a letter backing his diplomatic efforts and opposing new sanctions. Former Secretary of State Hillary Rodham Clinton added her voice to those urging no legislation.¶ The bill’s chief sponsors insist they are not retreating, with some congressional aides predicting that the White House’s tough tactics could backfire down the road.¶ “The American people — Democrats and Republicans alike — overwhelmingly want Iran held accountable during any negotiations,” said Senator Mark S. Kirk, Republican of Illinois, who is a lead co-sponsor, along with Senator Robert Menendez, Democrat of New Jersey.¶ But Aipac’s headaches go beyond Iran. In September, it threw an army of lobbyists behind an effort to win a congressional mandate for Mr. Obama’s threatened military strike on Syria. Facing certain failure in Congress, the president pulled the plug on the effort.¶ Earlier last year, it came under fire from the right for not publicly opposing Mr. Obama’s nomination of Chuck Hagel as secretary of defense, because of what critics said was his anti-Israel record.¶ ¶ ¶ None of this will prevent Aipac from drawing 14,000 supporters and a who’s who of speakers from the White House and Congress when it holds its annual meeting here next month. But this year’s meeting could be more complicated than the one in 2012, when Prime Minister Benjamin Netanyahu of Israel turned out to demand that Mr. Obama threaten Iran with a military strike if it produced a nuclear weapon. The president, who also spoke, promised to keep all options on the table, including military action.¶ Aipac officials said that their fund-raising is at record levels and that the March meeting will be the largest in its history. The group has helped secure $3.1 billion in American aid for Israel for the fiscal year and largely framed the public debate over Iran’s nuclear program.¶ “Under any other circumstances, having 59 senators from both parties supporting a bill that has this type of opposition is extraordinary,” said a spokesman for Aipac, Marshall Wittmann. “For someone to describe this as a setback is completely preposterous.”

#### Fight not done – Obama only appears to be prevailing AND bipartisan support for sanctions remains strong

Crittenden 2/5/14 (Michael, Wall St Journal, "White House-Congress Standoff Over Iran Eases," http://stream.wsj.com/story/latest-headlines/SS-2-63399/SS-2-446018/)

WASHINGTON—The Obama administration appeared to be prevailing in its effort to persuade lawmakers to give U.S. diplomacy with Iran a chance, but faced continued skepticism from senators at a hearing Tuesday.¶ Senior aides said pressure on Senate leaders to allow a vote on new sanctions has eased in recent weeks, as lawmakers gauge the effectiveness of an interim deal reached in November between Iran and world powers.¶ But while many lawmakers said they were willing to give diplomacy time to work, Democrats and Republicans alike said the stakes were high if talks fail.¶ “If these negotiations fail, there are two grim alternatives, a nuclear Iran, or war, or perhaps both,” said Sen. Richard Durbin (D., Ill.), a Senate Foreign Relations Committee member.¶ The White House and lawmakers have wrestled over the issue for months. Many in Congress support new sanctions, while the administration insists such a step would disrupt high-level negotiations with Tehran. A six-month deal provides Iran with relief from international sanctions in exchange for enhanced inspections and Tehran’s agreement to halt or roll back parts of its nuclear program.¶ Sen. Robert Menendez (D., N.J.), chairman of the Senate Foreign Relations Committee, argued the agreement provides Iran with economic benefits that outpace what Western governments have received in return. He said he remained concerned Iran would never agree to fully put aside its nuclear ambitions.¶ “I am convinced that we should only relieve pressure on Iran in return for verifiable concessions that will fundamentally dismantle Iran’s nuclear program,” Mr. Menendez said.¶ A top State Department official argued that any move by the U.S. to impose new sanctions would risk unraveling the international talks. “It is crucial we give diplomacy a chance to succeed,” Wendy Sherman, the State Department undersecretary of political affairs, told the Foreign Relations panel.¶ President Barack Obama and his administration have urged lawmakers to hold off on additional actions. Mr. Obama vowed in his State of the Union address to veto any bill “that threatens to derail these talks.”¶ Lawmakers have bristled at some of the White House criticism, particularly the suggestion that those seeking more sanctions were in favor of war. Sen. Timothy Kaine (D., Va.), addressing those complaints Tuesday, said that those who support new sanctions “are not pro-war and those that oppose it are not soft on Iran or anti-Israel.”

#### Fight isn't over - AIPAC and Democratic supporters are continuing to push for Iran sanctions

Wilner 2/7/14 (Michael, Jerusalem Post, "AIPAC demonstrates muscle, then partially retreats on Iran," http://www.jpost.com/Iranian-Threat/News/Republicans-demand-vote-in-Senate-on-Iran-sanctions-340667)

WASHINGTON – The American Israel Public Affairs Committee sent a message on Thursday to those who doubt its influence in Washington.¶ On Monday, the New York Times declared a victory for US President Barack Obama over AIPAC, the largest pro-Israel lobby in the United States. AIPAC has aggressively pushed for legislation in Congress that holds diplomats in Geneva accountable— by AIPAC's standards— in their efforts to negotiate a settlement to the longstanding nuclear crisis with Iran.¶ Progress has been slow— "blunted," according to the Times report. But with a strongly-worded letter from the Republican Senate caucus, and with a forceful speech from Senate Foreign Relations Committee chairman Robert Menendez on the chamber floor on Thursday, AIPAC is pushing back, and reasserting its influence on Capitol Hill.¶ Dozens of Senate Republicans sent a letter to Senate Majority Leader Harry Reid on Wednesday night demanding a vote on Menendez's bill, which would trigger additional sanctions tools against Iran should Obama’s efforts at diplomacy fail to end the longstanding nuclear impasse.¶ Their letter aimed to call attention to a significant shift in the dynamic in Congress on Iran policy, one of the sole bipartisan issues left on the Hill.¶ That bipartisanship is in jeopardy, the 42 Republican members said, as Reid – following the lead of the president and an apparent majority of Democrats who oppose the bill at this time – has given no indication he has any plans to bring the legislation to a vote.¶ The letter called the moment a “crossroads” in the two parties’ unified effort to prevent Iran from obtaining nuclear weapons capacity.¶ Obama told Congress in his fifth State of the Union address last month that he would veto any sanctions legislation during the negotiation process, fearing that such action would fray an international consensus at the negotiating table with Iran and prompt Iranians to leave the table altogether.¶ “The American people - Democrats and Republicans alike – overwhelmingly support this legislation,” the letter reads. “We should not allow the administration to turn one of the most bipartisan issues in America into a partisan one.”¶ The letter charges Reid with having taken “unprecedented steps” to strip Republicans of rights in the Senate and notes that 16 Democratic senators have endorsed the bill, amounting to a near-filibuster- proof majority.¶ Senior Republican Senate aides told The Jerusalem Post that Reid should expect them to exercise the gamut of subterfuge strategies in their effort to give the bill, formally known as the Nuclear Weapon Free Iran Act of 2013, a vote on the floor.¶ Iran negotiated with the US and world powers a six-month freeze in much of its nuclear work, in exchange for roughly $7 billion in sanctions relief, while the parties attempt to negotiate a solution to worries over its expansive nuclear program.¶ Testifying before the Senate Foreign Relations Committee on Tuesday, Under Secretary for Political Affairs Wendy Sherman, the chief US negotiator with Iran, said the interim deal was “not perfect,” but bought time for the US and its allies to achieve a peaceful solution to the crisis.¶ Sherman was questioned by Menendez, who authored the bill that Senate Republicans are now pushing Reid on for a vote.¶ She said that some dismantling of Iran’s nuclear program would be required for the US to agree to a deal and that no deal is better than a bad one.¶ In an interview with Press TV this week, Ali Akbar Salehi, head of Iran’s Atomic Energy Organization, said that Iran would be willing to make some “design changes” to its heavy-water plutonium facility in Arak, which could provide their government with a second path to a nuclear weapon.¶ “We can do some design change – in other words, make some change in the design in order to produce less plutonium in this reactor – and in this way allay the worries and mitigate the concerns,” he said.¶ But in recent weeks, Iranian President Hassan Rouhani and Iranian Foreign Minister Mohammad Javad Zarif have granted several press interviews in which they have rejected the idea of dismantling their uranium facilities, spanning over 20,000 centrifuges across multiple facilities.¶ On Tuesday, Sherman characterized those comments as Iran’s “maximalist negotiating position,” meant for domestic consumption.¶ Zarif replied with sharp words, calling on the US diplomat to “stick to the reality” in her public remarks.¶ Bucking Obama's veto threat, Menendez said on Thursday that the bill should be seen as a "win" by the White House, urging his colleagues to support the bill and warning against a rare partisan fracture on the longstanding national security issue.

#### Veto-proof majority can still occur

Millstein 1/29 (Seth, “Iran Sanctions In Trouble After Obama’s State of the Union Veto Threat”, 2014, http://www.bustle.com/articles/14090-iran-sanctions-in-trouble-after-obamas-state-of-the-union-veto-threat)

For anyone who doubts the power of the bully pulpit, here’s one reason not to. Earlier this month, it was reported that a new Iran sanctions bill was all but assured passage in the Senate. On Tuesday, President Obama announced in his State of the Union address Tuesday that if Congress passes that bill, he’ll veto it. Less than a day later, three Democrats who’d cosponsored that very bill suddenly reversed course and said that well, maybe it’s not so important to pass new sanctions right now after all. On Tuesday night, Joe Manchin told MSNBC that he’d like to “give peace a chance,” and didn’t support voting on the bill while the U.S.’s negotiations with Iran were still ongoing. When asked about the legislation in an interview Wednesday, Chris Coons said that “now is not the time for a vote on the Iran sanctions bill,” and the same day, Kirsten Gillibrand said that,“[a]fter speaking with the President, I am comfortable giving him the additional time requested before this bill goes to the floor.” This is a drastic turnaround from early January, when the bill’s supporters were boasting of a veto-proof majority. They’ve been saying this whole time that the legislation merely gives the White House the option to impose new sanctions if negotiations fail, but it’s actually much harsher than that. For example, the bill would require that the new sanctions go into place unless Obama himself can certify that Iran has never, directly or indirectly, at any point in the country’s history, supported a proposed or actualized terrorist attack against the United States. One could make a decent case that that’s already an impossible qualification to fulfill. Regardless of its contents, the very passage of any new sanctions bill would almost certainly drive Iran from the negotiating table and undo the many months of slow but steady diplomacy between the two countries. While it’s still possible that the bill’s supporters will round up enough votes for a veto-proof majority, that seems distinctly less likely now

#### Twenty one Dems are in the air so personal leverage matters

**Kampeas 1/22** (Ron – JTA's Washington bureau chief, responsible for coordinating coverage in the U.S. capital and analyzing political developments that affect the Jewish world , Jewish Telegraph Agency, “Doing the math on Dems and the Iran sanctions bill”

<http://www.jta.org/2014/01/22/news-opinion/politics/doing-the-math-on-dems-and-the-iran-sanctions-bill>

I count 19 members of the Senate Democratic caucus opposed to a vote, versus 15 who might be assumed to support one, with 21 not accounted for. Here’s how I got there. There are 16 Democrats out of the 59 Senators co-sponsoring the bill, including lead sponsor Sen. Robert Menendez (D-N.J.). (On Dec. 19, when the bill was launched, 15 Democrats signed on; Sen. Michael Bennet of Colorado is the sole Democrat to have signed onto the bill since Congress returned to work this month.) Subtract from those 16 Sen. Richard Blumenthal (D-Conn.), who now opposes advancing the bill while talks are underway between Iran and the major powers. The White House and sympathetic Democrats say the bill could scuttle the talks; backers of the bill say new sanctions would enhance the U.S. hand in the talks. So that’s 15 one might assume still back advancing the bill. As Sargent notes, there are 10 committee chairs who signed a letter opposing the bill. In addition to those, there are another nine senators who in recent weeks have told interlocutors they oppose advancing the bill for now: There are Murray and Warren, plus Blumenthal. There are another four listed in this Huffington Post roundup. Sen. Bernard Sanders, the Vermont independent who caucuses with Democrats, is listed here. And I’ve heard from Rhode Island Jewish officials that Sen. Jack Reed (D-R.I.) is opposed to advancing the bill now. The White House is competing hard with backers of the bill, including leading pro-Israel groups, for the remaining 21 members of the Democratic caucus. Among them are key players in states with substantial Jewish communities, like Sen. Harry Reid (D-Nev.), the majority leader; Sen. Dick Durbin (D-Ill.), the assistant majority leader; and Sen. Sherrod Brown (D-Ohio.).

#### Legislation isn’t dead

Johnson 1/30 (Luke – Huffington Post, “Iran Sanctions Bill 'On Ice' As Momentum Fades In Senate “, 2014, http://www.huffingtonpost.com/2014/01/30/iran-sanctions-bill\_n\_4696197.html)

Another Senate Democratic leadership aide wouldn't go so far as to call the legislation dead, but conceded, "Its forward momentum has been stopped and even reversed." Both aides requested anonymity in order to speak candidly. The bipartisan bill had been gaining steam over the past two months, picking up a whopping 58 cosponsors -- including 15 Democrats. The measure would boost sanctions on Iran unless it agrees to halt all of its uranium enrichment. But the White House has been pushing back hard against any congressional action on Iran sanctions, warning it could thwart a delicate deal in place between Iran and six world powers. Under that six-month deal, Iran would scale back its uranium enrichment in exchange for sanctions relief. Iranian leaders have already warned that any new sanctions would sink the deal, which would leave the U.S. with few options for resolving concerns with Iran apart from going to war. The White House pressure has paid off. Reid has refused to bring the bill up for a vote, and during Tuesday's State of the Union, Obama made it clear he would veto the measure if it even made it to his desk. Since then, at least three Democratic cosponsors of the bill have walked back their support for taking it up. Several senators acknowledged Thursday that the bill isn't going anywhere, at least not anytime soon. "We want to give the administration the time it needs to negotiate," said Sen. Michael Bennet (D-Colo.), a cosponsor of the bill and the chairman of the Democratic Senatorial Campaign Committee. Asked if his Democratic colleagues are prepared to hold off on pushing the bill amid international negotiations with Iran, he said, "That's my sense." "There's no time frame," said Sen. Ben Cardin (D-Md.), a cosponsor of the bill. "That's up to the majority leader, he's the one who schedules votes ... I've always been comfortable with the fact that our first preference is a negotiated agreement." "Do I think it's going to be brought up? No," said Sen. Carl Levin (D-Mich.). "And I hope it isn't brought up." Republican proponents of the bill conceded the White House has won this round, but said that's a bad thing. "The pressure from the administration has made people, particularly Harry Reid, who's the key guy, back off of it," said Sen. John McCain (R-Ariz.).

### Top of Agenda/A2 No Vote Anytime Soon

#### Bipartisan push for a vote on the sanctions bill before president’s day

Demirjian 2/6/14 (Karoun, Las Vegas Sun, "Reid breaks silence, pans GOP senators demanding vote on Iran sanctions,"

Coincidentally, the Republicans penning the note Tuesday used the same language in expressing their frustrations to Reid.¶ “We should not allow the administration to turn one of the most bipartisan issues in America into a partisan one,” they wrote. “It’s time to vote.”¶ The group of Republicans asked Reid to bring the Nuclear Weapon Free Iran Act to the floor before the Presidents Day recess.¶ While only Republicans signed the letter, they aren’t alone in their support for a vote on the bill.¶ Democrats as close to Reid as Senate Foreign Relations Chairman Bob Menendez, D-N.J., and leadership team member Sen. Chuck Schumer, D-N.Y., have also co-sponsored the legislation and urged it be brought to a vote.¶ There are presently 59 senators openly supporting the bill, including author Menendez.

### A2 Dems Not Pushing Bill

#### Sanctions bill still being pushed and strong bipartisan support – override is still within reach

Robbins 2/4/14 (James, US News + World Report, "Bring the Iran Deal Into the Light," http://www.usnews.com/opinion/blogs/world-report/2014/02/04/keeping-the-iran-deal-secret-is-a-mistake)

Uncertainties regarding the status of the agreement and its implementation have energized the push for new sanctions. Obama’s veto threat was presumably aimed at the Menendez-Kirk Iran sanctions bill currently being considered in Congress. The bill would expand penalties against Iran’s energy and industrial sectors and require certification that Tehran has not tested new ballistic missiles or sponsored terrorist acts against the United States anywhere in the world. The bill has broad bipartisan support, a rarity on Capitol Hill, and is close to having enough cosponsors to override a potential veto.

#### Fight not over - influential Menendez still pushing for Iran sanctions bill AND it still has bipartisan support

Naharnet Newsdesk 2/7/14 ("Skeptical of Iran, U.S. Senator Revives Sanctions Push," http://www.naharnet.com/stories/en/117598-skeptical-of-iran-u-s-senator-revives-sanctions-push)

An influential U.S. senator sought Thursday to revive a push for sanctions to curb Iran's nuclear ambitions, arguing that calling for new penalties is not war-mongering as suggested by the White House.¶ Senator Robert Menendez, a Democrat, went on the offensive in a marathon floor speech outlining his distrust of the Iranian regime, saying he was "deeply skeptical" of Tehran's intention to adhere to an interim agreement with world powers over its nuclear program.¶ Menendez, chairman of the powerful Senate Foreign Relations Committee, is lead sponsor of a bill that would trigger sanctions if Iran walks away from the interim deal, which eases existing economic penalties in return for Tehran freezing its nuclear program.¶ "In my view, Iran's strategy, consistent with their past approaches that have brought them to a nuclear threshold state, is to use these negotiations to mothball its nuclear infrastructure program just long enough to undo the international sanctions regime," Menendez said.¶ Iran insists its nuclear drive is purely peaceful, but Menendez warned that it has refused to destroy any of its centrifuges, and was "weeks to months away from breakout" uranium enrichment capacity to produce a bomb should it ever resume the program.¶ "Let everyone understand: if there is no deal we won't have time to impose new sanctions before Iran could produce a nuclear weapon."¶ Menendez's legislation has support from 59 senators in the 100-member chamber.

### A2: Thumpers – 2NC

#### Thumpers don’t apply because they don’t implicate Senate Dems and Foreign Policy – they have to win it implicates both because our disad is about the Senate Dems unwillingness to challenge Obama on national security issues - they’re about fights with the GOP – the plan’s loss causes democrat defections – that’s Loomis

#### Framing issue – everything on the docket now has been taken into account by Obama – new issues interrupt the agenda.

#### Iran sanctions are at the top of the agenda

Todd 1/6/14 (Chuck, Chief NBC News Correspondent, "First Thoughts: Obama's big (and important) January," http://firstread.nbcnews.com/\_news/2014/01/06/22201032-first-thoughts-obamas-big-and-important-january)

4. Iran deal: Last month, we wrote that the easy part was the United States and European powers striking an interim deal with Iran to curtail its nuclear weapons. The harder part is forging a long-term deal. And even harder is when members of Congress are trying to impose new sanctions on Iran, which the administration says could undermine the negotiations. “Bipartisan legislation was introduced in the U.S. Senate on Thursday [Dec. 19] that would authorize new economic sanctions on Iran if it breaches an interim agreement to limit its nuclear program or fails to strike a final accord terminating those ambitions,” CNN reported. “The proposal led by Foreign Relations Committee Chairman Robert Menendez, a New Jersey Democrat, and Mark Kirk, an Illinois Republican, emerged despite Obama administration appeals for Congress to defer pursuing new sanctions with diplomatic efforts ongoing. The White House said new sanctions would undermine those delicate efforts on the global stage and President Barack Obama would veto the legislation if Congress were to approve it now.”

#### Top of the agenda

**Egelko 12/26** (Bob, San Francisco Chronicle, “Feinstein, Boxer side with Obama in Iran sanctions dispute”, 2013, <http://blog.sfgate.com/nov05election/2013/12/26/feinstein-boxer-side-with-obama-in-iran-sanctions-dispute/>

A showdown is looming in the Senate next month over increased U.S. sanctions on Iran that could unravel a tentative international agreement over Iranian nuclear development, with President Obama on one side and Israel on the other. And California’s senators, Democrats Dianne Feinstein and Barbara Boxer, usually staunch allies of Israel, are both siding with Obama. The Nov. 24 agreement requires Iran to freeze its nuclear program, halt work on a heavy-water reactor and stop enriching uranium beyond 5 percent of purity, far below the weapons-grade level. It also provides for daily inspections by international weapons monitors. In exchange, the international community agreed to suspend some of the sanctions, to the tune of $7 billion a year, that have frozen transactions with Iranian oil, banking and other industries. The six-month deal, intended as a prelude to a long-term agreement, was approved by Iran’s new president, Hassan Rouhani, and the U.S., Great Britain, Russia, China, France and Germany. The agreement was immediately denounced by Israeli President Benjamin Netanyahu as a sham that would allow Iran to develop nuclear weapons. Israel, which has the only nuclear arsenal in the Middle East, has threatened a pre-emptive military strike on Iran’s nuclear facilities. Meanwhile, Israel’s U.S.-based lobbyists, led by the American Israel Public Affairs Committee, are backing a sanctions bill in the Senate that has divided the Democratic Party. The bill would impose additional economic sanctions if Iran either fails to comply with the terms of the six-month agreement or, more significantly, refuses to dismantle its entire uranium enrichment program within a year. Another provision would require the United States to provide economic and military support if Israel was “compelled to take military action in legitimate self-defense” against what the bill describes as Iran’s nuclear weapons program. The bipartisan measure has 26 cosponsors, led by Senate Foreign Relations Committee Chairman Robert Menedez, D-N.J., and Sen. Mark Kirk, R-Ill. Another cosponsor is the Senate’s third-ranking Democrat, Chuck Schumer of New York. “A credible threat of future sanctions will require Iran to cooperate and act in good faith at the negotiating table,” Menendez said in a statement. But Rouhani said the legislation, if passed, would be a deal-breaker, and Obama has promised to veto it if it reaches his desk. Last week, 10 Senate Democratic committee chairs sent a letter to Majority Leader Harry Reid, D-Nev., urging him to keep the bill from coming to a vote. The signers included Feinstein, chairwoman of the Intelligence Committee, Boxer, head of Environment and Public Works, and Sen. Tim Johnson of South Dakota, whose Banking Committee would normally hear the bill. The letter cited a recent U.S. intelligence assessment that concluded new sanctions “would undermine the prospects for a successful comprehensive nuclear agreement with Iran.” Reid kept the bill off the pre-holiday calendar, but Menendez and Kirk plan to bring it up once Congress reconvenes Jan. 6. With Republicans solidly in support and congressional elections looming, the measure — in addition to its international consequences — could pose political problems for the Democrats.

### Pol Cap High Now

#### Obama has FOREIGN POLICY political capital with Congress now

Lander 2/3/14 (Mark, NYT, "Potent Pro-Israel Group Finds Its Momentum Blunted," http://www.nytimes.com/2014/02/04/world/middleeast/potent-pro-israel-group-finds-its-momentum-blunted.html?\_r=0)

“A lot of this has been about Obama,” said Steve Rabinowitz, who worked in the Clinton administration and advises Jewish groups. “The good news is that his foreign-policy cred has strengthened, and there is increasing deference to the president on foreign policy.”

#### Obama has political capital - level of Democratic support against Iran sanctions proves

Chiles 2/4/14 (Nick, Pulitzer Prize-winning journalist and New York Times bestselling author, Atlanta Blackstar, "With Midterm Elections Approaching, Obama Finds Support Waning in Congress," http://atlantablackstar.com/2014/02/04/midterm-elections-approaching-obama-finds-support-waning-congress/)

In a letter Clinton sent to the Senate last week, she subtly points to differences between her foreign policy outlook and that of the administration she served—even as she warned Congress of the ramifications of passing further sanctions, something the president bitterly opposes.¶ “It could rob us of the international high ground we worked so hard to reach, break the united international front we constructed, and in the long run, weaken the pressure on Iran by opening the door for other countries to chart a different course,” Clinton wrote, describing the result of further sanctions.¶ The pro-Israel lobbying group, the American Israel Public Affairs Committee (Aipac), has backed off from trying to press Congress to pass more sanctions, not wishing to engage anymore in a battle with the White House. According to a story in the New York Times, Aipac has stopped pressuring Senate Democrats to vote for the bill.¶ Clearly, the group believes the president has successfully made the case that passing new sanctions against Tehran could scuttle the nuclear talks and put America on the road to another war. Jewish leaders told the Times that pro-Israel groups disagreed on how aggressively to push the legislation—even if they do all favor additional sanctions.¶ “Some of us see the object as being to target Iran,” Abraham H. Foxman, the national director of the Anti-Defamation League, told the Times. “We’re not out there to target the president; we’re out there to target Iran.”¶ Senator Richard Blumenthal of Connecticut, a staunch supporter of Israel, now says the Senate should hold off on a vote to give Obama breathing room for diplomacy.¶ “There’s been an unquestionable, undeniable shift in the perception of national security,” Blumenthal said. “I’m sensitive to the feelings, the resistance, the aversion of the general public to any kind of American military engagement.”¶ Showing that the president still has some support in Congress, yesterday 70 House Democrats sent Obama a letter backing his diplomatic efforts and opposing new sanctions.

#### Political capital is high now – economy giving Obama momentum

Obeidallah 1/3/14 (Dean, Writer for the Daily Beast, "6 REasons This Could Be Obama's Best Year as President")

The US economy is improving: A good economy generally equals higher approval ratings for president and in turn more political capital for him to push for his proposals. Even President Clinton had an approval rating of 73% in the [midst of his impeachment](http://www.cnn.com/ALLPOLITICS/stories/1998/12/20/impeachment.poll/). Why? One big reason was the US economy was strong with unemployment at 4.5% and falling. Currently, the US economy appears poised for growth. The unemployment rate is at its lowest point during the Obama administration at 7%. This is in sharp contrast to the [10% unemployment rate](http://data.bls.gov/timeseries/LNS14000000) we saw at one time in Obama’s first term. In addition, the stock market just had its [best year since 1997](http://buzz.money.cnn.com/2013/12/31/stocks-record-bull-market/?source=cnn_bin), the [GDP for the third quarter](http://www.latimes.com/business/money/la-fi-mo-gdp-third-quarter-economy-20131205,0,7320511.story#axzz2pFjR96A8) of 2013 grew at a surprisingly strong 3.6% annual rate and the [IMF recently raised its 2014 growth projection](http://www.reuters.com/article/2013/12/22/us-imf-usa-lagarde-idUSBRE9BL08K20131222) for the US economy.

**AT: Intrinsicness**

**Intrinsicness is illegitimate and a voting issue**

**1. Moving target- the affirmative gets infinite prep to write the most strategic plan, allowing revisions after they have heard our strategy is unfair**

**2. Moots negative ground- most disads can be resolved through US action- there is no logical limit**

**3. Infinite regress- if we read a disad to the intrinsicness argument they can make another to get out of it**

**C/I - the affirmative can make topical intrinsicness arguments- this provides the best middle ground and maintains resolutional focus. Non topical intrinsicness arguments are unlimiting and disprove the necessity of the resolution.**

### AT: Negotiations Fail

#### Deal will be approved on Iran’s side---Rouhani will overcome conservative opposition

Al-Jazeera 1-7, “Iran's Rouhani defends nuclear deal,” 1/7/14, http://www.aljazeera.com/news/middleeast/2014/01/iran-rouhani-defends-nuclear-deal-201417113340152307.html

Iran's President Hassan Rouhani has defended a nuclear deal with world powers amid continued domestic criticism.

Rouhani said on Tuesday that the deal, which promises moderate sanction relief in return for temporarily curbing Iran's nuclear drive, would not be derailed by opposition in government.

"It required brave decision-making ... We should not and do not fear the fuss made by the few people or a small percentage", Rouhani said in remarks broadcast live on state television.

"The initial agreement with the six major powers on the nuclear issue was not a simple task but very difficult and complicated," he said.

Rouhani's defence came after repeated criticism by opposition in parliament and the powerful Revolutionary Guards of the deal signed in November.

The agreement requires Iran to roll back parts of its nuclear drive for six months, in exchange for modest sanctions relief and a promise by Western powers not to impose new sanctions.

Critics have primarily questioned if the Islamic Republic benefits from the deal, and if fewer concessions could have been made by the negotiating team, led by Mohammad Javad Zarif, Iran's foreign minister.

In recent weeks, elements in the conservative-dominated parliament have sought to form a committee to supervise the negotiating process but to no avail.

However, Rouhani appears to enjoy the backing of supreme leader Ayatollah Ali Khamenei, who retains control of all final decisions regarding the matter.

"In all important and sensitive steps along the way, the supreme leader has backed the government and its policies," Rouhani said.

Iran's economy has been hard hit by international sanctions, while the vital oil exports have been more than halved by US and European embargoes.

The deal - which is yet to come into force- is aimed at creating a window of diplomatic opportunity for Iran and the P5+1 group of world powers, comprising the US, Britain, France, China and Russia plus Germany, to find a lasting solution to the decade-long standoff over Iran's nuclear activities.

In Tehran, meanwhile, legislators are readying a bill that would oblige the government to enrich uranium to 60 percent if Iran is hit by new sanctions.

Talks to remove remaining obstacles before the deal is implemented will resume in Geneva, Switzerland, on Thursday.

#### Hard-liners are on board --- recent change in talk strategy

AP 12/31/13, Associated Press, “Iran Hard-Liners Join Team of Nuclear Negotiators,” ABC News, http://abcnews.go.com/International/wireStory/report-iran-deal-reached-nuclear-details-21379226

Iran has boosted its team in charge of nuclear talks with world powers, adding what are believed to be hard-liners and conservatives in an apparent effort to silence critics of the landmark interim accord reached in Geneva in November.¶ The semi-official news agencies Fars and Mehr reported on Wednesday that new members have joined the high council, which directs strategies in the talks and which is led by the country's moderate President Hassan Rouhani and Foreign Minister Mohammad Javad Zarif.¶ The agencies did not identify the new members, saying only that representatives of "all branches of power and other senior figures" are now on the council.¶ The development comes a day after Iran and Western negotiators reported they were nearing an understanding on the details of implementing the Geneva accord.¶ The deal puts strong limits on Iran's uranium enrichment program in return for an easing of some international sanctions on Tehran for six months while a permanent deal is negotiated. The United States and its allies believe Iran's nuclear program is aimed at producing a nuclear weapon, a claim that Tehran denies, saying it is intended only for peaceful purposes.¶ Over the past month, experts from Iran and the so-called "5+1" countries — the U.S., Britain, France, Russia, China and Germany — have held several rounds of talks in Geneva to work out details on carrying out the agreement. The most recent session was on Monday, and on Tuesday, both sides reported progress in the talks.¶ Rouhani has faced criticism from hard-liners at home over the Geneva deal, with many claiming the contents of the talks were kept secret and that they were excluded from the process. Some have called it a "poison chalice" for Iran.¶ Zarif has defended the process, saying Iran's top leadership had approved the Geneva deal in its entirety ahead of the signing but that the secrecy on the content was necessary to ensure the talks would not be derailed.¶ "The team advising on nuclear negotiations will be strengthened for the next round of talks," prominent hard-line lawmaker Ismaeil Kowsari was quoted by Mehr as saying. "Things were not in our favor in the previous round, as they should have been."¶ Iranian hard-liners believe Tehran has offered too many concessions in return for too little in the Geneva deal. But Supreme Leader Ayatollah Ali Khamenei, who has the final say on all state matters, has backed the nuclear negotiating team, even calling its members "sons of the Revolution."

### L

#### This evidence is U for us – just says that members of Congress are hammering Obama over war powers – proves the plan would push his PC over the edge

* Assumes the House – not about the Senate democrat scenario and doesn’t answer losers lose /

#### Obama fights the plan – strongly supports war powers

Rana 11 (Aziz – Assistant Professor of Law, Cornell Law School, “TEN QUESTIONS: RESPONSES TO THE TEN QUESTIONS”, 2011, 37 Wm. Mitchell L. Rev. 5099, lexis)

Thus, for many legal critics of executive power, the election of Barack Obama as President appeared to herald a new approach to security concerns and even the possibility of a fundamental break from Bush-era policies. These hopes were immediately stoked by Obama's decision before taking office to close the Guantanamo Bay prison. n4 Over two years later, however, not only does Guantanamo remain open, but through a recent executive order Obama has formalized a system of indefinite detention for those held there and also has stated that new military commission trials will begin for Guantanamo detainees. n5 More important, in ways small and large, the new administration remains committed to core elements of the previous constitutional vision of national security. Just as their predecessors, Obama officials continue to defend expansive executive detention and war powers and to promote the centrality of state secrecy to national security.

#### Presidential war power battles expend capital – it’s immediate and forces a trade-off

O’Neil 7 (David – Adjunct Associate Professor of Law, Fordham Law School, “The Political Safeguards of Executive Privilege”, 2007, 60 Vand. L. Rev. 1079, lexis)

a. Conscious Pursuit of Institutional Prerogatives The first such assumption is belied both by first-hand accounts of information battles and by the conclusions of experts who study them. Participants in such battles report that short-term political calculations consistently trump the constitutional interests at stake. One veteran of the first Bush White House, for example, has explained that rational-choice theory predicts what he in fact experienced: The rewards for a consistent and forceful defense of the legal interests of the office of the presidency would be largely abstract, since they would consist primarily of fidelity to a certain theory of the Constitution... . The costs of pursuing a serious defense of the presidency, however, would tend to be immediate and tangible. These costs would include the expenditure of political capital that might have been used for more pressing purposes, [and] the unpleasantness of increased friction with congressional barons and their allies. n182 Louis Fisher, one of the leading defenders of the political branches' competence and authority to interpret the Constitution independently of the courts, n183 acknowledges that politics and "practical considerations" typically override the legal and constitutional principles implicated in information disputes. n184 In his view, although debate about congressional access and executive privilege "usually proceeds in terms of constitutional doctrine, it is the messy political realities of the moment that usually decide the issue." n185 Indeed, Professor Peter Shane, who has extensively studied such conflicts, concludes that their successful resolution in fact depends upon the parties focusing only on short-term political [\*1123] considerations. n186 When the participants "get institutional," Shane observes, non-judicial resolution "becomes vastly more difficult." n187

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#### Obama’s political capital is effectively holding off passage of the Iran sanctions bill now – but it’s still a fight

Delmore 2/5/14 (Erin, Political Analyst @ MSNBC, "Democrats split over Syria, Iran," http://www.msnbc.com/all/democrats-split-over-syria-iran)

Over strong objections from the president, 16 Senate Democrats support a bill that would impose new sanctions on Iran should the country fail to reach a permanent agreement with international negotiators to roll back its nuclear program. Those senators, along with 43 Republicans, argue that tough sanctions brought Iran to the negotiating table in the first place and further pressure would flex American muscle in the 6-month talks toward crafting a permanent solution. The bill drew support from Sens. Chuck Schumer, D-N.Y, and Harry Reid, D-Nev., both close allies of Obama’s but also leading supporters of policies favoring Israel. The American Israel Public Affairs Committee, America’s most powerful pro-Israel advocacy group, has lobbied members of Congress from both parties to support the sanctions.¶ Other Democrats are siding with the Obama administration, which argues that imposing new sanctions damaged “good-faith” negotiations while empowering Iran’s hard-liners rooting for the talks to fail. (A National Security Council spokeswoman charged last month that the sanctions bill could end negotiations and bring the U.S. closer to war.) ¶ The Senate bill has been losing steam ever since the White House ratcheted up pressure on Senate Democrats to abandon the it. Introduced in December by Democrat Robert Menendez, D-N.J. and Sen. Mark Kirk. R-Ill., the legislation was backed by 59 members – but now Senate leaders say they will hold off bringing the legislation to a vote until the six-month negotiation process ends.¶ Adam Sharon, a spokesman for the Senate Foreign Relations Committee, which Menendez chairs, said the New Jersey Senator stands behind the bill that bears his name. ¶ Menendez and 58 other senators support the bill, Sharon said. “It’s his bill, three or four senators say they wouldn’t call for a vote now. His position has been, having a bill, having this in place is an extremely effective and necessary tool when negotiating with the Iranians that we need to have to avoid Iran crossing the nuclear threshold. He stands behind this bill and the whole essence of the bill is to have sanctions in waiting, but you have to move on them now to make it happen.”¶ The movement is still alive in the House with enough votes to pass, despite a letter signed by at least 70 Democrats opposing the measure, and a letter of criticism by former Secretary of State Hillary Clinton. Obama reiterated in last week’s State of the Union address a promise to veto any attempt to impose new sanctions on Iran.

#### It’s a war powers fight that Obama wins – but failure commits us to Israeli strikes

**Merry 1/1** (Robert W. Merry, political editor of the National Interest, is the author of books on American history and foreign policy, “Obama may buck the Israel lobby on Iran”, 2014, Washington Times, factiva)

Presidential press secretary Jay Carney uttered 10 words the other day that represent a major presidential challenge to the American Israel lobby and its friends on Capitol Hill. Referring to Senate legislation designed to force President Obama to expand economic sanctions on Iran under conditions the president opposes, Mr. Carney said: “If it were to pass, the president would veto it.” For years, there has been an assumption in Washington that you can’t buck the powerful Israel lobby, particularly the American Israel Public Affairs Committee, or AIPAC, whose positions are nearly identical with the stated aims of Israeli Prime Minister Benjamin Netanyahu. Mr. Netanyahu doesn’t like Mr. Obama’s recent overture to Iran, and neither does AIPAC. The result is the Senate legislation, which is similar to a measure already passed by the House. With the veto threat, Mr. Obama has announced that he is prepared to buck the Israel lobby — and may even welcome the opportunity. It isn’t fair to suggest that everyone who thinks Mr. Obama’s overtures to Iran are ill-conceived or counterproductive is simply following the Israeli lobby’s talking points, but Israel’s supporters in this country are a major reason for the viability of the sanctions legislation the president is threatening to veto. It is nearly impossible to avoid the conclusion that the Senate legislation is designed to sabotage Mr. Obama’s delicate negotiations with Iran (with the involvement also of the five permanent members of the U.N. Security Council and Germany) over Iran’s nuclear program. The aim is to get Iran to forswear any acquisition of nuclear weapons in exchange for the reduction or elimination of current sanctions. Iran insists it has a right to enrich uranium at very small amounts, for peaceful purposes, and Mr. Obama seems willing to accept that Iranian position in the interest of a comprehensive agreement. However, the Senate measure, sponsored by Sens. Robert Menendez, New Jersey Democrat; Charles E. Schumer, New York Democrat; and Mark Kirk, Illinois Republican, would impose potent new sanctions if the final agreement accords Iran the right of peaceful enrichment. That probably would destroy Mr. Obama’s ability to reach an agreement. Iranian President Hasan Rouhani already is under pressure from his country’s hard-liners to abandon his own willingness to seek a deal. The Menendez-Schumer-Kirk measure would undercut him and put the hard-liners back in control. Further, the legislation contains language that would commit the United States to military action on behalf of Israel if Israel initiates action against Iran. This language is cleverly worded, suggesting U.S. action should be triggered only if Israel acted in its “legitimate self-defense” and acknowledging “the law of the United States and the constitutional responsibility of Congress to authorize the use of military force,” but the language is stunning in its brazenness and represents, in the view of Andrew Sullivan, the prominent blogger, “an appalling new low in the Israeli government’s grip on the U.S. Congress.” While noting the language would seem to be nonbinding, Mr. Sullivan adds that “it’s basically endorsing the principle of handing over American foreign policy on a matter as grave as war and peace to a foreign government, acting against international law, thousands of miles away.” That brings us back to Mr. Obama’s veto threat. The American people have made clear through polls and abundant expression (especially during Mr. Obama’s flirtation earlier this year with military action against Bashar Assad’s Syrian regime) that they are sick and weary of American military adventures in the Middle East. They don’t think the Iraq and Afghanistan wars have been worth the price, and they don’t want their country to engage in any other such wars. That’s what the brewing confrontation between Mr. Obama and the Israel lobby comes down to — war and peace. Mr. Obama’s delicate negotiations with Iran, whatever their outcome, are designed to avert another U.S. war in the Middle East. The Menendez-Schumer-Kirk initiative is designed to kill that effort and cedes to Israel America’s war-making decision in matters involving Iran, which further increases the prospects for war. It’s not even an argument about whether the United States should come to Israel’s aid if our ally is under attack, but whether the decision to do so and when that might be necessary should be made in Jerusalem or Washington.

#### **The plan’s a perceived loss – it saps capital and causes defections**

Loomis 7 --- Department of Government at Georgetown

(3/2/2007, Dr. Andrew J. Loomis is a Visiting Fellow at the Center for a New American Security, “Leveraging legitimacy in the crafting of U.S. foreign policy,” pg 35-36, <http://citation.allacademic.com//meta/p_mla_apa_research_citation/1/7/9/4/8/pages179487/p179487-36.php>)

Declining political authority encourages defection. American political analyst Norman Ornstein writes of the domestic context, In a system where a President has limited formal power, perception matters. The reputation for success—the belief by other political actors that even when he looks down, a president will find a way to pull out a victory—is the most valuable resource a chief executive can have. Conversely, the widespread belief that the Oval Office occupant is on the defensive, on the wane or without the ability to win under adversity can lead to disaster, as individual lawmakers calculate who will be on the winning side and negotiate accordingly. In simple terms, winners win and losers lose more often than not. Failure begets failure. In short, a president experiencing declining amounts of political capital has diminished capacity to advance his goals. As a result, political allies perceive a decreasing benefit in publicly tying themselves to the president, and an increasing benefit in allying with rising centers of authority. A president’s incapacity and his record of success are interlocked and reinforce each other. Incapacity leads to political failure, which reinforces perceptions of incapacity. This feedback loop accelerates decay both in leadership capacity and defection by key allies. The central point of this review of the presidential literature is that the sources of presidential influence—and thus their prospects for enjoying success in pursuing preferred foreign policies—go beyond the structural factors imbued by the Constitution. Presidential authority is affected by ideational resources in the form of public perceptions of legitimacy. The public offers and rescinds its support in accordance with normative trends and historical patterns, non-material sources of power that affects the character of U.S. policy, foreign and domestic.

#### Causes Israel strikes

Perr 12/24 (Jon Perr 12/24/13, B.A. in Political Science from Rutgers University; technology marketing consultant based in Portland, Oregon, has long been active in Democratic politics and public policy as an organizer and advisor in California and Massachusetts. His past roles include field staffer for Gary Hart for President (1984), organizer of Silicon Valley tech executives backing President Clinton's call for national education standards (1997), recruiter of tech executives for Al Gore's and John Kerry's presidential campaigns, and co-coordinator of MassTech for Robert Reich (2002). (Jon, “Senate sanctions bill could let Israel take U.S. to war against Iran” Daily Kos, [http://www.dailykos.com/story/2013/12/24/1265184/-Senate-sanctions-bill-could-let-Israel-take-U-S-to-war-against-Iran#](http://www.dailykos.com/story/2013/12/24/1265184/-Senate-sanctions-bill-could-let-Israel-take-U-S-to-war-against-Iran))

As 2013 draws to close, the negotiations over the Iranian nuclear program have entered a delicate stage. But in 2014, the tensions will escalate dramatically as a bipartisan group of Senators brings a new Iran sanctions bill to the floor for a vote. As many others have warned, that promise of new measures against Tehran will almost certainly blow up the interim deal reached by the Obama administration and its UN/EU partners in Geneva. But Congress' highly unusual intervention into the President's domain of foreign policy doesn't just make the prospect of an American conflict with Iran more likely. As it turns out, the Nuclear Weapon Free Iran Act essentially empowers Israel to decide whether the United States will go to war against Tehran.¶ On their own, the tough new sanctions imposed automatically if a final deal isn't completed in six months pose a daunting enough challenge for President Obama and Secretary of State Kerry. But it is the legislation's commitment to support an Israeli preventive strike against Iranian nuclear facilities that almost ensures the U.S. and Iran will come to blows. As Section 2b, part 5 of the draft mandates:¶ If the Government of Israel is compelled to take military action in legitimate self-defense against Iran's nuclear weapon program, the United States Government should stand with Israel and provide, in accordance with the law of the United States and the constitutional responsibility of Congress to authorize the use of military force, diplomatic, military, and economic support to the Government of Israel in its defense of its territory, people, and existence.¶ Now, the legislation being pushed by Senators Mark Kirk (R-IL), Chuck Schumer (D-NY) and Robert Menendez (D-NJ) does not automatically give the President an authorization to use force should Israel attack the Iranians. (The draft language above explicitly states that the U.S. government must act "in accordance with the law of the United States and the constitutional responsibility of Congress to authorize the use of military force.") But there should be little doubt that an AUMF would be forthcoming from Congressmen on both sides of the aisle. As Lindsey Graham, who with Menendez co-sponsored a similar, non-binding "stand with Israel" resolution in March told a Christians United for Israel (CUFI) conference in July:¶ "If nothing changes in Iran, come September, October, I will present a resolution that will authorize the use of military force to prevent Iran from developing a nuclear bomb."¶ Graham would have plenty of company from the hardest of hard liners in his party. In August 2012, Romney national security adviser and pardoned Iran-Contra architect Elliott Abrams called for a war authorization in the pages of the Weekly Standard. And just two weeks ago, Norman Podhoretz used his Wall Street Journal op-ed to urge the Obama administration to "strike Iran now" to avoid "the nuclear war sure to come."¶ But at the end of the day, the lack of an explicit AUMF in the Nuclear Weapon Free Iran Act doesn't mean its supporters aren't giving Prime Minister Benjamin Netanyahu de facto carte blanche to hit Iranian nuclear facilities. The ensuing Iranian retaliation against to Israeli and American interests would almost certainly trigger the commitment of U.S. forces anyway.¶ Even if the Israelis alone launched a strike against Iran's atomic sites, Tehran will almost certainly hit back against U.S. targets in the Straits of Hormuz, in the region, possibly in Europe and even potentially in the American homeland. Israel would face certain retaliation from Hezbollah rockets launched from Lebanon and Hamas missiles raining down from Gaza.¶ That's why former Bush Defense Secretary Bob Gates and CIA head Michael Hayden raising the alarms about the "disastrous" impact of the supposedly surgical strikes against the Ayatollah's nuclear infrastructure. As the New York Times reported in March 2012, "A classified war simulation held this month to assess the repercussions of an Israeli attack on Iran forecasts that the strike would lead to a wider regional war, which could draw in the United States and leave hundreds of Americans dead, according to American officials." And that September, a bipartisan group of U.S. foreign policy leaders including Brent Scowcroft, retired Admiral William Fallon, former Republican Senator (now Obama Pentagon chief) Chuck Hagel, retired General Anthony Zinni and former Ambassador Thomas Pickering concluded that American attacks with the objective of "ensuring that Iran never acquires a nuclear bomb" would "need to conduct a significantly expanded air and sea war over a prolonged period of time, likely several years." (Accomplishing regime change, the authors noted, would mean an occupation of Iran requiring a "commitment of resources and personnel greater than what the U.S. has expended over the past 10 years in the Iraq and Afghanistan wars combined.") The anticipated blowback?¶ Serious costs to U.S. interests would also be felt over the longer term, we believe, with problematic consequences for global and regional stability, including economic stability. A dynamic of escalation, action, and counteraction could produce serious unintended consequences that would significantly increase all of these costs and lead, potentially, to all-out regional war.

#### Impact is nuclear war

**Reuveny** **10** (Rafael – professor in the School of Public and Environmental affairs at Indiana University, Unilateral strike on Iran could trigger world depression, p. http://www.indiana.edu/~spea/news/speaking\_out/reuveny\_on\_unilateral\_strike\_Iran.shtml)

A unilateral Israeli strike on Iran’s nuclear facilities would likely have dire consequences, including a regional war, global economic collapse and a major power clash. For an Israeli campaign to succeed, it must be quick and decisive. This requires an attack that would be so overwhelming that Iran would not dare to respond in full force. Such an outcome is extremely unlikely since the locations of some of Iran’s nuclear facilities are not fully known and known facilities are buried deep underground. All of these widely spread facilities are shielded by elaborate air defense systems constructed not only by the Iranians, but also the Chinese and, likely, the Russians as well. By now, Iran has also built redundant command and control systems and nuclear facilities, developed early-warning systems, acquired ballistic and cruise missiles and upgraded and enlarged its armed forces. Because Iran is well-prepared, a single, conventional Israeli strike — or even numerous strikes — could not destroy all of its capabilities, giving Iran time to respond. A regional war Unlike Iraq, whose nuclear program Israel destroyed in 1981, Iran has a second-strike capability comprised of a coalition of Iranian, Syrian, Lebanese, Hezbollah, Hamas, and, perhaps, Turkish forces. Internal pressure might compel Jordan, Egypt, and the Palestinian Authority to join the assault, turning a bad situation into a regional war. During the 1973 Arab-Israeli War, at the apex of its power, Israel was saved from defeat by President Nixon’s shipment of weapons and planes. Today, Israel’s numerical inferiority is greater, and it faces more determined and better-equipped opponents. Despite Israel’s touted defense systems, Iranian coalition missiles, armed forces, and terrorist attacks would likely wreak havoc on its enemy, leading to a prolonged tit-for-tat. In the absence of massive U.S. assistance, Israel’s military resources may quickly dwindle, forcing it to use its alleged nuclear weapons, as it had reportedly almost done in 1973. An Israeli nuclear attack would likely destroy most of Iran’s capabilities, but a crippled Iran and its coalition could still attack neighboring oil facilities, unleash global terrorism, plant mines in the Persian Gulf and impair maritime trade in the Mediterranean, Red Sea and Indian Ocean. Middle Eastern oil shipments would likely slow to a trickle as production declines due to the war and insurance companies decide to drop their risky Middle Eastern clients. Iran and Venezuela would likely stop selling oil to the United States and Europe. The world economy would head into a tailspin; international acrimony would rise; and Iraqi and Afghani citizens might fully turn on the United States, immediately requiring the deployment of more American troops. Russia, China, Venezuela, and maybe Brazil and Turkey — all of which essentially support Iran — could be tempted to form an alliance and openly challenge the U.S. hegemony. Replaying Nixon’s nightmare Russia and China might rearm their injured Iranian protege overnight, just as Nixon rearmed Israel, and threaten to intervene, just as the U.S.S.R. threatened to join Egypt and Syria in 1973. President Obama’s response would likely put U.S. forces on nuclear alert, replaying Nixon’s nightmarish scenario. Iran may well feel duty-bound to respond to a unilateral attack by its Israeli archenemy, but it knows that it could not take on the United States head-to-head. In contrast, if the United States leads the attack, Iran’s response would likely be muted. If Iran chooses to absorb an American-led strike, its allies would likely protest and send weapons, but would probably not risk using force. While no one has a crystal ball, leaders should be risk-averse when choosing war as a foreign policy tool. If attacking Iran is deemed necessary, Israel must wait for an American green light. A unilateral Israeli strike could ultimately spark World War III.

### 2

#### Interpretation – aff can only restrict the President’s war powers

#### Restrictions on authority are distinct from conditions

William Conner 78, former federal judge for the United States District Court for the Southern District of New York United States District Court, S. D. New York, CORPORACION VENEZOLANA de FOMENTO v. VINTERO SALES, http://www.leagle.com/decision/19781560452FSupp1108\_11379

Plaintiff next contends that Merban was charged with notice of the restrictions on the authority of plaintiff's officers to execute the guarantees. Properly interpreted, the "conditions" that had been imposed by plaintiff's Board of Directors and by the Venezuelan Cabinet were not "restrictions" or "limitations" upon the authority of plaintiff's agents but rather conditions precedent to the granting of authority. Essentially, then, plaintiff's argument is that Merban should have known that plaintiff's officers were not authorized to act except upon the fulfillment of the specified conditions.

#### **Introduction of armed forces into hostilities is not unique to the President – Congress can assign and authorize interventions too that are unrelated to war powers**

Lorber 13 (Eric, J.D. Candidate, University of Pennsylvania Law School, Ph.D Candidate, Duke University Department of Political Science, "COMMENT: Executive Warmaking Authority and Offensive Cyber Operations: Can Existing Legislation Successfully Constrain Presidential Power?," 15 U. Pa. J. Const. L. 961, lexis)

As discussed above, critical to the application of the War Powers Resolution - especially in the context of an offensive cyber operation - are the definitions of key terms, particularly "armed forces," as the relevant provisions of the Act are only triggered if the President "introduc[es armed forces] into hostilities or into situations [of] imminent ... hostilities," n172 or if such forces are introduced "into the territory, airspace, or waters of a foreign nation, while equipped for combat, except for deployments which relate solely to supply, replacement, repair, or training of such forces." n173 The requirements may also be triggered if the United States deploys armed forces "in numbers which substantially enlarge United States Armed Forces equipped for combat already located in a foreign nation." n174 As is evident, the definition of "armed forces" is crucial to deciphering whether the WPR applies in a particular circumstance to provide congressional leverage over executive actions. The definition of "hostilities," which has garnered the majority of scholarly and political attention, n175 particularly in the recent Libyan conflict, n176 will be dealt with secondarily here because it only becomes important if "armed forces" exist in the situation.¶ As is evident from a textual analysis, n177 an examination of the legislative history, n178 and the broad policy purposes behind the creation of the Act, n179 [\*990] "armed forces" refers to U.S. soldiers and members of the armed forces, not weapon systems or capabilities such as offensive cyber weapons. Section 1547 does not specifically define "armed forces," but it states that "the term "introduction of United States Armed Forces' includes the assignment of members of such armed forces to command, coordinate, participate in the movement of, or accompany the regular or irregular military forces of any foreign country or government." n180 While this definition pertains to the broader phrase "introduction of armed forces," the clear implication is that only members of the armed forces count for the purposes of the definition under the WPR. Though not dispositive, the term "member" connotes a human individual who is part of an organization. n181 Thus, it appears that the term "armed forces" means human members of the United States armed forces. However, there exist two potential complications with this reading. First, the language of the statute states that "the term "introduction of United States Armed Forces' includes the assignment of members of such armed forces." n182 By using inclusionary - as opposed to exclusionary - language, one might argue that the term "armed forces" could include more than members. This argument is unconvincing however, given that a core principle of statutory interpretation, expressio unius, suggests that expression of one thing (i.e., members) implies the exclusion of others (such as non-members constituting armed forces). n183 Second, the term "member" does not explicitly reference "humans," and so could arguably refer to individual units and beings that are part of a larger whole (e.g., wolves can be members of a pack). As a result, though a textual analysis suggests that "armed forces" refers to human members of the armed forces, such a conclusion is not determinative.¶ An examination of the legislative history also suggests that Congress clearly conceptualized "armed forces" as human members of the armed forces. For example, disputes over the term "armed forces" revolved around who could be considered members of the armed forces, not what constituted a member. Senator Thomas Eagleton, one of the Resolution's architects, proposed an amendment during the process providing that the Resolution cover military officers on loan to a civilian agency (such as the Central [\*991] Intelligence Agency). n184 This amendment was dropped after encountering pushback, n185 but the debate revolved around whether those military individuals on loan to the civilian agency were still members of the armed forces for the purposes of the WPR, suggesting that Congress considered the term to apply only to soldiers in the armed forces. Further, during the congressional hearings, the question of deployment of "armed forces" centered primarily on past U.S. deployment of troops to combat zones, n186 suggesting that Congress conceptualized "armed forces" to mean U.S. combat troops.¶ The broad purpose of the Resolution aimed to prevent the large-scale but unauthorized deployments of U.S. troops into hostilities. n187 While examining the broad purpose of a legislative act is increasingly relied upon only after examining the text and legislative history, here it provides further support for those two alternate interpretive sources. n188 As one scholar has noted, "the War Powers Resolution, for example, is concerned with sending U.S. troops into harm's way." n189 The historical context of the War Powers Resolution is also important in determining its broad purpose; as the resolutions submitted during the Vietnam War and in the lead-up to the passage of the WPR suggest, Congress was concerned about its ability to effectively regulate the President's deployments of large numbers of U.S. troops to Southeast Asia, n190 as well as prevent the President from authorizing troop incursions into countries in that region. n191 The WPR was a reaction to the President's continued deployments of these troops into combat zones, and as such suggests that Congress's broad purpose was to prevent the unconstrained deployment of U.S. personnel, not weapons, into hostilities.¶ This analysis suggests that, when defining the term "armed forces," Congress meant members of the armed forces who would be placed in [\*992] harm's way (i.e., into hostilities or imminent hostilities). Applied to offensive cyber operations, such a definition leads to the conclusion that the War Powers Resolution likely does not cover such activities. Worms, viruses, and kill switches are clearly not U.S. troops. Therefore, the key question regarding whether the WPR can govern cyber operations is not whether the operation is conducted independently or as part of a kinetic military operation. Rather, the key question is the delivery mechanism. For example, if military forces were deployed to launch the cyberattack, such an activity, if it were related to imminent hostilities with a foreign country, could trigger the WPR. This seems unlikely, however, for two reasons. First, it is unclear whether small-scale deployments where the soldiers are not participating or under threat of harm constitute the introduction of armed forces into hostilities under the War Powers Resolution. n192 Thus, individual operators deployed to plant viruses in particular enemy systems may not constitute armed forces introduced into hostilities or imminent hostilities. Second, such a tactical approach seems unlikely. If the target system is remote access, the military can attack it without placing personnel in harm's way. n193 If it is close access, there exist many other effective ways to target such systems. n194 As a result, unless U.S. troops are introduced into hostilities or imminent hostilities while deploying offensive cyber capabilities - which is highly unlikely - such operations will not trigger the War Powers Resolution.

#### Violation – aff restricts the ability of the President AND Congress to introduce armed forces

#### Voter for precision and predictable limits – allowing the aff to change Congressional war powers opens the flood-gates to a number of unpredictable extra-t actions – means we don’t get our generics based on only the executive being restricted

### 3

#### The aff doesn’t provide real reform – continued crisis discourse allows a re-expansion of executive authority

Scheuerman 12 – Professor of Political Science and West European Studies at Indiana University (William E., Summer 2012, "Emergencies, Executive Power, and the Uncertain Future of US Presidential Democracy," Law & Social Inquiry 37(3), EBSCO)

IV. REFORMISM'S LIMITS Bruce Ackerman, one of our country's most observant analysts of its clunky constitutional machinery, is similarly impatient with the "comforting notion that our heroic ancestors" created an ideal constitutional and political system (2010, 10). He even agrees that the US model increasingly seems to overlap with Schmitt's dreary vision of executive-centered plebiscitarianism motored by endless crises and emergencies (2010, 82). In sharp contrast to Posner and Vermeule, however, he not only worries deeply about this trend, but he also discards the unrealistic possibility that it might be successfully countered without recourse to legal and constitutional devices. Although Madison's original tripartite separation of powers is ill-adjusted to the realities of the modern administrative state, we need to reinvigorate both liberal legalism and checks and balances. Unless we can succeed in doing so, US citizens are likely to experience a "quantum leap in the presidency's destructive capacities" in the new century (2010, 119). Despite its alarmist tenor, for which he has been—in my view—unfairly criticized,'' Ackerman's position is grounded in a blunt acknowledgment of the comparative disadvantages of the US constitutional system. More clearly than any of the other authors discussed in this article, he breaks cleanly with the intellectual and constitutional provincialism that continues to plague so much legal and political science research on the United States. In part because as "late developers" they learned from institutional mistakes in the United States and elsewhere, more recently designed liberal democracies often do a better job than our Model T version at guaranteeing both policy effectiveness and the rule of law (2010, 120-22). Following the path-breaking work of his colleague Juan Linz, Ackerman offers a critical assessment of our presidential version of liberal democracy, where an independently elected executive regularly finds itself facing off against a potentially obstructionist Congress, which very well may seek to bury "one major presidential initiative after another" (2010, 5; see also Linz 1994). In the context of either real or imagined crises, executives facing strict temporal restraints (i.e., an upcoming election), while claiming to be the people's best protector against so-called special interests, will typically face widespread calls for swift (as well as legally dubious) action. "Crisis talk," in part endogenously generated by a flawed political system prone to gridlock rather than effective policy making, "prepares the ground for a grudging acceptance of presidential unilateralism" (2010, 6). Executives everywhere have much to gain from crisis scenarios. Yet incentives for declaring and perpetuating emergencies may be especially pronounced in our presidential system. The combination of temporal rigidity (i.e., fixed elections and terms of office) and "dual democratic legitimacy" (with both Congress and the president claiming to speak for "we the people") poses severe challenges to law-based government (Linz 1994). Criticizing US scholarship for remaining imprisoned in the anachronistic binary contrast of "US presidentialism vs. Westminster parliamentarism," Ackerman recommends that we pay closer attention to recent innovations achieved by what he describes as "constrained parliamentarism," basically a modified parliamentary system that circumvents the worst design mistakes of both Westminster parliamentarism and US presidentialism. As he has argued previously in a lengthy Harvard Law Review article, constrained parliamentarism—as found, for example, in recent democracies like Germany and Spain—locates law making in a Westminster-style popular assembly. But in contrast to the UK model, "legislative output is constrained by a higher lawmaking process" (2000, 666). The German Eederal Republic, for example, rests on a written constitution (e.g., the Basic Law) and has a powerful constitutional court. In Ackerman's view, constrained parliamentarism lacks many of the institutional components driving the growth of executive-dominated emergency govemment. Not surprisingly, he posits, it suffers to a reduced degree from many of the institutional pathologies plaguing US-style presidentialism. Ackerman argues that, in contrast, US-style presidential models have regularly collapsed elsewhere (e.g., in Latin and South American countries, where US-style presidentialism has been widely imitated [Linz and Valenzuela 1994]), devolving on occasion into unabated authoritarianism (2000, 646). Ackerman now seems genuinely concerned that a similar fate might soon befall its original version. Even if his most recent book repeats some earlier worries, he has now identified additional perils that he thinks deserve immediate attention. Not surprisingly, perhaps, his anxiety level has noticeably increased. Even Schmitt's unattractive vision of presidential authoritarianism appears "a little old-fashioned," given some ominous recent trends (2010, 82). To an extent unfathomable in Schmitt's day, the executive can exploit quasi-scientific polling data in order to gauge the public pulse. Presidents now employ a small but growing army of media gurus and consultants who allow them to craft their messages in astonishingly well-skilled—and potentially manipulative—ways. Especially during crisis moments, an overheated political environment can quickly play into the hands of a "White House propaganda machine generating a stream of sound bites" (2010, 33). Pundits and opinion makers already tend to blur the crucial divide between polling "numbers" and actual votes, with polls in both elite and popular consciousness tending not only to supplement but increasingly displace election results.'^ The decline of the print media and serious joumalism—about which Ackerman is understandably distressed—means that even the most fantastic views are taken seriously. Thus far, the Internet has failed to pick up the slack; it tends to polarize public opinion. Meanwhile, our primary system favors candidates who successfully appeal to an energized partisan base, meaning that those best able to exploit public opinion polling and the mass media, but out of sync with the median voter, generally gain the party nomination. Linz earlier pointed out that presidentialism favors political outsiders; Ackerman worries that in our emerging presidential model, the outsiders will tend to be extremists. Polling and media-savvy, charismatic, and relatively extreme figures will colonize the White House. In addition, the president's control over the massive administrative apparatus provides the executive with a daunting array of institutional weapons, while the Office of Legal Counsel (OLC) and Office of Counsel to the President offer hyperpoliticized sites from which distinctly executive-centered legal and constitutional views now are rapidly disseminated. Ackerman raises some tough questions for those who deem the OLC and related executive organs fundamentally sound institutions that somehow went haywire under David Addington and John Yoo. In his view, their excesses represent a logical result of basic structural trends currently transforming both the executive and political system as whole. OLC's partisan and sometimes quasi-authoritarian legal pronouncements are now being eagerly studied by law students and cited by federal courts (2010, 93). Notwithstanding an admirable tradition of executive deference to the Supreme Court, presidents are better positioned than ever to claim higher political legitimacy and neutralize political rivals. Backed by eager partisan followers, adept at the media game, and well armed with clever legal arguments constructed by some of the best lawyers in the country, prospective presidents may conceivably stop deferring to the Court (2010, 89). Ackerman's most unsettling amendment to his previous views is probably his discussion of the increasingly politicized character of the military—an administrative realm, by the way, ignored by other writers here, despite its huge role in modern US politics. Here again, the basic enigma is that the traditional eighteenth-century tripartite separation of powers meshes poorly with twenty-first-century trends: powerful military leaders can now regularly play different branches of govemment against one another in ways that undermine meaningful civilian oversight. Top officers possess far-reaching opportunities "to become an independent political force—allowing them to tip the balance of political support in one direction, then another," as the competing branches struggle for power (2010, 49). For Ackerman, the emergence of nationally prominent and media-savvy figures such as Colin Powell and David Petraeus, who at crucial junctures have communicated controversial policy positions to a broader public,'^ suggests that this long-standing structural flaw has recently gotten worse. The Goldwater-Nichols Act of 1996, for example, transformed the chair of the Joint Chiefs of Staff from a mediator for the competing services into the military's principal—and hugely influential—spokesperson within the National Security Council (2010, 50). Not only does the military constitute a hugely significant segment of the administrative machinery, but it is now embodied—both in govemment and the public eye—in a single leader whose views carry tremendous weight. The fact that opinion surveys show that the officer corps is increasingly conservative in its partisan orientation, Ackerman notes, only adds to the dangers. Americans need not fear an imminent military putsch, along the lines that destroyed other presidential regimes elsewhere. Nonetheless, we would do well not to be "lulled into a false sense of security" (2010, 87). Having painted a foreboding portrait of institutional trends, Ackerman points to paths we might take to ward off the worst. In light of the obvious seriousness of the illness he has diagnosed, however, his antidotes tend to disappoint: he proposes that we treat cancer with some useful but limited home remedies. Like Shane, Ackerman wants to improve popular deliberation by reforming the mass media and institutionalizing "Deliberation Day" (2010, 125-40). Yet how such otherwise potentially appealing initiatives might counteract the symbiotic relationship between presidentialism and crisis government remains ambiguous. A modernized electoral college, for example, might simply engender executives better positioned to claim to stand in for "we the people" than their historical predecessors. Given Ackerman's own worries about plebiscitarianism, this reform might compound rather than alleviate our problems. More innovatively, Ackerman endorses the idea of a quasi-judicial check within the executive branch, a "Supreme Executive Tribunal" given the task of expeditiously determining the legality of proposed executive action, whose members would be appointed to staggered terms and subject to Senate confirmation. Forced to gain a seal of approval from jurists relatively insulated from sitting presidents, the executive tribunal would act more quickly than an ordinary court and thereby help put a "brake on the presidential dynamic before it can gather steam" (2010,143). Before the president could take the first political move and potentially alter the playing field, he or she might first have to clear the move with a body of legal experts, a requirement that presumably over time would work to undergird the executive branch's commitment to legality. The proposed tribunal could allow the president and Congress to resolve many of their standoffs more expeditiously than is typical today (2010, 146). Congressional representatives, for example, might rely on the tribunal to challenge executive signing statements. Existing exemptions for a significant number of major executive-level actors (e.g., the president's National Security Advisor) from Senate confirmation also need to be abandoned, while the military should promulgate a new Canon of Military Ethics, aimed at clarifying what civilian control means in contemporary real-life settings, in order to counteract its ongoing politicization. Goldwater-Nichols could be revised so as better to guarantee the subordination of military leaders to the Secretary of Defense (2010, 153-65). Ackerman also repeats his previous calls for creating an explicit legal framework for executive emergency action: Congress could temporarily grant the president broad discretionary emergency powers while maintaining effective authority to revoke them if the executive proved unable to gain ever more substantial support from the legislature (2010, 165-70; see also Ackerman 2006). Each of these suggestions demands more careful scrutiny than possible here. Nonetheless, even if many of them seem potentially useful, room for skepticism remains. Why, for example, would the proposed executive tribunal not become yet another site for potentially explosive standoffs between presidents and Congress? Might not highlevel political conflicts end up simply taking the forms of destructive (and misleadingly legalistic) duels? To the extent that one of the tribunal's goals is to decelerate executive decision making, its creation would perhaps leave our already sluggish and slow-moving political system even less able than at the present to deal with fast-paced challenges. Faced with time constraints and the need to gain popular support, executives might then feel even more pressed than at present to circumvent legality. As Ackerman knows, even as it presently operates, the Senate confirmation process is a mess. His proposal to extend its scope might simply end up reproducing at least some familiar problems. Last but not least, given the perils he so alarmingly describes, his proposed military reforms seem unsatisfying. Why not instead simply cut our bloated military apparatus and abandon US imperial pretensions? The obvious Achilles heel is that none of the proposals really deals head-on with what Ackerman himself conceives as the fundamental root of executive-centered government: an independently elected president strictly separated from legislative bodies with which he periodically clashes in potentially destructive ways. Despite Ackerman's ambition, his proposals do not provide structural reform: he concludes that US-based reformers should "take the independently elected presidency as a fixture" (2010, 124). Thus, presidential government is here to stay; reformers can also forget about significantly altering our flawed system of presidential primaries, activist government, and powerful military that intervenes frequently abroad (2010, 124). Given contemporary political developments, one can certainly appreciate why Ackerman is skeptical that the US system might finally be ripe for a productive institutional overhaul. Nonetheless, this just makes an already rather bleak book look even bleaker. His book's title. The Decline and Fall of the Arnerican Republic, is out of step with the somewhat upbeat reformist proposals detailed in its final chapters. Regretfully, the title better captures his core message. Only Ackerman's ultimately disturbing book both adeptly rejects the tendency among recent students of executive power to revert to constitutional nostalgia while forthrightly identifying the very real dangers posed by recent institutional trends. In an age of permanent or at least seemingly endless emergencies, where the very attempt to cleanly distinguish dire crises from "normal" political and social challenges becomes exceedingly difficult, the executive threatens to become an even more predominant— and potentially lawless—institutional player Unfortunately, US-style presidential democracy may be particularly vulnerable to this trend. Ackerman proves more successful than the other authors discussed here because he is best attuned to a rich body of comparative constitutional and political science scholarship that has raised legitimate doubts about the alleged virtues of US-style liberal democracy. Not surprisingly, some of his own reform ideas—for example, his proposed system of emergency law making—draw heavily on foreign examples, including Canada and new democracies such as South Africa. He convincingly argues that we might at least ameliorate the widespread tendency among presidents to manipulate crises for narrow partisan reasons, for example, by relying on the clever idea of a supermajoritarian escalator, which would require every legislative renewal of executive emergency authority to rest on ever more numerous supermajorities (2006). Ackerman is right to suggest that the United States needs to look abroad in order to improve our rather deficient system of emergency rule (Scheuerman 2006, 2008). Our system is broken; it is time to see what can be learned from others. Ackerman's latest book's overly cautious reformism thus seems especially peculiar in light of his own powerful and indeed enthusiastic defense of constrained parliamentarism, which he quite plausibly describes as potentially offering a superior approach to emergency government. The key point is not that we can be absolutely sure that the "grass is greener" in new democracies such as postwar Germany or post-Franco Spain; existing empirical evidence offers, frankly, a mixed picture. Contemporary Germany, for example, has certainly experienced its own fair share of emergency executive excesses (Frankenberg 2010). Scholars have criticized not only the empirical thesis that presidentialism and a strict separation of powers can help explain the substantial growth of executive discretion (Carolan 2009; Gross and Ni Aolain 2006), but also more farreaching assertions about their alleged structural disadvantages (Cheibub 2006). Still others argue that parliamentary regimes even of the "old type" (i.e., the UK Westminster model) have done relatively well in maintaining the rule of law during serious crises (Ewing and Gearty 2000; Bellamy 2007, 249-53). Unfortunately, we still lack wellconceived empirical studies comparing constrained parliamentarism with US-style presidentialism. Too much existing scholarship focuses on single countries, or relies on "foreign" cases but only in a highly selective and anecdotal fashion. Until we have more properly designed comparative studies, however, it seems inaccurate to assume a priori that core institutional features of US presidential democracy are well equipped to tackle the many challenges at hand. As I have tried to argue here, a great deal of initial evidence suggests that this simply is not the case. Admittedly, every variety of liberal democracy confronts structural tendencies favoring the augmentation of executive power: many of the social and economic roots (e.g., social acceleration) of executive-centered crisis govemment represent more-or-less universal phenomena, likely to rattle even well-designed constitutional systems. One can also easily imagine that in decades to come, extreme "natural" catastrophes— increasingly misnamed, because of their links to human-based climate change— justifying declarations of martial law or states of emergency will proliferate, providing novel possibilities for executives to expand their authority.^° So it would be naive to expect any easy constitutional or political-institutional fix. However, this sobering reality should not lead us to abandon creative institutional thinking. On the contrary, it arguably requires of us that we try to come up with new institutional models, distinct both from existing US-style presidentialism and parliamentarism, constrained or otherwise.

#### Enframing of security makes macro-political violence inevitable

Burke 7 – Associate Professor of Politics and International Relations in the University of New South Wales (Anthony, Theory & Event, Volume 10, Issue 2, 2007, “Ontologies of War: Violence, Existence and Reason,” Project MUSE)

This essay develops a theory about the causes of war -- and thus aims to generate lines of action and critique for peace -- that cuts beneath analyses based either on a given sequence of events, threats, insecurities and political manipulation, or the play of institutional, economic or political interests (the 'military-industrial complex'). Such factors are important to be sure, and should not be discounted, but they flow over a deeper **bedrock of modern reason** that has not only come to form a powerful structure of common sense but **the apparently solid ground of the real itself**. In this light, the two 'existential' and 'rationalist' discourses of war-making and justification mobilised in the Lebanon war are more than merely arguments, rhetorics or even discourses. Certainly they mobilise forms of knowledge and power together; providing political leaderships, media, citizens, bureaucracies and military forces with organising systems of belief, action, analysis and rationale. But they run deeper than that. They are truth-systems of the most powerful and fundamental kind that we have in modernity: **ontologies, statements about truth and being which claim a rarefied privilege to state what is and how it must be maintained** as it is.I am thinking of ontology in both its senses: ontology as both a statement about the nature and ideality of being (in this case political being, that of the nation-state), and as a statement of epistemological truth and certainty, of methods and processes of arriving at certainty (in this case, the development and application of strategic knowledge for the use of armed force, and the creation and maintenance of geopolitical order, security and national survival). These derive from the classical idea of ontology as a speculative or positivistic inquiry into the fundamental nature of truth, of being, or of some phenomenon; the desire for a solid metaphysical account of things inaugurated by Aristotle, an account of 'being qua being and its essential attributes'.17 In contrast, drawing on Foucauldian theorising about truth and power, I see ontology as a particularly powerful claim to truth itself: a claim to the status of an underlying systemic foundation for truth, identity, existence and action; one that is not essential or timeless, but is thoroughly historical and contingent, that is deployed and mobilised in a fraught and conflictual socio-political context of some kind. In short, ontology is the 'politics of truth'18 in its most sweeping and powerful form. I see such a drive for ontological certainty and completion as particularly problematic for a number of reasons. Firstly, when it takes the form of the existential and rationalist ontologies of war, it amounts to a hard and exclusivist claim: **a drive for ideational hegemony and closure that limits debate and questioning**, **that confines it within the boundaries of a particular, closed system of logic, one that is grounded in the truth of being**, in the truth of truth as such. The second is its intimate relation with violence: the dual ontologies represent a simultaneously social and conceptual structure that generates violence. Here **we are witness to an epistemology of violence (strategy) joined to an ontology of violence (the national security state)**. When we consider their relation to war, the two ontologies are especially dangerous because each alone (and doubly in combination) tends both to **quicken the resort to war and to lead to its escalation** either in scale and duration, or in unintended effects. In such a context **violence is not so much a tool that can be picked up and used on occasion**, at limited cost and with limited impact -- **it permeates being.** This essay describes firstly the ontology of the national security state (by way of the political philosophy of Thomas Hobbes, Carl Schmitt and G. W. F. Hegel) and secondly the rationalist ontology of strategy (by way of the geopolitical thought of Henry Kissinger), showing how they crystallise into a mutually reinforcing system of support and justification, especially in the thought of Clausewitz. This creates both a profound ethical and pragmatic problem. The ethical problem arises because of their militaristic force -- they embody and reinforce a norm of war -- and because they enact what Martin Heidegger calls an 'enframing' image of technology and being in which **humans are merely utilitarian instruments** for use, control and destruction, and force -- in the words of one famous Cold War strategist -- can be thought of as a 'power to hurt'.19 The pragmatic problem arises because force so often produces neither the linear system of effects imagined in strategic theory nor anything we could meaningfully call security, but rather **turns in upon itself in a nihilistic spiral of pain and destruction**. In the era of a 'war on terror' dominantly conceived in Schmittian and Clausewitzian terms,20 the arguments of Hannah Arendt (that violence collapses ends into means) and Emmanuel Levinas (that 'every war employs arms that turn against those that wield them') take on added significance. Neither, however, explored what occurs when war and being are made to coincide, other than Levinas' intriguing comment that in war persons 'play roles in which they no longer recognises themselves, making them betray not only commitments but their own substance'. 21 What I am trying to describe in this essay is a complex relation between, and interweaving of, epistemology and ontology. But it is not my view that these are distinct modes of knowledge or levels of truth, because in the social field named by security, statecraft and violence they are made to blur together, continually referring back on each other, like charges darting between electrodes. Rather they are related systems of knowledge with particular systemic roles and intensities of claim about truth, political being and political necessity. Positivistic or scientific claims to epistemological truth supply an air of predictability and reliability to policy and political action, which in turn support larger ontological claims to national being and purpose, drawing them into a common horizon of certainty that is one of the central features of past-Cartesian modernity. Here it may be useful to see ontology as a more totalising and metaphysical set of claims about truth, and epistemology as more pragmatic and instrumental; but while a distinction between epistemology (knowledge as technique) and ontology (knowledge as being) has analytical value, it tends to break down in action. The epistemology of violence I describe here (strategic science and foreign policy doctrine) claims positivistic clarity about techniques of military and geopolitical action which use force and coercion to achieve a desired end, an end that is supplied by the ontological claim to national existence, security, or order. However in practice, technique quickly passes into ontology. This it does in two ways. First, **instrumental violence is married to an ontology of insecure national existence which itself admits no questioning**. The nation and its identity are known and essential, prior to any conflict, and the resort to violence becomes an equally essential predicate of its perpetuation. In this way knowledge-as-strategy claims, in a positivistic fashion, to achieve a calculability of effects (power) for an ultimate purpose (securing being) that it must always assume. Second, strategy as a technique not merely becomes an instrument of state power but ontologises itself in a technological image of 'man' as a maker and user of things, including **other humans, which have no essence or integrity outside their value as objects**. In Heidegger's terms, **technology becomes being; epistemology immediately becomes technique, immediately being**. This combination could be seen in the aftermath of the 2006 Lebanon war, whose obvious strategic failure for Israelis generated fierce attacks on the army and political leadership and forced the resignation of the IDF chief of staff. Yet in its wake neither ontology was rethought. Consider how a reserve soldier, while on brigade-sized manoeuvres in the Golan Heights in early 2007, was quoted as saying: 'we are ready for the next war'. Uri Avnery quoted Israeli commentators explaining the rationale for such a war as being to 'eradicate the shame and restore to the army the "deterrent power" that was lost on the battlefields of that unfortunate war'. In 'Israeli public discourse', he remarked, 'the next war is seen as a natural phenomenon, like tomorrow's sunrise.' 22 The danger obviously raised here is that these dual ontologies of war link being, means, events and decisions into a single, unbroken chain whose very process of construction cannot be examined. As is clear in the work of Carl Schmitt, being implies action, the action that is war. This chain is also obviously at work in the U.S. neoconservative doctrine that argues, as Bush did in his 2002 West Point speech, that 'the only path to safety is the path of action', which begs the question of whether strategic practice and theory can be detached from strong ontologies of the insecure nation-state.23 This is the direction taken by much realist analysis critical of Israel and the Bush administration's 'war on terror'.24 Reframing such concerns in Foucauldian terms, we could argue that obsessive ontological commitments have led to especially disturbing 'problematizations' of truth.25 However such rationalist critiques rely on a one-sided interpretation of Clausewitz that seeks to disentangle strategic from existential reason, and to open up choice in that way. However without interrogating more deeply how they form a conceptual harmony in Clausewitz's thought -- and thus in our dominant understandings of politics and war -- tragically violent 'choices' will continue to be made. The essay concludes by pondering a normative problem that arises out of its analysis: if the divisive ontology of the national security state and the violent and instrumental vision of 'enframing' have, as Heidegger suggests, come to define being and drive 'out every other possibility of revealing being', how can they be escaped?26 How can other choices and alternatives be found and enacted? How is there any scope for agency and resistance in the face of them? Their social and discursive power -- one that aims to take up the entire space of the political -- needs to be respected and understood. However, we are far from powerless in the face of them. **The need is to critique dominant images of political being and dominant ways of securing that being at the same time**, and to act and choose such that we bring into the world a more sustainable, peaceful and non-violent global rule of the political. Friend and Enemy: Violent Ontologies of the Nation-State In his Politics Among Nations Hans Morgenthau stated that 'the national interest of a peace-loving nation can only be defined in terms of national security, which is the irreducible minimum that diplomacy must defend with adequate power and without compromise'. While Morgenthau defined security relatively narrowly -- as the 'integrity of the national territory and its institutions' -- in a context where security was in practice defined expansively, as synonymous with a state's broadest geopolitical and economic 'interests', what was revealing about his formulation was not merely the ontological centrality it had, but the sense of urgency and priority he accorded to it: it must be defended 'without compromise'.27 Morgenthau was a thoughtful and complex thinker, and understood well the complexities and dangers of using armed force. However his formulation reflected an influential view about the significance of the political good termed 'security'. When this is combined with the way in which security was conceived in modern political thought as an existential condition -- a sine qua non of life and sovereign political existence -- and then married to war and instrumental action, it provides a basic underpinning for either the limitless resort to strategic violence without effective constraint, or the perseverance of limited war (with its inherent tendencies to escalation) as a permanent feature of politics. While he was no militarist, Morgenthau did say elsewhere (in, of all places, a far-reaching critique of nuclear strategy) that the 'quantitative and qualitative competition for conventional weapons is a rational instrument of international politics'.28 The conceptual template for such an image of national security state can be found in the work of Thomas Hobbes, with his influential conception of the political community as a tight unity of sovereign and people in which their bodies meld with his own to form a 'Leviathan', and which must be defended from enemies within and without. His image of effective security and sovereignty was one that was intolerant of internal difference and dissent, legitimating a strong state with coercive and exceptional powers to preserve order and sameness. This was a vision not merely of political order but of existential identity, set off against a range of existential others who were sources of threat, backwardness, instability or incongruity.29 It also, in a way set out with frightening clarity by the theorist Carl Schmitt and the philosopher Georg Hegel, exchanged internal unity, identity and harmony for permanent alienation from other such communities (states). Hegel presaged Schmitt's thought with his argument that individuality and the state are single moments of 'mind in its freedom' which 'has an infinitely negative relation to itself, and hence its essential character from its own point of view is its singleness': Individuality is awareness of one's existence as a unit in sharp distinction from others. It manifests itself here in the state as a relation to other states, each of which is autonomous vis-a-vis the others...this negative relation of the state to itself is embodied in the world as the relation of one state to another and as if the negative were something external.30 Schmitt is important both for understanding the way in which such alienation is seen as a definitive way of imagining and limiting political communities, and for understanding how such a rigid delineation is linked to the inevitability and perpetuation of war. Schmitt argued that the existence of a state 'presupposes the political', which must be understood through 'the specific political distinction...between friend and enemy'. The enemy is 'the other, the stranger; and it sufficient for his nature that he is, in a specially intense way, existentially something different and alien, so that in an extreme case conflicts with him are possible'.31 The figure of the enemy is constitutive of the state as 'the specific entity of a people'.32 Without it society is not political and a people cannot be said to exist: Only the actual participants can correctly recognise, understand and judge the concrete situation and settle the extreme case of conflict...to judge whether the adversary intends to negate his opponent's way of life and therefore must be repulsed or fought in order to preserve one's own form of existence.33 Schmitt links this stark ontology to war when he states that the political is only authentic 'when a fighting collectivity of people confronts a similar collectivity. The enemy is solely the public enemy, because everything that has a relationship to such a collectivity of men, particularly to the whole nation, becomes public by virtue of such a relationship...in its entirety the state as an organised political entity decides for itself the friend-enemy distinction'.34 War, in short, is an existential condition: the entire life of a human being is a struggle and every human being is symbolically a combatant. The friend, enemy and combat concepts receive their real meaning precisely because they refer to the real possibility of physical killing. War follows from enmity. War is the existential negation of the enemy.35 Schmitt claims that his theory is not biased towards war as a choice ('It is by no means as though the political signifies nothing but devastating war and every political deed a military action...it neither favours war nor militarism, neither imperialism nor pacifism') but it is hard to accept his caveat at face value.36 When such a theory takes the form of a social discourse (which it does in a general form) such an ontology can only support, as a kind of originary ground, the basic Clausewitzian assumption that war can be a rational way of resolving political conflicts -- because the import of Schmitt's argument is that such 'political' conflicts are ultimately expressed through the possibility of war. As he says: 'to the enemy concept belongs the ever-present possibility of combat'.37 Where Schmitt meets Clausewitz, as I explain further below, the existential and rationalistic ontologies of war join into a closed circle of mutual support and justification. This closed circle of existential and strategic reason generates a number of dangers. Firstly, the emergence of conflict can generate military action almost automatically simply because the world is conceived in **terms of the distinction between friend and enemy**; because **the very existence of the other constitutes an unacceptable threat**, rather than a chain of actions, judgements and decisions. (As the Israelis insisted of Hezbollah, they 'deny our right to exist'.) **This effaces agency, causality and responsibility from policy and political discourse: our actions can be conceived as independent of the conflict or quarantined from critical enquiry**, as necessities that achieve an instrumental purpose but do not contribute to a new and unpredictable causal chain. Similarly the Clausewitzian idea of force -- which, by transporting a Newtonian category from the natural into the social sciences, assumes the very effect it seeks -- further encourages the resort to military violence. **We ignore the complex history of a conflict, and thus the alternative paths to its resolution that such historical analysis might provide, by portraying conflict as fundamental and existential in nature; as possibly containable or exploitable, but always irresolvable**. Dominant portrayals of the war on terror, and the Israeli-Arab conflict, are arguably examples of such ontologies in action. Secondly, the militaristic force of such an ontology is visible, in Schmitt, in the absolute sense of vulnerability whereby a people can judge whether their 'adversary intends to negate his opponent's way of life'.38 Evoking the kind of thinking that would become controversial in the Bush doctrine, Hegel similarly argues that: ...a state may regard its infinity and honour as at stake in each of its concerns, however minute, and it is all the more inclined to susceptibility to injury the more its strong individuality is impelled as a result of long domestic peace to seek and create a sphere of activity abroad. ....the state is in essence mind and therefore cannot be prepared to stop at just taking notice of an injury after it has actually occurred. On the contrary, there arises in addition as a cause of strife the idea of such an injury...39 **Identity**, even more than physical security or autonomy, is put at stake in such thinking and can be defended and redeemed through warfare (or, when taken to a further extreme of an absolute demonisation and dehumanisation of the other, by mass killing, 'ethnic cleansing' or genocide). However anathema to a classical realist like Morgenthau, for whom prudence was a core political virtue, these have been influential ways of defining national security and defence during the twentieth century and persists into the twenty-first. They infused Cold War strategy in the United States (with the key policy document NSC68 stating that 'the Soviet-led assault on free institutions is worldwide now, and ... a defeat of free institutions anywhere is a defeat everywhere')40 and frames dominant Western responses to the threat posed by Al Qaeda and like groups (as Tony Blair admitted in 2006, 'We could have chosen security as the battleground. But we didn't. We chose values.')41 It has also become influential, in a particularly tragic and destructive way, in Israel, where memories of the Holocaust and (all too common) statements by Muslim and Arab leaders rejecting Israel's existence are mobilised by conservatives to justify military adventurism and a rejectionist policy towards the Palestinians. On the reverse side of such ontologies of national insecurity we find pride and hubris, the belief that martial preparedness and action are vital or healthy for the existence of a people. Clausewitz's thought is thoroughly imbued with this conviction. For example, his definition of war as an act of policy does not refer merely to the policy of cabinets, but expresses the objectives and will of peoples: When whole communities go to war -- whole peoples, and especially civilized peoples -- the reason always lies in some political situation and the occasion is always due to some political object. War, therefore, is an act of policy.42 Such a perspective prefigures Schmitt's definition of the 'political' (an earlier translation reads 'war, therefore, is a political act'), and thus creates an inherent tension between its tendency to fuel the escalation of conflict and Clausewitz's declared aim, in defining war as policy, to prevent war becoming 'a complete, untrammelled, absolute manifestation of violence'.43 Likewise his argument that war is a 'trinity' of people (the source of 'primordial violence, hatred and enmity'), the military (who manage the 'play of chance and probability') and government (which achieve war's 'subordination as an instrument of policy, which makes it subject to reason alone') merges the existential and rationalistic conceptions of war into a theoretical unity.44 The idea that national identities could be built and redeemed through war derived from the 'romantic counter-revolution' in philosophy which opposed the cosmopolitanism of Kant with an emphasis on the absolute state -- as expressed by Hegel's Philosophy of Right, Bismarkian Realpolitik and politicians like Wilhelm Von Humbolt. Humbolt, a Prussian minister of Education, wrote that war 'is one of the most wholesome manifestations that plays a role in the education of the human race', and urged the formation of a national army 'to inspire the citizen with the spirit of true war'. He stated that war 'alone gives the total structure the strength and the diversity without which facility would be weakness and unity would be void'.45 In the Phenomenology of Mind Hegel made similar arguments that to for individuals to find their essence 'Government has from time to time to shake them to the very centre by war'.46 The historian Azar Gat points to the similarity of Clausewitz's arguments that 'a people and a nation can hope for a strong position in the world only if national character and familiarity with war fortify each other by continual interaction' to Hegel's vision of the ethical good of war in his Philosophy of Right.47 Likewise Michael Shapiro sees Clausewitz and Hegel as alike in seeing war 'as an ontological investment in both individual and national completion...Clausewitz figures war as passionate ontological commitment rather than cool political reason...war is a major aspect of being.'48 Hegel's text argues that war is 'a work of freedom' in which 'the individual's substantive duty' merges with the 'independence and sovereignty of the state'.49 Through war, he argues, the ethical health of peoples is preserved in their indifference to the stabilization of finite institutions; just as the blowing of the winds preserves the sea from the foulness which would be the result of a prolonged calm, so the corruption in nations would be the product of a prolonged, let alone 'perpetual' peace.50 Hegel indeed argues that 'sacrifice on behalf of the individuality of the state is a substantial tie between the state and all its members and so is a universal duty...if the state as such, if its autonomy, is in jeopardy, all its citizens are duty bound to answer the summons to its defence'.51 Furthermore, this is not simply a duty, but a form of self-realisation in which the individual dissolves into the higher unity of the state: The intrinsic worth of courage as a disposition of mind is to be found in the genuine, absolute, final end, the sovereignty of the state. The work of courage is to actualise this end, and the means to this end is the sacrifice of personal actuality. This form of experience thus contains the harshness of extreme contradictions: a self-sacrifice which yet is the real existence of one's freedom; the maximum self-subsistence of individuality, yet only a cog playing its part in the mechanism of an external organisation; absolute obedience, renunciation of personal opinions and reasonings, in fact complete absence of mind, coupled with the most intense and comprehensive presence of mind and decision in the moment of acting; the most hostile and so most personal action against individuals, coupled with an attitude of complete indifference or even liking towards them as individuals.52 A more frank statement of the potentially lethal consequences of patriotism -- and its simultaneously physical and conceptual annihilation of the individual human being -- is rarely to be found, one that is repeated today in countless national discourses and the strategic world-view in general. (In contrast, one of Kant's fundamental objections to war was that it involved using men 'as mere machines or instruments'.53) Yet however bizarre and contradictory Hegel's argument, it constitutes a powerful social ontology: an apparently irrefutable discourse of being. It actualises the convergence of war and the social contract in the form of the national security state. Strategic Reason and Scientific Truth By itself, such an account of the nationalist ontology of war and security provides only a general insight into the perseverance of military violence as a core element of politics. It does not explain why so many policymakers think military violence works. As I argued earlier, such an ontology is married to a more rationalistic form of strategic thought that claims to link violent means to political ends predictably and controllably, and which, by doing so, combines military action and national purposes into a common -- and thoroughly modern -- horizon of certainty. Given Hegel's desire to decisively distil and control the dynamic potentials of modernity in thought, it is helpful to focus on the modernity of this ontology -- one that is modern in its adherence to modern scientific models of truth, reality and technological progress, and in its insistence on imposing images of scientific truth from the physical sciences (such as mathematics and physics) onto human behaviour, politics and society. For example, the military theorist and historian Martin van Creveld has argued that one of the reasons Clausewitz was so influential was that his 'ideas seemed to have chimed in with the rationalistic, scientific, and technological outlook associated with the industrial revolution'.54 Set into this epistemological matrix, modern politics and government engages in a sweeping project of mastery and control in which **all of the world's resources -- mineral, animal, physical, human -- are made part of a machinic process of which war and violence are viewed as normal features.** These are the deeper claims and implications of Clausewitzian strategic reason. One of the most revealing contemporary examples comes from the writings (and actions) of Henry Kissinger, a Harvard professor and later U.S. National Security Adviser and Secretary of State. He wrote during the Vietnam war that after 1945 U.S. foreign policy was based 'on the assumption that technology plus managerial skills gave us the ability to reshape the international system and to bring about domestic transformations in emerging countries'. This 'scientific revolution' had 'for all practical purposes, removed technical limits from the exercise of power in foreign policy'.55 Kissinger's conviction was based not merely in his pride in the vast military and bureaucratic apparatus of the United States, but in a particular epistemology (theory of knowledge). Kissinger asserted that the West is 'deeply committed to the notion that the real world is external to the observer, that knowledge consists of recording and classifying data -- the more accurately the better'. This, he claimed, has since the Renaissance set the West apart from an 'undeveloped' world that contains 'cultures that have escaped the early impact of Newtonian thinking' and remain wedded to the 'essentially pre-Newtonian view that the real world is almost entirely internal to the observer'.56 At the same time, Kissinger's hubris and hunger for control was beset by a corrosive anxiety: that, in an era of nuclear weapons proliferation and constant military modernisation, of geopolitical stalemate in Vietnam, and the emergence and militancy of new post-colonial states, order and mastery were harder to define and impose. He worried over the way 'military bipolarity' between the superpowers had 'encouraged political multipolarity', which 'does not guarantee stability. Rigidity is diminished, but so is manageability...equilibrium is difficult to achieve among states widely divergent in values, goals, expectations and previous experience' (emphasis added). He mourned that 'the greatest need of the contemporary international system is an agreed concept of order'.57 Here were the driving obsessions of the modern rational statesman based around a hunger for stasis and certainty that would entrench U.S. hegemony: For the two decades after 1945, our international activities were based on the assumption that technology plus managerial skills gave us the ability to reshape the international system and to bring about domestic transformations in "emerging countries". This direct "operational" concept of international order has proved too simple. Political multipolarity makes it impossible to impose an American design. Our deepest challenge will be to evoke the creativity of a pluralistic world, to base order on political multipolarity even though overwhelming military strength will remain with the two superpowers.58 Kissinger's statement revealed that such cravings for order and certainty continually confront chaos, resistance and uncertainty: clay that won't be worked, flesh that will not yield, enemies that refuse to surrender. This is one of the most powerful lessons of the Indochina wars, which were to continue in a phenomenally destructive fashion for six years after Kissinger wrote these words. Yet as his sinister, Orwellian exhortation to 'evoke the creativity of a pluralistic world' demonstrated, Kissinger's hubris was undiminished. **This is a vicious, historic irony: a desire to control nature, technology, society and human beings that is continually frustrated, but never abandoned or rethought**. By 1968 U.S. Secretary of Defense Robert McNamara, the rationalist policymaker par excellence, had already decided that U.S. power and technology could not prevail in Vietnam; Nixon and Kissinger's refusal to accept this conclusion, to abandon their Cartesian illusions, **was to condemn hundreds of thousands** **more to die** in Indochina and the people of Cambodia to two more decades of horror and misery.59 In 2003 there would be a powerful sense of déja vu as another Republican Administration crowned more than decade of failed and destructive policy on Iraq with a deeply controversial and divisive war to remove Saddam Hussein from power. In this struggle with the lessons of Vietnam, revolutionary resistance, and rapid geopolitical transformation, we are witness to an enduring political and cultural theme: of **a craving for order, control and certainty in the face of continual uncertainty**. Closely related to this anxiety was the way that Kissinger's thinking -- and that of McNamara and earlier imperialists like the British Governor of Egypt Cromer -- was embedded in instrumental images of technology and the machine: the machine as both a tool of power and an image of social and political order. In his essay 'The Government of Subject Races' Cromer envisaged effective imperial rule -- over numerous societies and billions of human beings -- as best achieved by a central authority working 'to ensure the harmonious working of the different parts of the machine'.60 Kissinger analogously invoked the virtues of 'equilibrium', 'manageability' and 'stability' yet, writing some six decades later, was anxious that technological progress no longer brought untroubled control: the Westernising 'spread of technology and its associated rationality...does not inevitably produce a similar concept of reality'.61 We sense the rational policymaker's frustrated desire: the world is supposed to work like a machine, ordered by a form of power and governmental reason which deploys machines and whose desires and processes are meant to run along ordered, rational lines like a machine. Kissinger's desire was little different from that of Cromer who, wrote Edward Said: ...envisions a seat of power in the West and radiating out from it towards the East a great embracing machine, sustaining the central authority yet commanded by it. What the machine's branches feed into it from the East -- human material, material wealth, knowledge, what have you -- is processed by the machine, then converted into more power...the immediate translation of mere Oriental matter into useful substance.62 This desire for order in the shadow of chaos and uncertainty -- the constant war with an intractable and volatile matter -- has **deep roots in modern thought**, and was a major impetus to the development of technological reason and its supporting theories of knowledge. As Kissinger's claims about the West's Newtonian desire for the 'accurate' gathering and classification of 'data' suggest, modern strategy, foreign policy and Realpolitik have been thrust deep into the apparently stable soil of natural science, in the hope of finding immovable and unchallengeable roots there. While this process has origins in ancient Judaic and Greek thought, it crystallised in philosophical terms most powerfully during and after the Renaissance. The key figures in this process were Francis Bacon, Galileo, Isaac Newton, and René Descartes, who all combined a hunger for political and ontological certainty, a positivist epistemology and a naïve faith in the goodness of invention. Bacon sought to create certainty and order, and with it a new human power over the world, through a new empirical methodology based on a harmonious combination of experiment, the senses and the understanding. With this method, he argued, we can 'derive hope from a purer alliance of the faculties (the experimental and rational) than has yet been attempted'.63 In a similar move, Descartes sought to conjure certainty from uncertainty through the application of a new method that moved progressively out from a few basic certainties (the existence of God, the certitude of individual consciousness and a divinely granted faculty of judgement) in a search for pure fixed truths. Mathematics formed the ideal image of this method, with its strict logical reasoning, its quantifiable results and its uncanny insights into the hidden structure of the cosmos.64 Earlier, Galileo had argued that scientists should privilege 'objective', quantifiable qualities over 'merely perceptible' ones; that 'only by means of an exclusively quantitative analysis could science attain certain knowledge of the world'.65 Such doctrines of mathematically verifiable truth were to have powerful echoes in the 20th Century, in the ascendancy of systems analysis, game theory, cybernetics and computing in defense policy and strategic decisions, and in the awesome scientific breakthroughs of nuclear physics, which unlocked the innermost secrets of matter and energy and applied the most advanced applications of mathematics and computing to create the atomic bomb. Yet this new scientific power was marked by a terrible irony: as even Morgenthau understood, the control over matter afforded by the science could never be translated into the control of the weapons themselves, into political utility and rational strategy.66 Bacon thought of the new scientific method not merely as way of achieving a purer access to truth and epistemological certainty, but as liberating a new power that would enable the creation of a new kind of Man. He opened the Novum Organum with the statement that 'knowledge and human power are synonymous', and later wrote of his 'determination...to lay a firmer foundation, and extend to a greater distance the boundaries of human power and dignity'.67 In a revealing and highly negative comparison between 'men's lives in the most polished countries of Europe and in any wild and barbarous region of the new Indies' -- one that echoes in advance Kissinger's distinction between post-and pre-Newtonian cultures -- Bacon set out what was at stake in the advancement of empirical science: anyone making this comparison, he remarked, 'will think it so great, that man may be said to be a god unto man'.68 We may be forgiven for blinking, but in Bacon's thought 'man' was indeed in the process of stealing a new fire from the heavens and seizing God's power over the world for itself. Not only would the new empirical science lead to 'an improvement of mankind's estate, and an increase in their power over nature', but would reverse the primordial humiliation of the Fall of Adam: For man, by the fall, lost at once his state of innocence, and his empire over creation, both of which can be partially recovered even in this life, the first by religion and faith, the second by the arts and sciences. For creation did not become entirely and utterly rebellious by the curse, but in consequence of the Divine decree, 'in the sweat of thy brow thou shalt eat bread'; she is now compelled by our labours (not assuredly by our disputes or magical ceremonies) at length to afford mankind in some degree his bread...69 There is a breathtaking, world-creating hubris in this statement -- one that, in many ways, came to characterise western modernity itself, and which is easily recognisable in a generation of modern technocrats like Kissinger. The Fall of Adam was the Judeo-Christian West's primal creation myth, one that marked humankind as flawed and humbled before God, condemned to hardship and ambivalence. Bacon forecast here a return to Eden, but one of man's own making. This truly was the death of God, of putting man into God's place, and no pious appeals to the continuity or guidance of faith could disguise the awesome epistemological violence which now subordinated creation to man. Bacon indeed argued that inventions are 'new creations and imitations of divine works'. As such, there is nothing but good in science: 'the introduction of great inventions is the most distinguished of human actions...inventions are a blessing and a benefit without injuring or afflicting any'.70 And what would be mankind's 'bread', the rewards of its new 'empire over creation'? If the new method and invention brought modern medicine, social welfare, sanitation, communications, education and comfort, it also enabled the **Armenian genocide, the Holocaust and two world wars; napalm, the B52, the hydrogen bomb, the Kalashnikov rifle and military strategy**. Indeed some of the 20th Century's most far-reaching inventions -- radar, television, rocketry, computing, communications, jet aircraft, the Internet -- would be the product of drives for national security and militarisation. Even the inventions Bacon thought so marvellous and transformative -- printing, gunpowder and the compass -- brought in their wake upheaval and tragedy: printing, dogma and bureaucracy; gunpowder, the rifle and the artillery battery; navigation, slavery and the genocide of indigenous peoples. In short, the legacy of the new empirical science would be ambivalence as much as certainty; degradation as much as enlightenment; the destruction of nature as much as its utilisation. Doubts and Fears: Technology as Ontology If Bacon could not reasonably be expected to foresee many of these developments, the idea that scientific and technological progress could be destructive did occur to him. However it was an anxiety he summarily dismissed: ...let none be alarmed at the objection of the arts and sciences becoming depraved to malevolent or luxurious purposes and the like, for the same can be said of every worldly good; talent, courage, strength, beauty, riches, light itself...Only let mankind regain their rights over nature, assigned to them by the gift of God, and obtain that power, whose exercise will be governed by right reason and true religion.71 By the mid-Twentieth Century, after the destruction of Hiroshima and Nagasaki, such fears could no longer be so easily wished away, as the physicist and scientific director of the Manhattan Project, J. Robert Oppenheimer recognised. He said in a 1947 lecture: We felt a particularly intimate responsibility for suggesting, for supporting and in the end in large measure achieving the realization of atomic weapons...In some sort of crude sense which no vulgarity, no humor, no over-statement can quite extinguish, the physicists have known sin, and this is a knowledge they cannot lose.72 Adam had fallen once more, but into a world which refused to acknowledge its renewed intimacy with contingency and evil. Man's empire over creation -- his discovery of the innermost secrets of matter and energy, of the fires that fuelled the stars -- had not 'enhanced human power and dignity' as Bacon claimed, but instead brought destruction and horror. Scientific powers that had been consciously applied in the defence of life and in the hope of its betterment **now threatened its total and absolute destruction**. This would not prevent a legion of scientists, soldiers and national security policymakers later attempting to apply Bacon's faith in invention and Descartes' faith in mathematics to make of the Bomb a rational weapon. Oppenheimer -- who resolutely opposed the development of the hydrogen bomb -- understood what the strategists could not: that the weapons resisted control, resisted utility, that 'with the release of atomic energy quite revolutionary changes had occurred in the techniques of warfare'.73 Yet Bacon's legacy, one deeply imprinted on the strategists, was his view that truth and utility are 'perfectly identical'.74 In 1947 Oppenheimer had clung to the hope that 'knowledge is good...it seems hard to live any other way than thinking it was better to know something than not to know it; and the more you know, the better'; by 1960 he felt that 'terror attaches to new knowledge. It has an unmooring quality; it finds men unprepared to deal with it.'75 Martin Heidegger questioned this mapping of natural science onto the social world in his essays on technology -- which, as 'machine', has been so crucial to modern strategic and geopolitical thought as an image of perfect function and order and a powerful tool of intervention. He commented that, given that modern technology 'employs exact physical science...the deceptive illusion arises that modern technology is applied physical science'.76 Yet as the essays and speeches of Oppenheimer attest, technology and its relation to science, society and war cannot be reduced to a noiseless series of translations of science for politics, knowledge for force, or force for good. Instead, Oppenheimer saw a process frustrated by roadblocks and ruptured by irony; in his view there was no smooth, unproblematic translation of scientific truth into social truth, and technology was not its vehicle. Rather his comments raise profound and painful ethical questions that resonate with terror and uncertainty. Yet this has not prevented technology becoming a potent object of desire, not merely as an instrument of power but as a promise and conduit of certainty itself. In the minds of too many rational soldiers, strategists and policymakers, technology brings with it the truth of its enabling science and spreads it over the world. It turns epistemological certainty into political certainty; it turns control over 'facts' into control over the earth. Heidegger's insights into this phenomena I find especially telling and disturbing -- because they underline the ontological force of the instrumental view of politics. In The Question Concerning Technology, Heidegger's striking argument was that in the modernising West technology is not merely a tool, a 'means to an end'. Rather **technology has become a governing image of the modern universe, one that has come to order, limit and define human existence as a 'calculable coherence of forces' and a 'standing reserve' of energy**. Heidegger wrote: 'the threat to man does not come in the first instance from the potentially lethal machines and apparatus of technology. The actual threat has already affected man in his essence.'77 This process Heidegger calls 'Enframing' and through it the scientific mind **demands that 'nature reports itself** in some way or other that is identifiable through calculation and remains orderable as a system of information'. Man is not a being who makes and uses machines as means, choosing and limiting their impact on the world for his ends; rather man has imagined the world as a machine and humanity everywhere becomes **trapped within its logic**. Man, he writes, 'comes to the very brink of a precipitous fall...where **he himself will have to be taken as standing-reserve**. Meanwhile Man, precisely as the one so threatened, exalts himself to the posture of lord of the earth.'78 Technological man not only becomes the name for a project of lordship and mastery over the earth, but incorporates humanity within this project as a calculable resource. **In strategy, warfare and geopolitics human bodies, actions and aspirations are caught, transformed and perverted by such calculating, enframing reason: human lives are reduced to tools, obstacles, useful or obstinate matter.** This tells us much about the enduring power of crude instrumental versions of strategic thought, which relate not merely to the actual use of force but to broader geopolitical strategies that see, as limited war theorists like Robert Osgood did, force as an 'instrument of policy short of war'. It was from within this strategic ontology that figures like the Nobel prize-winning economist Thomas Schelling theorised the strategic role of threats and coercive diplomacy, and spoke of strategy as 'the power to hurt'.79 In the 2006 Lebanon war we can see such thinking in the remark of a U.S. analyst, a former Ambassador to Israel and Syria, who speculated that by targeting civilians and infrastructure Israel aimed 'to create enough pain on the ground so there would be a local political reaction to Hezbollah's adventurism'.80 Similarly a retired Israeli army colonel told the Washington Post that 'Israel is attempting to create a rift between the Lebanese population and Hezbollah supporters by exacting a heavy price from the elite in Beirut. The message is: If you want your air conditioning to work and if you want to be able to fly to Paris for shopping, you must pull your head out of the sand and take action toward shutting down Hezbollah-land.'81 Conclusion: Violent Ontologies or Peaceful Choices? I was motivated to begin the larger project from which this essay derives by a number of concerns. I felt that the available critical, interpretive or performative languages of war -- realist and liberal international relations theories, just war theories, and various Clausewitzian derivations of strategy -- failed us, because they either perform or refuse to **place under suspicion the underlying political ontologies** that I have sought to unmask and question here. Many realists have quite nuanced and critical attitudes to the use of force, but ultimately affirm strategic thought and remain embedded within the existential framework of the nation-state. Both liberal internationalist and just war doctrines seek mainly to improve the accountability of decision-making in security affairs and to limit some of the worst moral enormities of war, but (apart from the more radical versions of cosmopolitanism) they fail to question the ontological claims of political community or strategic theory.82 In the case of a theorist like Jean Bethke Elshtain, just war doctrine is in fact allied to a softer, liberalised form of the Hegelian-Schmittian ontology. She dismisses Kant's Perpetual Peace as 'a fantasy of at-oneness...a world in which differences have all been rubbed off' and in which 'politics, which is the way human beings have devised for dealing with their differences, gets eliminated.'83 She remains a committed liberal democrat and espouses a moral community that stretches beyond the nation-state, which strongly contrasts with Schmitt's hostility to liberalism and his claustrophobic distinction between friend and enemy. However her image of politics -- which at its limits, she implies, requires the resort to war as the only existentially satisfying way of resolving deep-seated conflicts -- reflects much of Schmitt's idea of the political and Hegel's ontology of a fundamentally alienated world of nation-states, in which war is a performance of being. She categorically states that any effort to dismantle security dilemmas 'also requires the dismantling of human beings as we know them'.84 Whilst this would not be true of all just war advocates, I suspect that even as they are so concerned with the ought, moral theories of violence grant too much unquestioned power to the is. The problem here lies with the confidence in being -- of 'human beings as we know them' -- which ultimately fails to escape a Schmittian architecture and thus eternally exacerbates (indeed **reifies) antagonisms**. Yet we know from the work of Deleuze and especially William Connolly that **exchanging an ontology of being for one of becoming**, where the boundaries and nature of the self contain new possibilities through agonistic relation to others, provides a less destructive and violent way of acknowledging and dealing with conflict and difference.85 My argument here, whilst normatively sympathetic to Kant's moral demand for the eventual abolition of war, militates against excessive optimism.86 Even as I am arguing that war is not an enduring historical or anthropological feature, or a neutral and rational instrument of policy -- that it is rather the product of **hegemonic forms of knowledge** about political action and community -- my analysis does suggest some sobering conclusions about its power as an idea and formation. Neither the progressive flow of history nor the pacific tendencies of an international society of republican states will save us. The violent ontologies I have described here in fact dominate the conceptual and policy frameworks of modern republican states and have come, against everything Kant hoped for, to stand in for progress, modernity and reason. Indeed what Heidegger argues, I think with some credibility, is that the enframing world view has come to stand in for being itself. Enframing, argues Heidegger, 'does not simply endanger man in his relationship to himself and to everything that is...it **drives out every other possibility of revealing**...the rule of Enframing threatens man with the possibility that it could be denied to him to enter into a more original revealing and hence to experience the call of a more primal truth.'87 What I take from Heidegger's argument -- one that I have sought to extend by analysing the militaristic power of modern ontologies of political existence and security -- is a view that the challenge is posed not merely by a few varieties of weapon, government, technology or policy, but **by an overarching system of thinking and understanding that lays claim to our entire space of truth and existence**. Many of the most destructive features of contemporary modernity -- militarism, repression, coercive diplomacy, covert intervention, geopolitics, economic exploitation and ecological destruction -- derive not merely from particular choices by policymakers based on their particular interests, but from **calculative, 'empirical' discourses of scientific and political truth rooted in powerful enlightenment images of being. Confined within such an epistemological and cultural universe, policymakers' choices become necessities, their actions become inevitabilities, and humans suffer and die**. Viewed in this light, 'rationality' is the name we give the chain of reasoning which builds one structure of truth on another until a course of action, however violent or dangerous, becomes preordained through that reasoning's very operation and existence. It creates both discursive constraints -- available choices may simply not be seen as credible or legitimate -- and material constraints that derive from the mutually reinforcing cascade of discourses and events which then **preordain militarism and violence as necessary policy responses**, however ineffective, dysfunctional or chaotic. The force of my own and Heidegger's analysis does, admittedly, tend towards a deterministic fatalism. On my part this is quite deliberate; it is important to allow this possible conclusion to weigh on us. Large sections of modern societies -- especially parts of the media, political leaderships and national security institutions -- are utterly trapped within the Clausewitzian paradigm, within the instrumental utilitarianism of 'enframing' and the stark ontology of the friend and enemy. They are certainly tremendously aggressive and energetic in continually stating and reinstating its force. But is there a way out? Is there no possibility of agency and choice? Is this not the key normative problem I raised at the outset, of how the modern ontologies of war efface agency, causality and responsibility from decision making; the responsibility that comes with having choices and making decisions, with exercising power? (In this I am much closer to Connolly than Foucault, in Connolly's insistence that, even in the face of the anonymous power of discourse to produce and limit subjects, selves remain capable of agency and thus incur responsibilities.88) There seems no point in following Heidegger in seeking a more 'primal truth' of being -- that is to reinstate ontology and obscure its worldly manifestations and consequences from critique. However we can, while refusing Heidegger's unworldly89 nostalgia, appreciate that he was searching for a way out of the modern system of calculation; that he was searching for **a 'questioning', 'free relationship' to technology that would not be immediately recaptured by the strategic, calculating vision of enframing**. Yet his path out is somewhat chimerical -- his faith in 'art' and the older Greek attitudes of 'responsibility and indebtedness' offer us valuable clues to the kind of sensibility needed, but little more. When we consider the problem of policy, the force of this analysis suggests that choice and agency can be all too often limited; they can remain confined (sometimes quite wilfully) within the overarching strategic and security paradigms. Or, more hopefully, policy choices could aim to bring into being a more enduringly inclusive, cosmopolitan and peaceful logic of the political. But this **cannot be done without seizing alternatives from outside the space of enframing and utilitarian strategic thought**, by being aware of its presence and weight and activating a very different concept of existence, security and action.90 **This would seem to hinge upon 'questioning'** as such -- on the questions we put to the real and our efforts to create and act into it. Do security and strategic policies seek to exploit and direct humans as material, as energy, or do they seek to protect and enlarge human dignity and autonomy? Do they seek to impose by force an unjust status quo (as in Palestine), or to remove one injustice only to replace it with others (the U.S. in Iraq or Afghanistan), or do so at an unacceptable human, economic, and environmental price? Do we see our actions within an instrumental, amoral framework (of 'interests') and a linear chain of causes and effects (the idea of force), or do we see them as folding into a complex interplay of languages, norms, events and consequences which are less predictable and controllable?91 And most fundamentally: Are we seeking to coerce or persuade? Are less violent and more sustainable choices available? Will our actions perpetuate or help to end the global rule of insecurity and violence? Will our thought?

#### Reject the affirmative’s security discourse – this untimely intervention is the only chance for a counter-discourse

Calkivik 10 – PhD in Poli Sci @ Univ Minnesota (Emine Asli, 10/2010, "DISMANTLING SECURITY," PhD dissertation submitted to Univ Minnesota for Raymond Duvall, http://conservancy.umn.edu/bitstream/99479/1/Calkivik\_umn\_0130E\_11576.pdf)

It is this self-evidence of security even for critical approaches and the antinomy stemming from dissident voices reproducing the language of those they dissent from that constitutes the starting point for this chapter, where I elaborate on the meaning of dismantling security as untimely critique. As mentioned in the vignette in the opening section, the suggestion to dismantle security was itself deemed as an untimely pursuit in a world where lives of millions were rendered brutally insecure by poverty, violence, disease, and ongoing political conflicts. Colored by the tone of a call to conscience in the face of the ongoing crisis of security, it was not the time, interlocutors argued, for self-indulgent critique. I will argue that it is the element of being untimely, the effort, in the words of Walter Benjamin, “to brush history against the grain” that gives critical thinking its power.291 It might appear as a trivial discussion to bring up the relation between time and critique because conceptions of critical thinking in the discipline of International Relations already possess the notion that critical thought needs to be untimely. In the first section, I will tease out what this notion of untimeliness entails by visiting ongoing conversations within the discipline about critical thought and political time. Through this discussion, I hope to clarify what sets apart dismantling security as untimely critique from the notion of untimeliness at work in critical international relations theory. The latter conception of the untimely, I will suggest, paradoxically calls on critical thought to be “on time” in that it champions a particular understanding of what it means for critical scholarship to be relevant and responsible for its times. This notion of the untimely demands that critique be strategic and respond to political exigency, that it provide answers in this light instead of raising more questions about which questions could be raised or what presuppositions underlie the questions that are deemed to be waiting for answers. After elaborating in the first section such strategic conceptions of the untimeliness of critical theorizing, in the second section I will turn to a different sense of the untimely by drawing upon Wendy Brown’s discussion of the relation between critique, crisis, and political time through her reading of Benjamin’s “Theses on the Philosophy of History.”292 In contrast to a notion of untimeliness that demands strategic thinking and punctuality, Brown’s exegesis provides a conception of historical materialism where critique is figured as a force of disruption, a form of intervention that reconfigures the meaning of the times and “contest[s] the very senses of time invoked to declare critique ‘untimely’.”293 Her exposition overturns the view of critique as a self-indulgent practice as it highlights the immediately political nature of critique and reconfigures the meaning of what it means for critical thought to be relevant.294 It is in this sense of the untimely, I will suggest, that dismantling security as a critique hopes to recover. I should point out that in this discussion my intention is neither to construct a theory of critique nor to provide an exhaustive review and evaluation of the forms of critical theorizing in International Relations. Rather, my aim is to contribute to the existing efforts that engage with the question of what it means to be critical apart from drawing the epistemological and methodological boundaries so as to think about how one is critical.295 While I do not deny the importance of epistemological questions, I contend that taking time to think about the meaning of critique beyond these issues presents itself as an important task. This task takes on additional importance within the context of security studies where any realm of investigation quickly begets its critical counterpart. The rapid emergence and institutionalization of critical terrorism studies when studies on terrorism were proliferating under the auspices of the so-called Global War on Terror provides a striking example to this trend. 296 Such instances are important reminders that, to the extent that epistemology and methodology are reified as the sole concerns in defining and assessing critical thinking297 or “wrong headed refusals”298 to get on with positive projects and empirical research gets branded as debilitating for critical projects, what is erased from sight is the political nature of the questions asked and what is lost is the chance to reflect upon what it means for critical thinking to respond to its times. In his meditation on the meaning of responding and the sense of responsibility entailed by writing, Jean-Luc Nancy suggests that “all writing is ‘committed.’” 299 This notion of commitment diverges from the programmatic sense of committed writing. What underlies this conception is an understanding of writing as responding: writing is a response to the voice of an other.In Nancy’s words, “[w]hoever writes responds” 300 and “makes himself responsible to in the absolute sense.”301 Suggesting that there is always an ethical commitment prior to any particular political commitment, such a notion of writing contests the notion of creative autonomy premised on the idea of a free, self-legislating subject who responds. In other words, it discredits the idea of an original voice by suggesting that there is no voice that is not a response to a prior response. Hence, to respond is configured as responding to an expectation rather than as an answer to a question and responsibility is cast as an “anticipated response to questions, to demands, to still-unformulated, not exactly predictable expectations.”302 Echoing Nancy, David Campbell makes an important reminder as he suggests that as international relations scholars “we are always already engaged,” although the sites, mechanisms and quality of engagements might vary.303 The question, then, is not whether as scholars we are engaged or not, but what the nature of this engagement is. Such a re-framing of the question is intended to highlight the political nature of all interpretation and the importance of developing an “ethos of political criticism that is concerned with assumptions, limits, their historical production, social and political effects, and the possibility of going beyond them in thought and action.”304 Taking as its object assumptions and limits, their historical production and social and political effects places the relevancy of critical thought and responsibility of critical scholarship on new ground. It is this ethos of critique that dismantling security hopes to recover for a discipline where security operates as the foundational principle and where critical thinking keeps on contributing to security’s impressing itself as a self-evident condition. Critical Theory and Punctuality Within the context of International Relations, critical thought’s orientation toward its time comes out strongly in Kimberley Hutchings’s formulation.305 According to Hutchings, no matter what form it takes, what distinguishes critical international relations theory from other forms of theorizing is “its orientation towards change and the possibility of futures that do not reproduce the hegemonic power of the present.”306 What this implies about the nature of critical thought is that it needs to be not only diagnostic, but also self-reflexive. In the words of Hutchings, “all critical theories lay claim to some kind of account not only of the present of international politics and its relation to possible futures, but also of the role of critical theory in the present and future in international politics.” 307 Not only analyzing the present, but also introducing the question of the future into analysis places political time at the center of critical enterprise and makes the problem of change a core concern. It is this question of change that situates different forms of critical thinking on a shared ground since they all attempt to expose the way in which what is presented as given and natural is historically produced and hence open to change. With their orientation to change, their efforts to go against the dominant currents and challenge the hegemony of existing power relations by showing how contemporary practices and discourses contribute to the perpetuation of structures of power and domination, critical theorists in general and critical security studies specialists in particular take on an untimely endeavor. It is this understanding of the untimely aspect of critical thinking that is emphasized by Mark Neufeld, who regards the development of critical approaches to security as “one of the more hopeful intellectual developments in recent years.”308 Despite nurturing from different theoretical traditions and therefore harboring “fundamental differences between modernist and postmodernist commitments,” writes Neufeld, scholars who are involved in the critical project nevertheless “share a common concern with calling into question ‘prevailing social and power relationships and the institutions into which they are organized.’” 309 The desire for change—through being untimely and making the way to alternative futures that would no longer resemble the present—have led some scholars to emphasize the utopian element that must accompany all critical thinking. Quoting Oscar Wilde’s aphorism—a map of the world that does not include Utopia is not even worth glancing at, Ken Booth argues for the need to restore the role and reputation of utopianism in the theory and practice of international politics. 310 According to Booth, what goes under the banner of realism—“ethnocentric self-interest writ large”311 — falls far beyond the realities of a drastically changed world political landscape at the end of the Cold War. He describes the new reality as “an egg-box containing the shells of sovereignty; but alongside it a global community omelette [sic] is cooking.”312 Rather than insisting on the inescapability of war in the international system as political realists argue, Booth argues for the need and possibility to work toward the utopia of overcoming the condition of war by banking on the opportunities provided by a globalizing world. The point that critical thought needs to be untimely by going against its time is also emphasized by Dunne and Wheeler, who assert that, regardless of the form it takes, “critical theory purport[s] to ‘think against’ the prevailing current” and that “[c]ritical security studies is no exception” to this enterprise.313 According to the authors, the function of critical approaches to security is to problematize what is taken for granted in the disciplinary production of knowledge about security by “resist[ing], transcend[ing] and defeat[ing]…theories of security, which take for granted who is to be secured (the state), how security is to be achieved (by defending core ‘national’ values, forcibly if necessary) and from whom security is needed (the enemy).”314 While critical theory in this way is figured as untimely, I want to suggest that this notion of untimeliness gets construed paradoxically in a quite timely fashion. With a perceived disjuncture between writing the world from within a discipline and acting in it placed at the center of the debates, the performance of critical thought gets evaluated to the extent that it is punctual and in synch with the times. Does critical thought provide concrete guidance and prescribe what is to be done? Can it move beyond mere talk and make timely political interventions by providing solutions? Does it have answers to the strategic questions of progressive movements? Demanding that critical theorizing come clean in the court of these questions, such conceptions of the untimely demand that critique respond to its times in a responsible way, where being responsible is understood in stark contrast to a notion of responding and responsibility that I briefly discussed in the introductory pages of this chapter (through the works of Jean-Luc Nancy and David Campbell). Let me visit two recent conversations ensuing from the declarations of the contemporary crisis of critical theorizing in order to clarify what I mean by a timely understanding of untimely critique. The first conversation was published as a special issue in the Review of International Studies (RIS), one of the major journals of the field. Prominent figures took the 25th anniversary of the journal’s publication of two key texts—regarded as canonical for the launching and development of critical theorizing in International Relations—as an opportunity to reflect upon and assess the impact of critical theory in the discipline and interrogate what its future might be. 315 The texts in question, which are depicted as having shaken the premises of the static world of the discipline, are Robert Cox’s 1981 essay entitled on “Social Forces, States, and World Orders”316 and Richard Ashley’s article, “Political Realism and Human Interests.”317 In their introductory essay to the issue, Rengger and Thirkell-White suggest that the essays by Cox and Ashley—followed by Andrew Linklater’s Men and Citizens in the Theory of International Relations318 —represent “the breach in the dyke” of the three dominant discourses in International Relations (i.e., positivists, English School, and Marxism), unleashing “a torrent [that would] soon become a flood” as variety of theoretical approaches in contemporary social theory (i.e., feminism, Neo-Gramscianism, poststructuralism, and post-colonialism) would get introduced through the works of critical scholars.319 After elaborating the various responses given to and resistance raised against the critical project in the discipline, the authors provide an overview and an assessment of the current state of critical theorizing in International Relations. They argue that the central question for much of the ongoing debate within the critical camp in its present state—a question that it cannot help but come to terms with and provide a response to—concerns the relation between critical thought and political practice. As they state, the “fundamental philosophical question [that] can no longer be sidestepped” by critical International Relations theory is the question of the relation between “knowledge of the world and action in it.”320 One of the points alluded to in the essay is that forms of critical theorizing, which leave the future “to contingency, uncertainty and the multiplicity of political projects” and therefore provide “less guidance for concrete political action”321 or, again, those that problematize underlying assumptions of thought and “say little about the potential political agency that might be involved in any subsequent struggles”322 may render the critical enterprise impotent and perhaps even suspect. This point comes out clearly in Craig Murphy’s contribution to the collection of essays in the RIS’s special issue. 323 Echoing William Wallace’s argument that critical theorists tend to be “monks,”324 who have little to offer for political actors engaged in real world politics, Murphy argues that the promise of critical theory is “partially kept” because of the limited influence it has had outside the academy towards changing the world.Building a different world, he suggests, requires more than isolated academic talk; that it demands not merely “words,” but “deeds.”325 This, according to Murphy, requires providing “knowledge that contributes to change.”326 Such knowledge would emanate from connections with the marginalized and would incorporate observations of actors in their everyday practices. More importantly, it would create an inspiring vision for social movements, such as the one provided by the concept of human development, which, according to Murphy, was especially powerful “because it embodied a value-oriented way of seeing, a vision, rather than only isolated observations.”327 In sum, if critical theory is to retain its critical edge, Murphy’s discussion suggests, it has to be in synch with political time and respond to its immediate demands. The second debate that is revelatory of this conception of the timing of critical theory—i.e., that critical thinking be strategic and efficient in relation to political time—takes place in relation to the contemporary in/security environment shaped by the so-called Global War on Terror. The theme that bears its mark on these debates is the extent to which critical inquiries about the contemporary security landscape become complicit in the workings of power and what critique can offer to render the world more legible for progressive struggles.328 For instance, warning critical theorists against being co-opted by or aligned with belligerence and war-mongering, Richard Devetak asserts that critical international theory has an urgent “need to distinguish its position all the more clearly from liberal imperialism.”329 While scholars such as Devetak, Booth,330 and Fierke331 take the critical task to be an attempt to rescue liberal internationalism from turning into liberal imperialism, others announce the “crisis of critical theorizing” and suggest that critical writings on the nature of the contemporary security order lack the resources to grasp their actual limitations, where the latter is said to reside not in the realm of academic debate, but in the realm of political practice.332 It is amidst these debates on critique, crisis, and political time that Richard Beardsworth raises the question of the future of critical philosophy in the face of the challenges posed by contemporary world politics.333 Recounting these challenges, he provides the matrix for a proper form of critical inquiry that could come to terms with “[o]ur historical actuality.”334 He describes this actuality as the “thick context” of modernity (“an epoch, delimited by the capitalization of social relations,” which imposes its own philosophical problematic—“that is, the attempt, following the social consequences of capitalism, to articulate the relation between individuality and collective spirit”335 ), American unilateralism in the aftermath of the attacks on September 11, 2001, and the growing political disempowerment of people worldwide. Arguing that “contemporary return of religion and new forms of irrationalism emerge, in large part, out of the failure of the second response of modernity to provide a secular solution to the inequalities of the nation-state and colonization,”336 he formulates the awaiting political task for critical endeavors as constructing a world polity to resist the disintegration of the world under the force of capital.It is with this goal in mind that he suggests that “responsible scholarship needs to rescue reason in the face irrational war”337 and that intellectuals need to provide “the framework for a world ethical community of law, endowed with political mechanisms of implementation in the context of a regulated planetary economy.”338 He suggests that an aporetic form of thinking such as Jacques Derrida’s—a thinking that “ignores the affirmative relation between the determining powers of reason and history”339 —would be an unhelpful resource because such thinking “does not open up to where work needs to be done for these new forms of polity to emerge.”340 In other words, critical thinking, according to Beardsworth, needs to articulate and point out possible political avenues and to orient thought and action in concrete ways so as to contribute to progressive political change rather than dwelling on the encounter of the incalculable and calculation and im-possibility of world democracy in a Derridean fashion. In similar ways to the first debate on critique that I discussed, critical thinking is once again called upon to respond to political time in a strategic and efficient manner. As critical inquiry gets summoned up to the court of reason in Beardsworth’s account, its realm of engagement is limited to that which the light of reason can be shed upon, and its politics is confined to mapping out the achievable and the doable in a given historical context without questioning or disrupting the limits of what is presented as “realistic” choices. Hence, if untimely critical thought is to be meaningful it has to be on time by responding to political exigency in a practical, efficient, and strategic manner. In contrast to this prevalent form of understanding the untimeliness of critical theory, I will now turn to a different account of the untimely provided by Wendy Brown whose work informs the project of dismantling security as untimely critique. Drawing from her discussion of the relationship between critique, crisis, and political time, I will suggest that untimely critique of security entails, simultaneously, an attunement to the times and an aggressive violation of their self-conception. It is in this different sense of the untimely that the suggestion of dismantling security needs to be situated. Critique and Political Time As I suggested in the Prelude to this chapter, elevating security itself to the position of major protagonist and extending a call to “dismantle security” was itself declared to be an untimely pursuit in a time depicted as the time of crisis in security. Such a declaration stood as an exemplary moment (not in the sense of illustration or allegory, but as a moment of crystallization) for disciplinary prohibitions to think and act otherwise—perhaps the moment when a doxa exhibits its most powerful hold. Hence, what is first needed is to overturn the taken-for-granted relations between crisis, timeliness, and critique. The roots krisis and kritik can be traced back to the Greek word krinõ, which meant “to separate”, to “choose,” to “judge,” to “decide.”341 While creating a broad spectrum of meanings, it was intimately related to politics as it connoted a “divorce” or “quarrel,” but also a moment of decision and a turning point. It was also used as a jurisprudential term in the sense of making a decision, reaching a verdict or judgment (kritik) on an alleged disorder so as to provide a way to restore order. Rather than being separated into two domains of meaning—that of “subjective critique” and “objective crisis”—krisis and kritik were conceived as interlinked moments. Koselleck explains this conceptual fusion: [I]t wasin the sense of “judgment,” “trial,” “legal decision,” and ultimately “court” that crisis achieved a high constitutionalstatus, through which the individual citizen and the community were bound together. The “for and against” wastherefore present in the original meaning of the word and thisin a manner that already conceptually anticipated the appropriate judgment. 342 Recognition of an objective crisis and subjective judgments to be passed on it so as to come up with a formula for restoring the health of the polity by setting the times right were thereby infused and implicated in each other.343 Consequently, as Brown notes, there could be no such thing as “mere critique” or “untimely critique” because critique always entailed a concern with political time: “[C]ritique as political krisis promise[d] to restore continuity by repairing or renewing the justice that gives an order the prospect of continuity, that indeed ma[de] it continuous.”344 The breaking of this intimate link between krisis and kritik, the consequent depoliticization of critique and its sundering from crisis coincides with the rise of modern political order and redistribution of the public space into the binary structure of sovereign and subject, public and private.345 Failing to note the link between the critique it practiced and the looming political crisis, emerging philosophies of history, according Koselleck, had the effect of obfuscating this crisis. As he explains, “[n]ever politically grasped, [this political crisis] remained concealed in historico-philosophical images of the future which cause the day’s events to pale.”346 It is this intimate, but severed, link between crisis and critique in historical narratives that Wendy Brown’s discussion brings to the fore and re-problematizes. She turns to Walter Benjamin’s “Theses on the Philosophy of History” and challenges conventional understandings of historical materialism, which conceives of the present in terms of unfolding laws of history.347 According to Brown, the practice of critical theory appeals to a concern with time to the extent that “[t]he crisis that incites critique and that critique engages itself signals a rupture of temporal continuity, which is at the same time a rupture in political imaginary.”348 Cast in these terms, it is a particular experience with time, with the present, that Brown suggests Benjamin’s theses aim to capture. Rather than an unmoving or an automatically overcome present (a present that is out of time), the present is interpreted as an opening that calls for a response to it. This call for a response highlights the idea that, far from being a luxury, critique is non-optional in its nature. Such an understanding of critical thought is premised on a historical consciousness that grasps the present historically so as to break with the selfconception of the age. Untimely critique transforms into a technique to blow up the present through fracturing its apparent seamlessness by insisting on alternatives to its closed political and epistemological universe.349 Such a conception resonates with the distinction that Žižek makes between a political subjectivity that is confined to choosing between the existing alternatives—one that takes the limits of what is given as the limits to what is possible—and a form of subjectivity that creates the very set of alternatives by “transcend[ing] the coordinates of a given situation [and] ‘posit[ing] the presuppositions’ of one's activity” by redefining the very situation within which one is active.”350 With its attempt to grasp the times in its singularity, critique is cast neither as a breaking free from the weight of time (which would amount to ahistoricity) nor being weighed down by the times (as in the case of teleology).351 It conceives the present as “historically contoured but not itself experienced as history because not necessarily continuous with what has been.”352 It is an attitude that renders the present as the site of “non-utopian possibility” since it is historically situated and constrained yet also a possibility since it is not historically foreordained or determined.353 It entails contesting the delimitations of choice and challenging the confinement of politics to existing possibilities. Rather than positing history as existing objectively outside of narration, what Brown’s discussion highlights is the intimate relation between the constitution of political subjectivity vis-à-vis the meaning of history for the present. It alludes to “the power of historical discourse,” which Mowitt explains as a power “to estrange us from that which is most familiar, namely, the fixity of the present” because “what we believe to have happened to us bears concretely on what we are prepared to do with ourselves both now and in the future.”354 Mark Neocleous concretizes the political stakes entailed in such encounters with history—with the dead—from the perspective of three political traditions: a conservative one, which aims to reconcile the dead with the living, a fascist one, which aims to resurrect the dead to legitimate its fascist program, and a historical materialist one, which seeks redemption with the dead as the source of hope and inspiration for the future.355 Brown’s discussion of critique and political time is significant for highlighting the immediately political nature of critique in contrast to contemporary invocations that cast it as a self-indulgent practice, an untimely luxury, a disinterested, distanced, academic endeavor. Her attempt to trace critique vis-à-vis its relation to political time provides a counter-narrative to the conservative and moralizing assertions that shun untimely critique of security as a luxurious interest that is committed to abstract ideals rather than to the “reality” of politics—i.e., running after utopia rather than modeling “real world” solutions. Dismantling security as untimely critique entails a similar claim to unsettle the accounts of “what the times are” with a “bid to reset time.”356 It aspires to be untimely in the face of the demands on critical thought to be on time; aims to challenge the moralizing move, the call to conscience that arrives in the form of assertions that saying “no!” to security, that refusing to write it, would be untimely. Rather than succumbing to the injunction that thought of political possibility is to be confined within the framework of security, dismantling security aims to open up space for alternative forms, for a different language of politics so as to “stop digging” the hole politics of security have dug us and start building a counter-discourse. Conclusion As an attempt to push a debate that is fixated on security to the limit and explore what it means to dismantle security, my engagement with various aspects of this move is not intended as an analysis raised at the level of causal interpretations or as an attempt to find better solutions to a problem that already has a name. Rather, it tries to recast what is taken-for-granted by attending to the conceptual assumptions, the historical and systemic conditions within which the politics of security plays itself out. As I tried to show in this chapter, it also entails a simultaneous move of refusing to be a disciple of the discipline of security. This implies overturning not only the silent disciplinary protocols about which questions are legitimate to ask, but also the very framework that informs those questions. It is from this perspective that I devoted two chapters to examining and clarifying the proposal to dismantle security as a claim on time. After explicating, in Chapter 4, the temporal structure that is enacted by politics of security and elaborating on how security structures the relation between the present and the future, in this chapter, I approached the question of temporality from a different perspective, by situating it in relation to disciplinary times in order to clarify what an untimely critique of security means. I tried to elaborate this notion of the untimely by exploring the understanding of untimeliness that informs certain conceptions of critical theorizing in International Relations. I suggested that such a notion of the untimely paradoxically calls on critical thought to be on time in the sense of being punctual and strategic. Turning to Wendy Brown’s discussion of the relation between critique and political time, I elaborated on the sense of untimely critique that dismantling security strives for—a critique that goes against the times that are saturated by the infinite passion to secure and works toward taking apart the architecture of security.

### 4

#### Restricting armed forces in hostilities collapses UN operations – undermines UN engagement and sparks terrorism

Meyers 97 (Mitchell – J.D. Candidate at University of Florida, “NOTE & COMMENT: A DEFENSE OF UNILATERAL OR MULTI-LATERAL INTERVENTION WHERE A VIOLATION OF INTERNATIONAL HUMAN RIGHTS LAW BY A STATE CONSTITUTES AN IMPLIED WAIVER OF SOVEREIGNTY”, 1997, 3 ILSA J Int'l & Comp L 895, lexis)

A. United States Multilateral Enforcement of International Human Rights Law Following the inception of the U.N., Congress committed the United States to its multilateral goals and service through enactment of the United Nations Participation Act (UNPA) of 1945. n61 As a significant portion of its commitment, the United States has provided massive funding and military support, in accordance with Article 43 of the U.N. Charter. n62 [\*909] Congress authorized the President to commit armed forces, facilities, or assistance, but subject to congressional approval of a special agreement with the U.N. n63 This was probably an attempt by Congress to limit the President's ability to commit forces under a U.N. mandate without congressional approval. As subsequently observed during the Cold War, congressional power to restrict executive deployment of armed forces atrophied due to the rapidity in which conflicts erupted versus the slow process of congressional hearings and votes. The effectiveness of congressional control of the President's deployment power under UNPA eroded significantly by the Korean conflict in 1950. After the U.N. Security Council authorized U.N. member states to counter North Korean aggression, n64 President Truman deployed United States troops without waiting for Congress to approve a special agreement with the U.N. President Truman merely sidestepped the constitutional question of executive action requiring congressional approval by "not referring to the conflict as a war." n65 Today, a debate continues in Congress over whether the United States military should continue to play a role in peacekeeping operations. House and Senate Republicans argue that the United States spends a disproportionate amount on peacekeeping; that American peacekeepers are prominent targets for extremist groups abroad; and that generally the United Staes is better off withdrawing into the quiet nest of isolationism. n66 However, it is vital for international human rights law that the United States remain the military backbone of U.N. peacekeeping operations. Withdrawal of United States military and financial support would set back enforcement of international human rights law to its nonexistent position prior to Nuremberg. Although Congress may choose to abrogate its obligations under the U.N. Charter, n67 the international obligation would continue based on its original adherence to the Charter. Outlaw regimes and fanatical extremist groups could interpret United [\*910] States intransigence as meaning they have free reign to commit unnaccountable acts of terrorism and genocide. Congressional Republicans may claim there is no need to provide troops and military aid to U.N. peacekeeping operations, and that other nations troops are more expendable. However, with the end of the Cold War, the role played by U.N. authorized deployments has changed from a primarily peacekeeping role, to one of peacemaking. n68 Rampant human rights abuses now tend to occur within states embroiled in civil wars (the former Yugoslavia); in territories where government has simply ceased to exist (Somalia); and where juntas have seized power illegally (Haiti). The function of all committed U.N. member states armed forces is no longer just peacekeeping. They must be ready to meet the need for rapid deployment and potentially prolonged nation-building missions, in what is essentially a restorative occupation of peacemaking. The U.N. itself lacks the military, intelligence, and communications technology necessary for low-risk, rapid intervention. n69 Instead, the U.N. must rely on the military contribution from its member states. n70 The United States has the most efficient capability for complex, rapid intervention designed to minimize bloodshed and maximize success. n71 Since the end of the Cold War, the United States military has been ordered to steadily refocus strategy towards smaller scale, regional conflicts. n72

#### UN engagement maintains U.S. leadership and garners cooperation on a host of issues

**Brimmer** **11** (Esther - assistant secretary of the Bureau of International Organization Affairs, A Misguided Assault, 9/15, http://www.humanrights.gov/2011/09/15/a-misguided-assault-why-the-united-nations-matters/)

And in the United States, there remain some here in Washington intent on forcing a U.S. retreat from global leadership, by hindering our participation in the UN system, seemingly unaware of the profoundly altered global landscape. These views stand in sharp contrast to the position held by a bipartisan majority here in Washington and by the vast majority of Americans, which supports U.S. leadership and engagement at the United Nations. These dismissive voices pretend that we just can turn back the clock to a simpler era, when the world was less interconnected and multilateral engagement less essential to core U.S. interests. Yet today, our economy and security are intertwined with that of the rest of the globe. The benefits of U.S. multilateral engagement to our national security are well-known. In a 21st century world where threats do not stop at borders, the United States cannot tackle many of our most urgent problems alone. Nuclear proliferation. Climate change. Attacks on freedom and human rights. Terrorism. Transnational crime. Pandemic disease. Armed conflict and instability that, left unchecked, can unleash these and other dangers. But we know that to respond to these and other threats, U.S. engagement at the United Nations works. It enhances U.S. national security. It advances core American values, including human rights. And it builds and maintains the global networks and systems worldwide, on which our 21st century economy depends. It works, because as a tool for addressing these common challenges, multilateral engagement lets us share with other countries the financial and political burden of addressing global challenges. I will be frank: important issues will be addressed at the United Nations whether or not theUnited States chooses to be actively engaged. So in reality, **our choice is between maintaining global leadership at the UN, or ceding it to those who would not act in our interests**.

#### Only multilateral cooperation prevents great power wars that make extinction inevitable.

**Dyer** **4** (Gwynne – former senior lecturer in war studies at the Royal Military Academy Sandhurt, The End of War, The Toronto Star, 12/30, lexis)

The "firebreak" against nuclear weapons use that we began building after Hiroshima and Nagasaki has held for well over half a century now. But the proliferation of nuclear weapons to new powers is a major challenge to the stability of the system. So are the coming crises, mostly environmental in origin, which will hit some countries much harder than others, and may drive some to desperation. Add in the huge impending shifts in the great-power system as China and India grow to rival the United States in GDP over the next 30 or 40 years and it will be hard to keep things from spinning out of control. With good luck and good management, we may be able to ride out the next half-century without the first-magnitude catastrophe of a **global nuclear war**, but the potential certainly exists for a major die-back of human population. We cannot command the good luck, but good management is something we can choose to provide. It depends, above all, on **preserving and extending the multilateral system** that we have been building since the end of World War II. The rising powers must be absorbed into a system that **emphasizes co-operation and makes room for them**, rather than one that deals in confrontation and raw military power. If they are obliged to play the traditional great-power game of winners and losers, then history will repeat itself and **everybody loses**.

### 5

#### The United States Congress should require a declaration of war for any decision to use or deploy non-nuclear armed forces in circumstances likely to lead to an armed attack.

#### Congress should define “armed attack” as: The use of force of a magnitude that is likely to produce serious consequences, epitomized by territorial intrusions, human casualties, or considerable destruction of property.

#### Congress should allow an exception in the event of an armed attack against the United States requiring the urgent use of armed forces making prior approval from the legislature impractical. Congress should require immediate notice of such a determination, and shall require a declaration of war within 14 days or the executive shall cease such use of non-nuclear armed armed force.

#### Congressional authorization for nuclear weapons erodes deterrence

Hansen 89 (Peter Raven-Hansen, Professor of Law, George Washington University National Law Center, “Special Issue: The United States Constitution In Its Third Century: Foreign Affairs: Distribution Of Constitutional Authority: Nuclear War Powers,” American Journal of International Law, October 1989, 83 A.J.I.L. 786)

The constitutionally most problematical, yet most likely, scenario for U.S. use of nuclear weapons is neither first nor second strike, but first use in deliberate escalation of a conventional war in Europe. Since a Warsaw Pact attack on our tripwire armed forces in Europe and our NATO allies would place us in a general war, n13 the President would assume the power as commander in chief to conduct that war as he chooses, and to use nuclear weapons first according to long-standing NATO plans, without the formality of congressional authorization. Defenders of this distribution of nuclear [\*789] war power find nothing in the Constitution that restricts the commander in chief's choice of weapons in a general war, and much in the preconstitutional experience of the Continental Congress that suggests the President has unfettered command of such tactical decisions. n14 The question, however, is less, what power does the President have to command the armed forces and make tactical decisions in war, than what war? Even if the President possesses inherent constitutional authority to fight a conventional war started by attack on our armed forces in Europe, does it necessarily follow that he has the authority to start and fight a nuclear war? A conventional war in Europe is a serious threat to our national security and would certainly cost thousands of American lives. But would it be the same war after the first use of nuclear weapons? A broad range of informed opinion, running across the political spectrum, agrees that nuclear escalation of a conventional European war would probably be uncontrollable, that "limited" nuclear war is a contradiction in terms. n15 As four of the deans of modern American national security policy have concluded: It is time to recognize that no one has ever succeeded in advancing any persuasive reason to believe that any use of nuclear weapons, even on the smallest scale, could reliably be expected to remain limited. . . . There is no way for anyone to have confidence that such a nuclear action will not lead to further and more devastating exchanges. Any use of nuclear weapons in Europe, by the Alliance or against it, carries with it a high and inescapable risk of escalation into the general nuclear war which would bring ruin to all and victory to none. n16 As grave as it is, the threat posed to U.S. national security by a conventional attack on NATO pales in significance beside the threat of general nuclear war. The Defense Department has justified the President's claims to nuclear war powers by reference to "emergency situations that would threaten the survival of the United States as a viable society." n17 But it is nuclear war that directly threatens the survival of the United States as a viable society, not, in the short run, a conventional war fought in Europe. Why should the President's conceded power to conduct a conventional war in Europe include the power to start, without congressional approval in any form, a nuclear war that carries a "high and inescapable risk" of destroying much of the American continent? The war clause of the Constitution vests in Congress alone the power to start a war that has not already been started by others, and a conventional attack in Europe does not start a nuclear war. Moreover, even if the commander in chief is conceded the choice of weapons and tactical alternatives, the nuclear weapon is hardly just another weapon. First use has political, not narrowly military, purposes; it is intended [\*790] to signal to the Warsaw Pact that continuation of the conventional attack will mean general nuclear war in which everyone loses. n18 In fact, NATO's threat of first use -- accurately characterized as a policy of "suicidal deterrence" n19 -- arguably rests on the probability that any first use will uncontrollably escalate into general nuclear war. The decision to "go nuclear" in a conventional war "is a political decision of the highest order," as President Lyndon Johnson said, n20 not a tactical choice of weapons. As such, it is not an inherent component of the commander in chief's command authority or a technical byproduct of military expertise, but precisely the ultimate national life-or-death decision that the Framers intended Congress to make when time permits. That time will not permit, however, is another argument for the current distribution of nuclear war power. It was partly to meet the exigencies of time that the Framers vested the power of command during war in a single commander in chief. If there are only minutes in which to decide to use nuclear weapons, Congress cannot possibly participate. In these circumstances, the President must be conceded inherent nuclear decision-making authority.

**Nuclear Deterrence prevents CBW**

**Joseph 00** (Robert, Director – Center for Counterproliferation Research, senior scholar at the National Institute for Public Policy, professor – Missouri State University, and formerly Special Envoy for Nuclear Nonproliferation, Congressional Testimony – Senate Foreign Relations Nonproliferation Policy, 3-21)

Therefore, it is essential that the United States acquire the capabilities to deny an enemy the benefits of these weapons. These capabilities - including passive and active defenses as well as improved counterforce means (such as the ability to destroy deep and hardened underground targets and mobile missiles) - offer the best chance to strengthen deterrence, and provide the best hedge against deterrence failure. A further dimension of the WMD threat that undercuts deterrence is the growing ability of adversaries to deliver these weapons against the United States homeland, including against our cities. This is most visible with the North Korean long-range missile program but also includes the potential for unconventional delivery, especially of biological agents. For rogue states, acquiring the capability to strike our population centers denies us the convenience and simplicity of thinking in terms of fighting a purely theater war, and makes essential our development and deployment of new defensive capabilities. In this context, I commend the initiatives undertaken by the Senate to insure that our first responders are trained to deal with chemical and biological incidents, and for the passage of the National Missile Defense Act. I do not want to give the impression that **the threat of punishment** is not unimportant. Although not adequate by itself, such a threat **remains essential for deterrence** of both initial use and follow-on use of WMD by rogue states. Here, conventional superiority alone cannot provide for a credible deterrent. In fact, despite sustained and determined efforts by some to de-legitimize our nuclear weapons and assertions that their utility ended with the Cold War, our **nuclear weapons play a unique and indispensable role in deterring** the use of chemical, biological and nuclear weapons in regional contexts. This is in addition to the hedge our nuclear weapons provide against the strategic uncertainties associated with Russia and China - two states that continue to value and modernize their nuclear forces. From our examination of the real-world case of deterring Iraqi chemical and biological use in Desert Storm, and from our extensive experience in gaming, we have concluded that our nuclear weapons are **the single most important instrument** we have for deterring the use of chemical and biological weapons against us by rogue states. Conventional superiority, which in certain critical ways is perceived as vulnerable, especially if the enemy uses his WMD capabilities early in a conflict, is not enough. Our conventional and nuclear forces must work together to enhance deterrence in a very complex and dangerous environment. In conclusion, preventing proliferation -- and especially the spread of nuclear weapons -- has long been a stated goal of U.S. policy, beginning in the months immediately following the conclusion of World War 11 and continuing to the present. Every Administration, from President Truman forward, has made non-proliferation a central element of American foreign policy. This was evident in the Baruch proposals and in President Eisenhower's Atoms for Peace initiative. It was also apparent in the negotiation of the Nuclear Non-Proliferation Treaty under President Johnson and in the conventions on prohibiting biological and chemical weapons negotiated Nixon and Bush respectively. Presidents Kennedy and Carter were not only eloquent but also passionate in their stated goal of preventing the further spread of nuclear weapons, and President Reagan held the vision of eliminating these weapons altogether.

**Extinction**

**Sandberg et al 8**—Research Fellow at the Future of Humanity Institute at Oxford University. PhD in computation neuroscience, Stockholm—AND—Jason G. Matheny—PhD candidate in Health Policy and Management at Johns Hopkins. special consultant to the Center for Biosecurity at the University of Pittsburgh—AND—Milan M. Ćirković—senior research associate at the Astronomical Observatory of Belgrade. Assistant professor of physics at the University of Novi Sad. (Anders, How can we reduce the risk of human extinction?, 9 September 2008, http://www.thebulletin.org/web-edition/features/how-can-we-reduce-the-risk-of-human-extinction)

The risks from anthropogenic hazards appear at present larger than those from natural ones. Although great progress has been made in reducing the number of nuclear weapons in the world, humanity is still threatened by the possibility of a global thermonuclear war and a resulting nuclear winter. We may face even greater risks from emerging technologies. Advances in synthetic biology might **make it possible** to engineer pathogens capable of extinction-level pandemics. The knowledge, equipment, and materials needed to engineer pathogens are more accessible than those needed to build nuclear weapons. And unlike other weapons, pathogens **are self-replicating, allowing a small arsenal to become exponentially destructive**. Pathogens have been implicated in the extinctions of many wild species. Although most pandemics "fade out" by reducing the density of susceptible populations, pathogens with wide host ranges in multiple species can reach even isolated individuals. The intentional or unintentional release of engineered pathogens with high transmissibility, latency, and lethality might be capable of causing **human extinction**. While such an event seems unlikely today, the likelihood may increase as biotechnologies continue to improve at a rate rivaling Moore's Law.

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#### ---No adventurism – we won’t start wars just because we can – Iraq was a unique instance

Brooks 12 (Stephen, Associate Professor of Government at Dartmouth College, John Ikenberry is the Albert G. Milbank Professor of Politics and International Affairs at Princeton University in the Department of Politics and the Woodrow Wilson School of Public and International Affairs, William C. Wohlforth is the Daniel Webster Professor in the Department of Government at Dartmouth College “Don’t Come Home America: The Case Against Retrenchment,” International Security, Vol. 37, No. 3 (Winter 2012/13), pp. 7–51

temptation. For many advocates of retrenchment, the mere possession of peerless, globe-girdling military capabilities leads inexorably to a dangerous expansion of U.S. definitions of national interest that then drag the country into expensive wars. 64 For example, sustaining ramified, long-standing alliances such as NATO leads to mission creep: the search for new roles to keep the alliance alive. Hence, critics allege that NATO’s need to “go out of area or out of business” led to reckless expansion that alienated Russia and then to a heedless broadening of interests to encompass interventions such as those in Bosnia, Kosovo, and Libya. In addition, peerless military power creates the temptation to seek total, non-Clausewitzian solutions to security problems, as allegedly occurred in Iraq and Afghanistan. 65 Only a country in possession of such awesome military power and facing no serious geopolitical rival would fail to be satisfied with partial solutions such as containment and instead embark on wild schemes of democracy building in such unlikely places. In addition, critics contend, the United States’ outsized military creates a sense of obligation to use it if it might do good, even in cases where no U.S. interests are engaged. As Madeleine Albright famously asked Colin Powell, “What’s the point of having this superb military you’re always talking about, if we can’t use it?” Undoubtedly, possessing global military intervention capacity expands opportunities to use force. If it were truly to “come home,” the United States would be tying itself to the mast like Ulysses, rendering itself incapable of succumbing to temptation. Any defense of deep engagement must acknowledge that it increases the opportunity and thus the logical probability of U.S. use of force compared to a grand strategy of true strategic disengagement. Of course, if the alternative to deep engagement is an over-the-horizon intervention stance, then the temptation risk would persist after retrenchment. The main problem with the interest expansion argument, however, is that it essentially boils down to one case: Iraq. Sixty-seven percent of all the casualties and 64 percent of all the budget costs of all the wars the United States has fought since 1990 were caused by that war. Twenty-seven percent of the causalities and 26 percent of the costs were related to Operation Enduring Freedom in Afghanistan. All the other interventions—the 1990–91 Persian Gulf War, the subsequent airstrike campaigns in Iraq, Somalia, Bosnia, Haiti, Kosovo, Libya, and so on—account for 3 percent of the casualties and 10 percent of the costs. 66 Iraq is the outlier not only in terms of its human and material cost, but also in terms of the degree to which the overall burden was shouldered by the United States alone. As Beckley has shown, in the other interventions allies either spent more than the United States, suffered greater relative casualties, or both. In the 1990–91 Persian Gulf War, for example, the United States ranked fourth in overall casualties (measured relative to population size) and fourth in total expenditures (relative to GDP). In Bosnia, European Union (EU) budget outlays and personnel deployments ultimately swamped those of the United States as the Europeans took over postconflict peacebuilding operations. In Kosovo, the United States suffered one combat fatality, the sole loss in the whole operation, and it ranked sixth in relative monetary contribution. In Afghanistan, the United States is the number one financial contributor (it achieved that status only after the 2010 surge), but its relative combat losses rank fifth. 67 In short, the interest expansion argument would look much different without Iraq in the picture. There would be no evidence for the United States shouldering a disproportionate share of the burden, and the overall pattern of intervention would look “unrestrained” only in terms of frequency, not cost, with the debate hinging on whether the surge in Afghanistan was recklessly unrestrained. 68 How emblematic of the deep engagement strategy is the U.S. experience in Iraq? The strategy’s supporters insist that Iraq was a Bush/neoconservative aberration; certainly, there are many supporters of deep engagement who strongly opposed the war, most notably Barack Obama. Against this view, opponents claim that it or something close to it was inevitable given the grand strategy. Regardless, the more important question is whether continuing the current grand strategy condemns the United States to more such wars. The Cold War experience suggests a negative answer. After the United States suffered a major disaster in Indochina (to be sure, dwarfing Iraq in its human toll), it responded by waging the rest of the Cold War using proxies and highly limited interventions. Nothing changed in the basic structure of the international system, and U.S. military power recovered by the 1980s, yet the United States never again undertook a large expeditionary operation until after the Cold War had ended. All indications are that Iraq has generated a similar effect for the post–Cold War era. If there is an Obama doctrine, Dominic Tierney argues, it can be reduced to “No More Iraqs.” 69 Moreover, the president’s thinking is reflected in the Defense Department’s current strategic guidance, which asserts that “U.S. forces will no longer be sized to conduct large-scale, prolonged stability operations.” 70 Those developments in Washington are also part of a wider rejection of the Iraq experience across the American body politic, which political scientist John Mueller dubbed the “Iraq Syndrome.” 71 Retrenchment advocates would need to present much more argumentation and evidence to support their pessimism on this subject.

#### ----Congressional involvement doesn’t solve “better wars”

Jide Nzelibe 6, Asst. Profesor of Law @ Northwestern, and John Yoo, Emanuel S. Heller Professor of Law @ UC-Berkeley Law, “Rational War and Constitutional Design,” Yale Law Journal, Vol. 115, SSRN

But before accepting this attractive vision, we should ask whether the Congress first system produces these results. In other words, has requiring congressional ex ante approval for foreign wars produced less war, better decision making, or greater consensus? Students of American foreign policy generally acknowledge that comprehensive empirical studies of American wars are impractical, due to the small number of armed conflicts. Instead, they tend to focus on case studies. A cursory review of previous American wars does not suggest that congressional participation in war necessarily produces better decision making. We can certainly identify wars, such as the Mexican-American War or the Spanish-American War, in which a declaration of war did not result from extensive deliberation nor necessarily result in good policy.14 Both wars benefited the United States by expanding the nation’s territory and enhanced its presence on the world stage,15 but it seems that these are not the wars that supporters of Congress’s Declare War power would want the nation to enter – i.e., offensive wars of conquest. Nor is it clear that congressional participation has resulted in greater consensus and better decision making. Congress approved the Vietnam War, in the Tonkin Gulf resolution, and the Iraq war, both of which have produced **sharp division** in American domestic politics and proven to be mistakes. The other side of the coin here usually goes little noticed, but is just as important for evaluating the substantive performance of the Congress-first system. To a significant extent, much of the war powers literature focuses on situations in which the United States might erroneously enter a war where the costs outweigh the expected benefits. Statisticians usually label such errors of commission as Type I errors. Scholars rarely, if ever, ask whether requiring congressional ex ante approval for foreign wars could increase Type II errors. Type II errors occur when the United States does not enter a conflict where the expected benefits to the nation outweigh the costs, and this could occur today when the President refuses to launch a preemptive strike against a nation harboring a hostile terrorist group, for example, out of concerns over congressional opposition. It may be the case that legislative participation in warmaking could prevent the United States from entering, or delaying entry, into wars that would benefit its foreign policy or national security. The clearest example is World War II. During the inter-war period, Congress enacted several statutes designed to prevent the United States from entering into the wars in Europe and Asia. In 1940 and 1941, President Franklin D. Roosevelt recognized that America’s security would be threatened by German control of Europe, and he and his advisers gradually attempted to bring the United States to the assistance of Great Britain and the Soviet Union.16 Nonetheless, congressional resistance prevented Roosevelt from doing anything more than supplying arms and loans to the Allies, although he arguably stretched his authority to cooperate closely with Great Britain in protecting convoys in the North Atlantic, among other things. It is likely that if American pressure on Japan to withdraw from China had not helped triggered the Pacific War, American entry into World War II might have been delayed by at least another year, if not longer.17 Knowing what we now know, most would agree that America’s earlier entry into World War II would have been much to the benefit of the United States and to the world. A more recent example might be American policy in the Balkans during the middle and late 1990s.

#### **---Aff can’t make grand predictions of war strategy – ignores concerns over allies and changes in strategic conditions** Cordesman 9 (Anthony H., Arleigh A. Burke Chair in Strategy at CSIS, "THE OBAMA ADMINISTRATION AND US STRATEGY: THE FIRST 100 DAYS", http://csis.org/files/media/csis/pubs/090414\_obama100.pdf)

This long list of shifts in US national security policy and strategy only covers part of ¶ President Obama’s first 100 days. It does not include changes in the new ¶ Administration’s approach to issues like Cuba, its overall strategic posture toward Latin ¶ American or Africa, its concern with the impact of the global financial crisis on low ¶ income states, or even relations with the full range of key strategic partners and states – ¶ such as India.¶ It is equally important to stress that this list of ―accomplishments‖ is largely a list of ¶ beginnings, concepts and intentions. It will be years before it will be fully clear what ¶ many really mean in terms of tangible actions and ―facts on the ground.‖ Most of the ¶ issues that the Obama Administration has tried to deal with in its first 100 days are at ¶ least a quarter of a century old, and many date back for more than half a century. ¶ ¶ There are many areas where the prospects for success in meeting the President’s goals are ¶ limited, or where outside pressures may force the US to change its policies and strategies. ¶ It is also a fundamental reality of every aspect of national security policy that good ¶ intentions are ultimately irrelevant unless they are followed by successful actions. Once ¶ again, a nation’s national security strategy – and indeed its security – is not defined by ¶ what it declares, but rather by what it does.

---No risk of excessive entanglement – regional concerns

Hurrell 6 (Director of the Centre for International Studies at the University of Oxford and a Fellow of Nuffield College, Oxford (Andrew, Hegemony, liberalism and global order: what space for would-be great powers? (p 1-19), International Affairs, January 24, 2006)

The contrast with the United States is instructive. Much is made of the unique position of the United States and the degree to which, unlike all other modern great powers, it faced no geopolitical challenge from within its region and was able to prevent, or more accurately contain, the influence of extraregional powers. This is certainly true (even if the rise of the US to regional hegemony is often dated too early and its extent exaggerated). But the other important regional aspect of US power is the ability to avoid excessively deep entanglement or involvement and, for the most part, to escape from ensnaring and diverting lower-level conflicts within its ‘backyard’. It has been able to take the region for granted and, for long periods, to avoid having a regional policy at all (as has arguably been the case since 2001). It is this fact that, perhaps counterintuitively, provides Brazil with some capacity to develop a relatively autonomous regional role. Second, attempts to develop a global role can easily stir the animosity, or at least raise the concerns, of regional Panama and the Gulf. A passive world-view encouraged American leaders to ignore troubling developments which eventually metastasized into full blown threats to American security. Manuel Noriega and Saddam Hussein were given reason to believe that the United States did not consider its interests threatened by their behavior, only to discover that they had been misled. In each case, a broader and more forward-leaning conception of the national interest might have made the later large and potentially costly interventions unnecessary.

#### ---WPR solves

McMahon 9/1/13 Robert, Editor for CFR, “Balance of War Powers: The U.S. President and Congress,” http://www.cfr.org/united-states/balance-war-powers-us-president-congress/p13092#p6

Experts say it has had mixed results. Alton Frye, a CFR presidential senior fellow at the time, told the Senate Judiciary Committee in 2002 that the response to the act was disappointing. "The resistance of every president to the law," he said, "beginning with President Nixon's unsuccessful veto, and the Supreme Court's refusal to provide a definitive ruling on the law's constitutionality, have left a worrisome cloud over legislative-executive relations in this crucial field." The Congressional Research Service says that from 1975 through 2011, presidents submitted 132 reports related to deployment of U.S. forces (PDF), as required by the resolution. But only one--the 1975 Mayaguez incident--cited action triggering the time limit. It found the reports from presidents, who usually said their actions were "consistent with the War Powers Resolution," ranged from embassy operations to full combat like the 2003 war with Iraq, which Congress authorized. Fisher, of the Constitution Project, says there has been some acknowledgment from presidents of the law's power. "I think in a lot of actions--in Granada [in 1983], in Panama in 1989--there seemed to be efforts to get things wrapped up by the sixty-day limit," he says.

#### No uniqueness

Karabell 13 (Zachary Karabell, Reuters, President of River Twice Research and River Twice Capital Advisors. His most recent book is Sustainable Excellence: The Future of Business in the 21st Century, “Obama and the End of the Imperial Presidency”, 9-6-13, <http://www.theatlantic.com/politics/archive/2013/09/obama-and-the-end-of-the-imperial-presidency/279405/?google_editors_picks=true>, September 6, 2013)

The president's uphill battle to get congressional authorization for the use of force in Syria suggests the pendulum is swinging back from Bush-era excesses. In 1973, Arthur Schlesinger wrote about the tendency in American history for the president to assume sweeping powers in times of war and crisis. The balance of power established by the Constitution gets upended; Congress and the courts take a back seat; and the executive makes decisions about life and death largely unchecked. He called this “the imperial presidency.” Today, with President Obama turning to Congress to endorse a military strike on Syria, the imperial presidency is beginning to wane. It’s about time. The 1990s seemed to presage a return to a more balanced government, with Cold War defense spending slashed and “the peace dividend” contributing to a more balanced budget. But then 9/11 happened; America launched a war on terror; and the rest, as they say, is history. The imperial presidency has some justification in times of acute peril. The immediate aftermath of 9/11 certainly justified some degree of unilateral executive action, as did in its way the financial crisis in the fall of 2008. And few would argue that at times of all-out war, with the country fully mobilized to fight a genuine threat such as Germany and Japan during World War II, ceding powers to the executive branch is imperative. But it is equally vital to pare those back when they are no longer required -- though this is easier said than done. People do not cede power easily, and bureaucracies are far easier to construct than dismantle. The War on Terror has been conducted by an assertive executive branch and a compliant Congress and judiciary. Defenders will say that that’s a good thing, and a necessary one to keep the country safe. Either way, it tilts the balance toward the imperial presidency. It’s a sign of just how far down the imperial path we’ve gone that Obama’s decision to look for congressional authorization before sending missiles into Syria was greeted with surprise and not a little contempt. The decision, apparently made over the weekend before Labor Day, caught even Obama’s aides unawares. And rather than hailing the decision as a sign of respect for the congressional war-making power specified by the Constitution, a fair number of commentators and even congressional representatives decried the move. Rep. Peter King, a New York Republican, denounced the decision in blunt language: “His failure to act was a woeful abdication of the president’s powers as commander-in-chief and sent the entirely wrong signal to an increasingly dangerous world.” The assumption that the president has both the authority and the obligation to strike against Syria because of its use of chemical weapons, and that this authority does not require consultation with Congress, would have astonished generations of Americans. Yes, presidential overreach is hardly a product of recent history, and no, we are better served by treating the Constitution as a “living document” that needs adaptation rather than slavishly cleaving to its every clause, as some devotees of original intent clearly do. However, the degree to which presidents have since the 1950s assumed the power to unilaterally decide to go to war is clearly a level of power unintended by the founders of the United States, undesired by many today, and unconducive to the very openness and transparency of debate and decision-making that forms the foundation of a functional deliberative democracy. There is, in fact, a direct line between the issues raised by Edward Snowden’s revelations of government spying on domestic emails and communications and the near-decision to launch missiles against Syria. This isn’t about whether such policies are the right ones. They were not decided in the right way. That is, the way they were decided assumes not just competence and integrity on the part of the executive but that in most cases, the president is better able to make better decisions than a deliberative body such as Congress. You may think our current Congress is pitiful, but that is always a risk. The Constitution doesn’t say that “Congress shall have the power to declare war … but only if it’s a good Congress.” The point of the American system, at least in theory, is that too many factors play into key societal decisions to make it easy for individuals and institutions invested with great power to exercise that power lightly. That is more true than ever for the United States today. In pure military terms, the United States can do whatever it wants to whomever it wants, and precious few other countries can do a thing about it. As Iraq and Afghanistan demonstrate, of course, overwhelming military power only gets you so far, unless you are willing to indiscriminately kill civilians and then govern the country you’ve destroyed. And even then, the risks of blowback and failure are large. But in terms of firing missiles or deploying commandos or using drones or any number of military measures, the president can literally say go and it is done. Yes, he needs the consensus of his team, but the power is there. And once the missiles are flying, there is no turning back. That type of power is almost impossible to manage well. The temptation to use it is great. We know that because we use it frequently. China, also powerful in its way, does not. Russia, still well-armed, does not. France did dispatch troops to Mali recently, but even with its nuclear arsenal and not inconsiderable military, force is not a primary option. Those domestic systems are not ones most of us would trade for, yet it bears remembering that they are much less tempted to use force to resolve intractable international issues, including dire human rights abuses. There is one more reason to celebrate the waning of the imperial presidency. For too long, the United States has been locked into a role as the sole guardian of global order. Many Americans want to retain that, but in truth, we play that role selectively and erratically. Obama himself noted the contradictions in an interview with The New Republic and asked how any president could weigh the relative merits of intervening in Syria versus intervening in Congo. The very expectation that the United States must do something throughout the world feeds the domestic expansion of presidential powers. But while those powers grow, the ability and willingness of Americans to act as the global policeman and enforcer is erratic at best. That makes for the worst of possible worlds: an overweening domestic executive and an ineffectual global cop. The shifts afoot are partly structural. Without a clear and present danger, it’s natural that the pendulum begins to move away from the executive branch and toward other centers of influence. But Obama in recent months **has been** quietly **accelerating the shift rather than fighting it**. That may prove to be one of his greatest legacies, even though the diminution of presidential power is not the kind of thing that makes for compelling historical narrative. It is, however, exactly the sort of thing that makes for a compelling democracy, and I’d rather live in that than read books years hence about how the imperial presidency drove the country in precisely the wrong direction.

#### -----Informal checks are sufficient to address groupthink

Kennedy 12 [ Copyright (c) 2012 Gould School of Law Southern California Interdisciplinary Law Journal Spring, 2012 Southern California Interdisciplinary Law Journal 21 S. Cal. Interdis. L.J. 633 LENGTH: 23138 words NOTE: THE HIJACKING OF FOREIGN POLICY DECISION MAKING: GROUPTHINK AND PRESIDENTIAL POWER IN THE POST-9/11 WORLD NAME: Brandon Kennedy\* BIO: \* Class of 2012, University of Southern California Gould School of Law; M.A. Regional Studies: Middle East 2009, Harvard Graduate School of Arts and Sciences; B.A. Government 2009, Harvard University.]

Neither the president nor the decision-making group members implement "hybrid" checks; the checks do, however, originate in the executive branch and directly affect the president and the group members. Hybrid checks relate to the bureaucratic machine and typically address the structural faults within the executive branch that can affect the core decision-making group. Although the president and his or her advisers constitute the insiders of the decision-making group, they ultimately belong [\*676] to a larger organization - the executive branch - and thereby become part of the bureaucratic machine. 1. Inter-Agency Process The "inter-agency process" check involves getting approval for, or opinions about, a proposed decision from **other agencies**. n252 The inter-agency process is particularly common for national security and foreign policy decisions. n253 "Occasionally, it will operate at a higher level in principals' committees involving Cabinet-level or sub-Cabinet people and their deputies," thus directly checking the decision-making group members. n254 2. Intra-Agency Process Another similar check is the "intra-agency process," in which the circulation of proposed decisions **within the agency** empowers dissidents and harnesses a diversity of thinking. n255 If nothing else, the process catches errors, or at least increases the odds of avoiding them, given the number of people who must review or approve a document or decision within the agency. n256 3. Agency or Lawyer Culture The culture of a particular agency - the institutional self-awareness of its professionalism - provides another check. n257 "Lawyer culture" - which places high **value on competency** and adherence to rules and laws - resides at the core of agency culture; n258 its "nay-saying" objectivity "is especially important in the small inner circle of presidential decision making to counter the tendency towards groupthink and a vulnerability to sycophancy." n259 [\*677] 4. Public Humiliation A final check in this category is the "public humiliation" check. n260 This check only comes into play when the previous three have failed, and involves the threat to ""go public' by leaking embarrassing information or publicly resigning."

#### Groupthink Inevitable – secrecy means the executive retains control

Posner 12 (Eric, Kirkland & Ellis Professor, University of Chicago Law School,

REFLECTIONS ON THE LAW OF SEPTEMBER 11: A TEN-YEAR RETROSPECTIVE: DEFERENCE TO THE EXECUTIVE IN THE UNITED STATES AFTER SEPTEMBER 11: CONGRESS, THE COURTS, AND THE OFFICE OF LEGAL COUNSEL, Winter, 2012 Harvard Journal of Law & Public Policy 35 Harv. J.L. & Pub. Pol'y 213)

Recall that Professor Holmes says that the argument that the executive can act more swiftly than Congress and the courts does not apply to the rule-development stage because the crisis is past even if the threat remains. n33 But if we think back to September 11, the crisis did not end on that day, even if the immediate threat of violence did. It was reasonable to believe that other plots had been put into action and that violence could erupt at any moment. As the weeks and months passed, these concerns faded. But it also became clear that al Qaeda had sympathizers in the United States, and that these people might strike at any time, possibly on their own initiative, or volunteer for training that would later make them considerably more dangerous. The anthrax scare brought home the possibility that al Qaeda could use even more deadly weapons than hijacked airplanes. Every day brought another revelation of a hole in border security. Thus, it was a matter of urgency to develop new rules that would address the threat. The government maintained the confidentiality of a constant supply of intelligence, for fear of exposing sources and methods. n34 Meanwhile, the government was already taking secret actions (many of which were later exposed), including tapping cell phone calls, tracking monetary transfers, and infiltrating terrorist organizations. n35 Optimal policy going forward necessarily depended on secrecy. Policy X, which might seem plausible given publicly available information, might turn out to be unnecessary, redundant, or even counterproductive in light of secret information about the activities of al Qaeda or secret Policy Y. Thus, although Congress could no doubt give useful advice, it seems hard to believe that it could have contributed much to the development of counterterrorism tactics, any more than it can contribute to military tactics (where to invade, where to bomb) during a regular war. A set of constitutional protocols normally applies to the making of policy and its embodiment in government action. The executive [\*227] must act with Congress, and it must respect the courts; it cannot act by itself. But these rules apply to normal times, and the medical protocol analogy is of little use here. Medical protocols do not need to be secret because patients have no incentive to game them--unlike terrorists who benefit greatly from knowing the methods that the United States uses to spy on them, capture them, and interrogate them. Furthermore, medical protocols are not based on secret information; they are based on widely available medical research. Thus, when medical researchers develop medical protocols at the rule development stage, they can do so publicly without undermining the purpose of developing the protocols in the first place. By contrast, rules governing counterterrorism operations must be developed mostly in secret, and mostly on the basis of secret information. Hence the importance of keeping rule development as much as possible within the only branch that possesses the power to act against security threats. Those rules, of course, would constrain only lower-level executive agents, not the executive itself. There is an obvious reason for this; if the rules are wrong, they need to be corrected. It would similarly make little sense for doctors to develop emergency room protocols that could never be changed in the future as new technologies and new health problems rendered the old protocols worthless. Professor Holmes argues that the executive becomes subject to groupthink and other decision-making pathologies when it makes policy itself rather than with Congress and other agents. n36 But the same point can be made about executive decision-making during regular wars, when the risk of groupthink (if it is a risk) is tolerated because of the need for secrecy. If Congress and the judiciary cannot constrain the executive during emergencies because of the problem of secrecy, then perhaps this problem can be overcome by putting the source of constraint in the executive branch itself, where norms of secrecy prevail. That brings us to the Office of Legal Counsel.

#### Groupthink is wrong, relies on flawed methodologies, and it can be beneficial

Anthony Hempell 4 [User Experience Consulting Senior Information Architect, “Groupthink: An introduction to Janis' theory of concurrence-seeking tendencies in group work., http://www.anthonyhempell.com/papers/groupthink/, March 3]

In the thirty years since Janis first proposed the groupthink model, there is still little agreement as to the validity of the model in assessing decision-making behaviour (Park, 2000). Janis' theory is often criticized because it does not present a framework that is suitable for empirical testing; instead, the evidence for groupthink comes from largely qualitative, historical or archival methods (Sunstein, 2003). Some critics go so far as to say that Janis's work relies on "anecdote, casual observation, and intuitive appeal rather than rigorous research" (Esser, 1998, cited in Sunstein, 2003, p.142). While some studies have shown support for the groupthink model, the support tends to be mixed or conditional (Esser, 1998); some studies have revealed that a closed leadership style and external threats (in particular, time pressure) promote groupthink and defective decision making (Neck & Moorhead, 1995, cited by Choi & Kim, 1999); the effect of group cohesiveness is still inconclusive (Mullen, Anthony, Salas & Driskel, 1994, cited by Choi & Kim, 1999). Janis's model tends to be supported by studies that employ a qualitative case-study approach as opposed to experimental research, which tends to either partially support or not support Janis's thesis (Park, 2000). The lack of success in experimental validation of groupthink may be due to difficulties in operationalizing and conceptualizing it as a testable variable (Hogg & Hains, 1998; Park, 2000).

Some researchers have criticized Janis for categorically denouncing groupthink as a negative phenomenon (Longley & Pruitt, 1980, cited in Choi & Kim, 1999). Sniezek (1992) argues that there are instances where concurrence-seeking may promote group performance. When used to explain behaviour in a practical setting, groupthink has been frames as a detrimental group process; the result of this has been that many corporate training programs have created strategies for avoiding groupthink in the workplace (Quinn, Faerman, Thompson & McGrath, 1990, cited in Choi & Kim, 1999).

#### Restricting armed forces results in a shift towards PMC use – circumvents regulation

Michaels 4 (Jon – Law Clerk to the Honorable Guido Calabresi, U.S. Court of Appeals for the Second Circuit; Law Clerk designate, the Honorable David H. Souter, U.S. Supreme Court; J.D., Yale Law School, “ARTICLE: BEYOND ACCOUNTABILITY: THE CONSTITUTIONAL, DEMOCRATIC, AND STRATEGIC PROBLEMS WITH PRIVATIZING WAR”, 2004, 82 Wash. U. L. Q. 1001, lexis)

[\*1008] Military privatization of combat duties, on the other hand, decidedly does. It has the potential to introduce a range of novel constitutional, democratic, and strategic harms that have few, if any, analogues in the context of domestic, commercial outsourcing. Military privatization can be, and perhaps already has been, used by government policymakers under Presidents Bill Clinton and George W. Bush to operate in the shadows of public attention, domestic and international laws, and even to circumvent congressional oversight. For a variety of political and legal reasons, the Executive may at times be constrained in deploying U.S. soldiers. The public's aversion to a military draft, the international community's disdain for American unilateralism, and Congress's reluctance to endorse an administration's hawkish foreign goals may each serve to inhibit, if not totally restrict, the president's ability to use U.S. troops in a given zone of conflict. In such scenarios, resorting to private contractors, dispatched to serve American interests without carrying the apparent symbolic or legal imprimatur of the United States, may be quite tempting. In those instances, it would not necessarily be the cheaper price tag or specialized expertise that makes private contractors desirable. Rather, it might be the status of the actors (as private, non-governmental agents) vis-a-vis public opinion, congressional scrutiny, and international law that entices policymakers to turn to contracting. Indeed, "tactical privatization," as I call it, is motivated at least in part by a desire to alter substantive policy: Private agents would be used to achieve public policy ends that would not otherwise be attainable, were the government confined to relying exclusively on members of the U.S. Armed Forces. Tactical privatization thus stands in contradistinction to what is widely understood to be the conventional privatization agenda, driven by economic goals, that strives for verisimilitude in replicating government responsibilities (only more efficiently). n19 To elude public debate, circumvent Congress's coordinate role in conducting military affairs, and evade Security Council dictates may help an administration achieve short-term, realpolitik ends; but in the process, the structural damage to the vibrancy and authenticity of public deliberation, to the integrity of America's constitutional architecture of separation of powers, and to the legitimacy of collective security may prove irreparable.

**No impact — allies won’t abandon us and adversaries can’t exploit it**

Stephen M. **Walt 11**, the Robert and Renée Belfer professor of international relations at Harvard University, December 5, 2011, “Does the U.S. still need to reassure its allies?,” online: <http://walt.foreignpolicy.com/posts/2011/12/05/us_credibility_is_not_our_problem>

A **perennial preoccupation** of U.S. diplomacy has been the **perceived** need to reassure allies of our reliability. Throughout the Cold War, U.S. leaders worried that **any loss of credibility** might cause dominoes to fall, lead key allies to "bandwagon" with the Soviet Union, or result in some form of "Finlandization." Such concerns justified fighting so-called "**credibility wars**" (including Vietnam), where the main concern was not the direct stakes of the contest but rather the need to retain a reputation for resolve and capability. Similar fears also led the United States to deploy thousands of nuclear weapons in Europe, as a supposed counter to Soviet missiles targeted against our NATO allies. The possibility that key allies would abandon us was almost **always exaggerated**, but U.S. leaders remain overly sensitive to the possibility. So Vice President Joe Biden has been out on the road this past week, telling various U.S. allies that "the United States isn't going anywhere." (He wasn't suggesting we're stuck in a rut, of course, but saying that the imminent withdrawal from Iraq doesn't mean a retreat to isolationism or anything like that.) There's nothing really wrong with offering up this sort of comforting rhetoric, but I've never really understood why U.S. leaders were so worried about the credibility of our commitments to others. For starters, given our **remarkably secure geopolitical position,** whether U.S. pledges are credible is first and foremost **a problem for those who are dependent on U.S. help**. We should therefore take our allies' occasional hints about realignment or neutrality with some **skepticism**; they have **every incentive** to **try to make us worry** about it, but in most cases **little incentive to** actually **do it**.

#### ------No impact to hege

Fettweis 10 (Christopher J. Professor of Political Science at Tulane, Dangerous Times-The International Politics of Great Power Peace, pg. 175-6)

If the only thing standing between the world and chaos is the US military presence, then an adjustment in grand strategy would be exceptionally counter-productive. But it is worth recalling that none of the other explanations for the decline of war – nuclear weapons, complex economic interdependence, international and domestic political institutions, evolution in ideas and norms – necessitate an activist America to maintain their validity. Were American to become more restrained, nuclear weapons would still affect the calculations of the would be aggressor; the process of globalization would continue, deepening the complexity of economic interdependence; the United Nations could still deploy peacekeepers where necessary; and democracy would not shrivel where it currently exists. More importantly,the idea that war is a worthwhile way to resolve conflict would have no reason to return. As was argued in chapter 2, normative evolution is typically unidirectional. Strategic restraint in such a world be virtually risk free.

#### Reject their vague assertions for conflict scenarios

**Fettweis 11** [Christopher J. Fettweis - Department of Political Science Tulane University and Professor of National Security Affairs at the US Naval War College, “Free Riding or Restraint Examining European Grand Strategy”, Comparative Strategy; Sep/Oct2011, Vol. 30 Issue 4, p316-332, 17p, Chetan]

**Assertions that without** the combination of **U.S. capabilities, presence and commitments instability would return** to Europe and the Pacific Rim **are usually rendered in rather vague language**. If the United States were to decrease its commitments abroad, argued Robert Art, “**the world will become a more dangerous place** and, sooner or later, that will redound to America’s detriment.”53 **From where would this danger arise? Who** precisely **would do the fighting, and over what issues?** Without the United States, **would Europe really descend into Hobbesian anarchy? Would the Japanese attack** mainland **China again**, to see if they could fare better this time around? Would the Germans and French have another go at it? In other words, **where exactly is hegemony is keeping the peace?** With one exception, **these questions are rarely addressed**. That exception is in the Pacific Rim. Some analysts fear that a de facto surrender of U.S. hegemony would lead to a rise of Chinese influence. Bradley Thayer worries that Chinese would become “the language of diplomacy, trade and commerce, transportation and navigation, the internet, world sport, and global culture,” and that Beijing would come to “dominate science and technology, in all its forms” to the extent that soon theworldwould witness a Chinese astronaut who not only travels to the Moon, but “plants the communist flag on Mars, and perhaps other planets in the future.”54 Indeed Chin a is the only other major power that has increased its military spending since the end of the Cold War, even if it still is only about 2 percent of its GDP. Such levels of effort do not suggest a desire to compete with, much less supplant, the United States. The much-ballyhooed, **decade-long military buildup has brought Chinese spending up to somewhere between one-tenth and one-fifth of the U.S. level. It is hardly clear that a restrained United States would invite Chinese** regional, must less global, political **expansion.** Fortunately one need not ponder for too long the horrible specter of a red flag on Venus, since on the planet Earth, where war is no longer the dominant form of conflict resolution, the threats posed by even a rising China would not be terribly dire. The dangers contained in the terrestrial security environment are less severe than ever before. **Believers in the pacifying power of hegemony ought to keep in mind** a rather basic tenet: When it comes to policymaking, **specific threats are more significant than vague, unnamed dangers**. Without specific risks, it is just as plausible to interpret U.S. presence as redundant, as overseeing a peace that has already arrived. **Strategy should not be based upon vague images emerging from the dark reaches of the neoconservative imagination.**  Overestimating Our Importance One of **the most basic insights of cognitive psychology provides the final reason to doubt the power of hegemonic stability: Rarely are our actions as consequential** upon their behavior **as we perceive them to be.** A great deal of **experimental evidence exists to support the notion that** people (and therefore **states) tend to overrate the degree to which** **their behavior is responsible for the actions of others.** Robert Jervis has argued that two processes account for this overestimation, both ofwhichwould seem to be especially relevant in theU.S. case. 55 First, **believing that we are responsible** **for their actions gratifies our national ego** (which is not small to begin with; the United States is exceptional in its exceptionalism). The hubris of the United States, long appreciated and noted, has only grown with the collapse of the Soviet Union.56 **U.S. policymakers famously have comparatively little knowledge of—or interest in—events that occur outside of their own borders**. **If there is any state vulnerable to the overestimation of its importance due to the fundamental misunderstanding of the motivation of others, it would have to be the United States.** Second, policymakers in the United States are far more familiar with our actions than they are with the decision-making processes of our allies. Try as we might**, it is not possible to** fully **understand the threats, challenges, and opportunities that our allies see from their perspective.** The European great powers have domestic politics as complex as ours, and they also have competent, capable strategists to chart their way forward. **They react to many international forces, of which U.S. behavior is only one**. Therefore, for any actor trying to make sense of the action of others, Jervis notes, “in the absence of strong evidence to the contrary, the most obvious and parsimonious explanation is that he was responsible.”57 **It is natural**, therefore, **for U.S**. policymakers and **strategists to believe that the behavior of our allies (and rivals) is shaped largely by what Washington does**. Presumably Americans are at least as susceptible to the overestimation of their ability as any other people, and perhaps more so. At the very least, political psychologists tell us, **we are probably not as important to them as we think**. **The importance of U.S. hegemony in contributing to international stability is therefore almost certainly overrated**. In the end, one can never be sure why our major allies have not gone to, and do not even plan for, war. Like deterrence, **the hegemonic stability theory rests on faith; it can only be falsified, never proven**. It does not seem likely, however, that hegemony could fully account for twenty years of strategic decisions made in allied capitals if the international system were not already a remarkably peaceful place. **Perhaps these states have no intention of fighting one another to begin with**, and our commitments are redundant. European great powers may well have chosen strategic restraint because they feel that their security is all but assured, **with or without the United States**.

#### Hegemonic decline will not result in great power wars.

**Ikenberry 11** (G. John – Albert G. Milbank Professor of Politics and International Affairs at Princeton University, A World of Our Making, Democracy: A Journal of Ideas, Summer, p. <http://www.democracyjournal.org/21/a-world-of-our-making-1.php?page=all>)

There are four reasons to think that some type of updated and reorganized liberal international order will persist. First, the old and traditional mechanism for overturning international order—great-power war—is no longer likely to occur. Already, the contemporary world has experienced the longest period of great-power peace in the long history of the state system. This absence of great-power war is no doubt due to several factors not present in earlier eras, namely nuclear deterrence and the dominance of liberal democracies. Nuclear weapons—and the deterrence they generate—give great powers some confidence that they will not be dominated or invaded by other major states. They make war among major states less rational and there-fore less likely. This removal of great-power war as a tool of overturning international order tends to reinforce the status quo. The United States was lucky to have emerged as a global power in the nuclear age, because rival great powers are put at a disadvantage if they seek to overturn the American-led system. The cost-benefit calculation of rival would-be hegemonic powers is altered in favor of working for change within the system. But, again, the fact that great-power deterrence also sets limits on the projection of American power presumably makes the existing international order more tolerable. It removes a type of behavior in the system—war, invasion, and conquest between great powers—that historically provided the motive for seeking to overturn order. If the violent over-turning of international order is removed, a bias for continuity is introduced into the system. Second, the character of liberal international order itself—with or without American hegemonic leadership—reinforces continuity. The complex interdependence that is unleashed in an open and loosely rule-based order generates expanding realms of exchange and investment that result in a growing array of firms, interest groups, and other sorts of political stakeholders who seek to preserve the stability and openness of the system. Beyond this, the liberal order is also relatively easy to join. In the post-Cold War decades, countries in different regions of the world have made democratic transitions and connected themselves to various parts of this system. East European countries and states within the old Soviet empire have joined NATO. East Asian countries, including China, have joined the World Trade Organization (WTO). Through its many multilateral institutions, the liberal international order facilitates integration and offers support for states that are making transitions toward liberal democracy. Many countries have also experienced growth and rising incomes within this order. Comparing international orders is tricky, but the current liberal international order, seen in comparative perspective, does appear to have unique characteristics that encourage integration and discourage opposition and resistance. Third, the states that are rising today do not constitute a potential united opposition bloc to the existing order. There are so-called rising states in various regions of the world. China, India, Brazil, and South Africa are perhaps most prominent. Russia is also sometimes included in this grouping of rising states. These states are all capitalist and most are democratic. They all gain from trade and integration within the world capitalist system. They all either are members of the WTO or seek membership in it. But they also have very diverse geopolitical and regional interests and agendas. They do not constitute either an economic bloc or a geopolitical one. Their ideologies and histories are distinct. They share an interest in gaining access to the leading institutions that govern the international system. Sometimes this creates competition among them for influence and access. But it also orients their struggles toward the reform and reorganization of governing institutions, not to a united effort to overturn the underlying order. Fourth, all the great powers have alignments of interests that will continue to bring them together to negotiate and cooperate over the management of the system. All the great powers—old and rising—are status-quo powers. All are beneficiaries of an open world economy and the various services that the liberal international order provides for capitalist trading states. All worry about religious radicalism and failed states. Great powers such as Russia and China do have different geopolitical interests in various key trouble spots, such as Iran and South Asia, and so disagreement and noncooperation over sanctions relating to nonproliferation and other security issues will not disappear. But the opportunities for managing differences with frameworks of great-power cooperation exist and will grow. Overall, the forces for continuity are formidable. Of course, there are many forces operating in the world that can generate upheaval and discontinuity. The collapse of the global financial system and an economic depression that triggers massive protectionism are possibilities. Terrorism and other forms of transnational violence can also trigger political panic and turmoil that would lead governments to shut down borders and reimpose restrictions on the movement of goods and people. But in the face of these seismic events in world politics, there are deep forces that keep the system anchored and stable.

### other

#### ----Middle East war doesn’t escalate

Maloney 7 (Suzanne, Senior Fellow – Saban Center for Middle East Policy, Steve Cook, Fellow – Council on Foreign Relations, and Ray Takeyh, Fellow – Council for Foreign Relations, “Why the Iraq War Won’t Engulf the Mideast”, International Herald Tribune, 6-28, http://www.brookings.edu/views/op-ed/maloney20070629.htm)

Long before the Bush administration began selling "the surge" in Iraq as a way to avert a general war in the Middle East, observers both inside and outside the government were growing concerned about the potential for armed conflict among the regional powers. Underlying this anxiety was a scenario in which Iraq's sectarian and ethnic violence spills over into neighboring countries, producing conflicts between the major Arab states and Iran as well as Turkey and the Kurdistan Regional Government. These wars then destabilize the entire region well beyond the current conflict zone, involving heavyweights like Egypt. This is scary stuff indeed, but with the exception of the conflict between Turkey and the Kurds, the scenario is far from an accurate reflection of the way Middle Eastern leaders view the situation in Iraq and calculate their interests there. It is abundantly clear that major outside powers like Saudi Arabia, Iran and Turkey are heavily involved in Iraq. These countries have so much at stake in the future of Iraq that it is natural they would seek to influence political developments in the country. Yet, the Saudis, Iranians, Jordanians, Syrians, and others are very unlikely to go to war either to protect their own sect or ethnic group or to prevent one country from gaining the upper hand in Iraq. The reasons are fairly straightforward. First, Middle Eastern leaders, like politicians everywhere, are primarily interested in one thing: self-preservation. Committing forces to Iraq is an inherently risky proposition, which, if the conflict went badly, could threaten domestic political stability. Moreover, most Arab armies are geared toward regime protection rather than projecting power and thus have little capability for sending troops to Iraq. Second, there is cause for concern about the so-called blowback scenario in which jihadis returning from Iraq destabilize their home countries, plunging the region into conflict. Middle Eastern leaders are preparing for this possibility. Unlike in the 1990s, when Arab fighters in the Afghan jihad against the Soviet Union returned to Algeria, Egypt and Saudi Arabia and became a source of instability, Arab security services are being vigilant about who is coming in and going from their countries. In the last month, the Saudi government has arrested approximately 200 people suspected of ties with militants. Riyadh is also building a 700 kilometer wall along part of its frontier with Iraq in order to keep militants out of the kingdom. Finally, there is no precedent for Arab leaders to commit forces to conflicts in which they are not directly involved. The Iraqis and the Saudis did send small contingents to fight the Israelis in 1948 and 1967, but they were either ineffective or never made it. In the 1970s and 1980s, Arab countries other than Syria, which had a compelling interest in establishing its hegemony over Lebanon, never committed forces either to protect the Lebanese from the Israelis or from other Lebanese. The civil war in Lebanon was regarded as someone else's fight. Indeed, this is the way many leaders view the current situation in Iraq. To Cairo, Amman and Riyadh, the situation in Iraq is worrisome, but in the end it is an Iraqi and American fight. As far as Iranian mullahs are concerned, they have long preferred to press their interests through proxies as opposed to direct engagement. At a time when Tehran has access and influence over powerful Shiite militias, a massive cross-border incursion is both unlikely and unnecessary. So Iraqis will remain locked in a sectarian and ethnic struggle that outside powers may abet, but will remain within the borders of Iraq. The Middle East is a region both prone and accustomed to civil wars. But given its experience with ambiguous conflicts, the region has also developed an intuitive ability to contain its civil strife and prevent local conflicts from enveloping the entire Middle East.

#### Won’t go nuclear

Dyer 2 (Gwynne, Ph.D. in War Studies – University of London and Board of Governors – Canada’s Royal Military College, The Coming War, Queen’s Quarterly, December, Lexis)

All of this indicates an extremely dangerous situation, with many variables that are impossible to assess fully. But there is one comforting reality here: this will not become World War III. Not long ago, wars in the Middle East always went to the brink very quickly, with the Americans and Soviets deeply involved on opposite sides, bristling their nuclear weapons at one another. And for quite some time we lived on the brink of oblivion. But that is over. World War III has been cancelled, and I don't think we could pump it up again no matter how hard we tried. The connections that once tied Middle Eastern confrontations to a global confrontation involving tens of thousands of nuclear weapons have all been undone. The East-West Cold War is finished. The truly dangerous powers in the world today are the industrialized countries in general. We are the ones with the resources and the technology to churn out weapons of mass destruction like sausages. But the good news is: we are out of the business.

#### ----\*Israel/Palestine conflict has never escalated – there’s no evidence for their impact

Satloff 6 (Robert, Executive Director – Washington Institute, “The Iraq Study Group: Assessing Its Regional Conclusions”, 12-21, http://www.washingtoninstitute.org/templateC05.php?CID=2549)

The report's greatest analytical leap of faith is the notion that all the key issues in the Middle East are "inextricably linked." In the past, it was believed that the export of the Iranian revolution would undermine pro-West regimes throughout the Middle East, or that failure to resolve the Israeli-Palestinian conflict would spark a regional war. Today, the idea of linkage implies that Sunni-Shiite violence will spread throughout the region. The problem with all these theories is that there is no evidence to back them up. To the contrary, military success in the Gulf does not translate into diplomatic success in the Arab-Israeli arena. The Madrid process had a promising opening session, but when it came down to bargaining it ran up against the reality of Israeli-Palestinian differences. Furthermore, there is no evidence that local disasters translate into regional disasters. Ayatollah Ruhollah Khomeini's Iran failed to export the revolution despite national efforts. There is no evidence to support the proposition that Israeli-Palestinian violence has substantial regional repercussions, let alone that it can lead to regional war. The years 2000 to 2003 saw the worst period of Israeli-Palestinian relations, but the regional implication was zero. Not one state threatened to fight Israel, the Arab street did not rise to protest, and no Arab regime's stability was threatened. The United States should not view the Middle East as an organic unit. Iraq's problems are primarily Iraqi in origin and Iraqi in solution. Iran alone poses a serious challenge, and the Israeli-Palestinian problem is important to solve because it is the right thing to do.

#### Iran will not be aggressive – they will back down from direct confrontation.

**Savyon**, 7/4/**2011** (Ayelet – director of the Iranian Media Project at the Middle East Media Research Institute, Iran’s Defeat in Bahrain, p. http://www.memri.org/report/en/0/0/0/0/0/0/5424.htm)

Despite its image as a looming superpower, which revolutionary Iran has sought for years to cultivate, its actual policy reveals a deep recognition of its weakness as a representative of the Shi'ites, who constitute a 10% minority in a Sunni Muslim region. Historically persecuted over centuries, the Shi'ites developed various means of survival, including taqiya – the Shi'ite principle of caution, as expressed in willingness to hide one's Shi'ite affiliation in order to survive under a hostile Sunni rule – and passivity, reflected in the use of diplomacy alongside indirect intimidation, terrorism, etc. The ideological change pioneered by the founder of the Islamic Revolution in Iran, Ayatollah Ruhollah Khomeini – who transformed the passive perception characteristic of the of the Shi'a (which was based on the legend of the martyrdom of Hussein at the Battle of Karbala) into an active perception of martyrdom (shahada)[26] – is not being carried out by Iran. Tehran is refraining from sending Iranian nationals to carry out martyrdom operations, despite its years-long glorification of this principle. It is also not sending Iranians to Gaza, either on aid missions or to carry out suicide attacks – and this despite the fact that regime-sponsored organizations are recruiting volunteers for such efforts. Moreover, it appears that the Shi'ite regime in Iran is utilizing the legend of Hussein's martyrdom solely for propaganda purposes, in order to glorify its own might and intimidate the Sunni and Western world. Such intimidation is in keeping with Shi'ite tradition, as a way to conceal Tehran's unwillingness to take overt military action § Marked 15:26 § against external challenges. Conclusion Tehran's defeat in the Bahrain crisis reflects characteristic Shi'ite restraint, stemming from recognition of its own weakness in the face of the vast Sunni majority. The decade during which Iran successfully expanded its strength and power exponentially via threats and creating an image of superpower military strength has collapsed in the Bahrain crisis; Iran is now revealed as a paper tiger that will refrain from any violent conflict. When it came to the crunch, it became clear that the most that Iran could do was threaten to use terrorism or to subvert the Shi'ite citizens of other countries – in keeping with customary Shi'ite behavior – and these threats were not even implemented. It can be assumed that the Sunni camp, headed by Saudi Arabia, is fully aware of the political and military significance of Iran's weakness and its unwillingness to initiate face-to-face conflict. This will have ramifications on both the regional and the global levels.

## 2NC – T, K

## T

### 2NC Ovw

#### Our arg is that the aff can only restrict Presidential war powers – restrictions must be placed directly on authority – that’s Conner

#### **Introduction of armed forces into hostilities is not unique to the President – Congress can assign and authorize interventions too that are unrelated to war powers – that’s Lorber**

#### Conceded Extra-T is a voter – explodes limits, impossible to be neg

#### Voter for precision and predictable limits – allowing the aff to change Congressional war powers opens the flood-gates to a number of unpredictable extra-t actions – means we don’t get our generics based on only the executive being restricted

### T – AT C/I

#### Congress can carry out limited war without a declaration – plan restricts that

Ackerman and Hathaway 11 [Bruce, Sterling Professor of Law and Political Science @ Yale Law School, and Oona, Gerard C. and Bernice Latrobe Smith Professor of International Law, Yale Law School, “LIMITED WAR AND THE CONSTITUTION: IRAQ AND THE CRISIS OF PRESIDENTIAL LEGALITY”, p. 452-454, http://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=4688&context=fss\_papers]

We begin with the text. Congress not only has the power to "declare War" and to "raise and support Armies."6 It also has the power to grant "Letters of Marque and Reprisal." Although this latter power has fallen into disuse (as have formal declarations of war), it does suggest the pervasive character of the congressional role at the time of the Founding. In the eighteenth century, letters of marquee and reprisal enabled Congress to authorize small-scale military actions by privateers-actions which could provoke retaliations that might lead to larger-scale war.'¶ There can be no mistaking, then, the Constitution's broad textual commitment to Congress's key role in the war-making system.9 Congress may declare war, but the president commands the troops. The president may nominate the high command, but the Senate confirms his choices. Congress has the power to raise and support armies-and hence to appropriate funds to support them-but the president directs their expenditure. Congress's power to authorize limited war fits into this larger pattern. Congress self-consciously framed the country's first significant engagement-the undeclared "Quasi War" with France in 1798-as a limited war.' In Bas v. Tingy, Justice Washington explained that this war was not "the perfect kind" in which "one whole nation is at war with another whole nation."" It was an "imperfect war" in which "hostilities ... subsist between two nations more confined in its nature and extent; being limited as to places, persons, and things" in which "those who are authorised to commit hostilities, act under special authority, and can go no farther than to the extent of their¶ commission."I2 Justice Chase joined the unanimous opinion, but wrote sepa-¶ rately to emphasize the point:¶ Congress is empowered to declare a general war, or congress may wage a limited war; limited in place, in objects, and in time. If a general war is declared, its extent and operations are only restricted and regulated by the jus belli, forming a part of the law of nations; but if a partial war is waged, its extent and operation depend on our municipal laws.'¶ In launching its Quasi War with France, Congress had passed four separate acts allowing American vessels "[t]o resist the search of a French public vessel," to "capture any vessel that should attempt, by force, to compel submission to a search," to "re-capture any American vessel seized by a Frenchvessel," and to "capture any Frencharmed vessel wherever found on the high seas."I4 According to the Court, these statutes amounted to a congressional decision to wage a "partial" or "limited" war.1

#### Congress can declare war or authorize military force in the squo – the plan prohibits the congressional war power to authorize military force.

NCC 13 [National Constitution Center, 12/9, “When Congress once used its powers to declare war”, http://blog.constitutioncenter.org/2013/12/when-congress-once-used-its-powers-to-declare-war/]

But it also seems unlikely that an official state of war could be declared in the near future, due to the legal differences between a “state of war” and an “authorization to use military force.”¶ As the CRS explains, a formal war declaration triggers a large number of domestic statutes, like the ones that took place during World War II.¶ “A declaration of war automatically brings into effect a number of statutes that confer special powers on the President and the Executive Branch, especially concerning measures that have domestic effect,” it says.¶ These include granting the President the direct power take over businesses and transportation systems as part of the war effort; the ability to detain foreign nationals; the power to conduct spying without any warrants domestically; and the power to use natural resources on public lands.¶ “An authorization for the use of force does not automatically trigger any of these standby statutory authorities. Some of them can come into effect if a state of war in fact comes into being after an authorization for the use of force is enacted; and the great majority of them, including many of the most sweeping ones, can be activated if the President chooses to issue a proclamation of a national emergency,” says the CRS.

#### Authorizations are legally binding – they constitute a use of armed forces that would be subject to the plan’s restriction.

Epps 13 [Garrett, teaches courses in constitutional law and creative writing for law students at the University of Baltimore, 9/3, The Atlantic, “Yes, Congress Can Authorize War Without Formally 'Declaring' It”, http://www.theatlantic.com/politics/archive/2013/09/yes-congress-can-authorize-war-without-formally-declaring-it/279261/]

In other words, both "declarations of war" and "authorizations" have been a part of American constitutional tradition since the earliest days. If every "undeclared" conflict is a violation of the Constitution, we need retroactive impeachment of Adams, Jefferson, Monroe, Eisenhower, Johnson, Reagan, and both Bushes.¶ A "declaration of war" has always been a specific policy tool -- a blunt one, and one that many presidents, and Congresses, have chosen not to use. "Authorizations," by contrast, permit the two branches to agree on limited war aims. An authorization can lapse without a formal surrender; it can permit military action short of total war. It's a tool that any government needs, and any rational constitution provides.¶ In addition, international law (which is very much part of the Constitution) has changed during the last 115 years. The notion of a "declaration of war" is now both obsolete and meaningless. Under both the Kellogg-Briand Pact of 1928 and the United Nations Charter (1945), war is no longer a lawful tool of national policy. With few exceptions, states may use military force only in self-defense, or with the permission of the U.N. Security Council. Insisting that Congress "declare war" is not just simple-minded, but self-defeating: It is asking the nation to solemnly declare itself to be an international outlaw. ¶ Of course, presidents can sometimes use force without any prior approval by Congress. Both "declarations" and "authorizations" have often come about after the president has committed troops to conflict. But in most cases, that commitment came about because -- as in the Quasi-War with France and in Jefferson's battle with Tripoli and Algiers -- foreign forces had picked a fight with U.S. troops or civilians. No one, I hope, questions that president has the power (and the duty) to defend the nation, its armed forces, and its civilians by force when a "sudden attack" is launched. ¶ More controversial are other occasions when presidents have used force without authorization, arguing that they were obligated to do so under valid treaties. (Treaties are, under Article VI § 2, as much a part of the "supreme law of the land" as the Constitution itself.) ¶ But neither precedent suggests that a president can launch a military campaign against a foreign country in the absence of any attack, treaty obligation, or sudden, peace-threatening emergency requiring an immediate response. Obama insists that he has the authority to launch a Syria strike on his own, but that seems like standard presidential bluff. In Syria, the United States will be launching war from a standing start, and Congress must be involved. ¶ If we really want to understand why, let's do something more than consult old dictionaries about the meaning of "declare war." That language appears in the midst of Article I § 8, the Constitution's epic catalogue of the powers of Congress. It isn't just tucked in there, either. Of the section's 300-plus words laying out specific powers, nearly half concern military matters. (That's true even if we don't conclude, like the brilliant separation-of-powers theorist Louis Fisher, that the power "to regulate commerce with foreign nations" was also "understood as closely related to the war power.") ¶ Congress doesn't just get to "declare war" -- it gets to define and punish piracy, to commission privateers, to create and maintain an army and navy, to call the militia into federal service, and to regulate and govern it even when it is under state command. It has authority over all places acquired by the federal government for "Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings." Under Article II, to be sure, the president commands; but other than that, the text tells me that the military belongs to Congress. If the president wants to use it, he pretty much has to ask permission. Congress can turn most of its power over to the president (by "declaring war"), or give him a more limited "authorization" to use it for specific ends. ¶ So if Congress votes not to authorize a strike on Syria, Obama has no power up his sleeve to allow it. On the other hand, if Congress does authorize the use of force in Syria, the absence of magic words like "declare" won't mean anything. Our nation will be legally committed to the use of force, and it will behoove us all to rally around.

#### The aff restricts presidential AND congressional war powers authority

Yglesias 11 (Matthew, Fellow and Policy Analyst @ Think Progress, "Lack of Congressional Authorization for Use of Force is an Abdication of Responsibility, Not a Power Grab," http://webcache.googleusercontent.com/search?q=cache:wpBP4W02D8sJ:thinkprogress.org/yglesias/2011/03/20/200278/lack-of-congressional-authorization-for-use-of-force-is-an-abdication-of-responsibility-not-a-power-grab/+&cd=4&hl=en&ct=clnk&gl=us)

Given what’s happening in Libya, that’s obviously a form of hypocrisy you can believe in. Then again, it’s not particularly surprising hypocrisy. From Harry Truman on, all presidents have in practice asserted the power to authorize military without congressional approval and I never for a moment believed that Barack Obama would abandon this practice if he became president.\* The fact that the constitution seems to clearly rule this out hasn’t been a barrier to anyone’s practical conduct for decades. But the one observation I would make about this, is that while the trend toward undeclared military incursions is often described as a kind of presidential “power grab” it’s much more accurately described as a congressional abdication of responsibility. Even if you completely leave the declaration of war business aside, congress’ control over the purse strings still gives a determined congressional majority ample latitude to restrain presidential foreign policy. The main reason congress tends, in practice, not to use this authority is that congress rarely wants to. Congressional Democrats didn’t block the “surge” in Iraq, congressional Republicans didn’t block the air war in Kosovo, etc. And for congress, it’s quite convenient to be able to duck these issues. Handling Libya this way means that those members of congress who want to go on cable and complain about the president’s conduct are free to do so, but those who don’t want to talk about Libya can say nothing or stay vague. Nobody’s forced to take a vote that may look bad in retrospect, and nobody in congress needs to take responsibility for the success or failure of the mission. If things work out well in Libya, John McCain will say he presciently urged the White House to act. If things work out poorly in Libya, McCain will say he consistently criticized the White House’s fecklessness. Nobody needs to face a binary “I endorse what Obama’s doing / I oppose what Obama’s doing” choice.¶ Which is all just to say that presidents will go back to accepting congressional authorization for the use of force as a binding constraint when congress starts actually wanting that authority.

#### Plan restricts the congress

**\* Conclusion paragraph of 1ac card \***

**Martin ’11,** Craig Martin, Visiting Assistant Professor, University of Baltimore School of Law, Winter, 2011¶ Brooklyn Law Review¶ 76 Brooklyn L. Rev. 611, ARTICLE: Taking War Seriously: A Model for Constitutional Constraints on the Use of Force in Compliance with In-ternational Law, Lexis

The fourth element of this subsection of the article specifies that any approval to use force enacted by the legislature constitutes a "decision to use force" as contemplated by the provisions of section 1 of the article, thus being subject to the requirements of that section. This means that the legislature too, in deliberating on the question of whether or not to approve the use of force, must sufficiently and demonstrably consider whether the use of force in question is in compliance with the relevant prevailing principles of international law. This is key to the combined operation of the distinct elements of the Model, as it is the mechanism through which the Model effectively causes the deliberative functions of  [\*720]  the legislature to engage the issues of international law compliance, and which causes the criteria of legitimacy under international law to be integrated into the deliberative process of the legislature. It is only by requiring both branches of government to grapple with the question of compliance with international law that the Model can ensure that this perspective will be brought to bear in a meaningful and serious fashion in the decision-making process, and that over time the international law norms will be internalized and subsequently exercise influence, in the manner contemplated by transnational process theory and the ideational strand of the liberal theories of international law compliance.

#### Authorizations on the use of force are BINDING on the president and Congress – recent bill on Syria proves

Kaplan 13 (Fred, the author of The Insurgents and the Edward R. Murrow press fellow at the Council on Foreign Relations, "Obama’s Gamble," http://webcache.googleusercontent.com/search?q=cache:tpVRvvu7NjkJ:www.slate.com/articles/news\_and\_politics/war\_stories/2013/08/obama\_s\_syria\_speech\_his\_decision\_to\_seek\_congressional\_approval\_for\_his.html+&cd=10&hl=en&ct=clnk&gl=us)

An authorization on the use of force binds Congress to Obama’s actions—assuming the measure passes. It will also have the salutary effect of shifting precedents on America’s use of force generally. Maybe the new standard will be that Congress does play a role in any such decision. No more lazy sniping—or hollow rooting—from the sidelines. Those who have long urged Obama to do something about Syria, and then criticized him in recent days for doing something (just because it’s Obama who’s doing it), will now have to step up and take a stand.¶ As Obama walked away from the podium, a reporter asked what he would do if Congress voted down a resolution. He said nothing, but the answer seems pretty clear. If Congress votes no, he won’t launch an attack. The legislators will come to realize this, and will see that this is not a parlor game, and I think that’s why they’ll vote in favor.

## K

### AT FW – New

#### **-- Counter interpretation – aff must defend their discourse. The judge is an academic challengning the values and assumptions of the entire text of the 1AC.**

#### -- Predictable – aff gets to pick their aff and gets strategic gains from reading hyperbolic impact scenarios

#### -- Education outweighs – it’s the only terminal impact – your exclusive focus on policymaking crowds outs critical questioning.

Biswas 7 [Shampa, Professor of Politics – Whitman College, “Empire and Global Public Intellectuals: Reading Edward Said as an International Relations Theorist”, Millennium, 36(1), p. 117-125]

It has been 30 years since Stanley Hoffman accused IR of being an ‘American social science’ and noted its too close connections to US foreign policy elites and US preoccupations of the Cold War to be able to make any universal claims,7 yet there seems to be a curious amnesia and lack of curiosity about the political history of the discipline, and in particular its own complicities in the production of empire.8 Through what discourses the imperial gets reproduced, resurrected and re-energised is a question that should be very much at the heart of a discipline whose task it is to examine the contours of global power. Thinking this failure of IR through some of Edward Said’s critical scholarly work from his long distinguished career as an intellectual and activist, this article is an attempt to politicise and hence render questionable the disciplinary traps that have, ironically, circumscribed the ability of scholars whose very business it is to think about global politics to actually think globally and politically. What Edward Said has to offer IR scholars, I believe, is a certain kind of global sensibility, a critical but sympathetic and felt awareness of an inhabited and cohabited world. Furthermore, it is a profoundly political sensibility whose globalism is predicated on a cognisance of the imperial and a firm non-imperial ethic in its formulation. I make this argument by travelling through a couple of Said’s thematic foci in his enormous corpus of writing. Using a lot of Said’s reflections on the role of public intellectuals, I argue in this article that IR scholars need to develop what I call a ‘global intellectual posture’. In the 1993 Reith Lectures delivered on BBC channels, Said outlines three positions for public intellectuals to assume – as an outsider/exile/marginal, as an ‘amateur’, and as a disturber of the status quo speaking ‘truth to power’ and self-consciously siding with those who are underrepresented and disadvantaged.9 Beginning with a discussion of Said’s critique of ‘professionalism’ and the ‘cult of expertise’ as it applies to International Relations, I first argue the importance, for scholars of global politics, of taking *politics* seriously. Second, I turn to Said’s comments on the posture of exile and his critique of identity politics, particularly in its nationalist formulations, to ask what it means for students of global politics to take the *global* seriously. Finally, I attend to some of Said’s comments on humanism and contrapuntality to examine what IR scholars can learn from Said about *feeling and thinking globally* concretely, thoroughly and carefully. IR Professionals in an Age of Empire: From ‘International Experts’ to ‘Global Public Intellectuals’ One of the profound effects of the war on terror initiated by the Bush administration has been a **significant constriction of a democratic public sphere**, which has included the active and aggressive curtailment of intellectual and political dissent and a sharp delineation of national boundaries along with concentration of state power. The academy in this context has become a particularly embattled site with some highly disturbing onslaughts on academic freedom. At the most obvious level, this has involved fairly well-calibrated neoconservative attacks on US higher education that have invoked the mantra of ‘liberal bias’ and demanded legislative regulation and reform10, an onslaught supported by a well-funded network of conservative think tanks, centres, institutes and ‘concerned citizen groups’ within and outside the higher education establishment11 and with considerable reach among sitting legislators, jurists and policy-makers as well as the media. But what has in part made possible the encroachment of such nationalist and statist agendas has been a larger history of the corporatisation of the university and the accompanying ‘professionalisation’ that goes with it. Expressing concern with ‘academic acquiescence in the decline of public discourse in the United States’, Herbert Reid has examined the ways in which the university is beginning to operate as another transnational corporation12, and critiqued the consolidation of a ‘culture of professionalism’ where academic bureaucrats engage in bureaucratic role-playing, minor **academic turf battles mask the larger managerial power play** on campuses and the increasing influence of a relatively autonomous administrative elite and the rise of insular ‘expert cultures’ have led to academics relinquishing their claims to public space and authority.13 While it is no surprise that the US academy should find itself too at that uneasy confluence of neoliberal globalising dynamics and exclusivist nationalist agendas that is the predicament of many contemporary institutions around the world, there is much reason for concern and an urgent need to rethink the role and place of intellectual labour in the democratic process. This is especially true for scholars of the global writing in this age of globalisation and empire. Edward Said has written extensively on the place of the academy as one of the few and increasingly precarious spaces for democratic deliberation and argued the necessity for public intellectuals immured from the seductions of power.14 Defending the US academy as one of the last remaining utopian spaces, ‘the one public space available to real alternative intellectual practices: no other institution like it on such a scale exists anywhere else in the world today’15, and lauding the remarkable critical theoretical and historical work of many academic intellectuals in a lot of his work, Said also complains that ‘the American University, with its munificence, utopian sanctuary, and remarkable diversity, has defanged (intellectuals)’16. The most serious threat to the ‘intellectual vocation’, he argues, is ‘professionalism’ and mounts a pointed attack on the proliferation of ‘specializations’ and the ‘cult of expertise’ with their focus on ‘relatively narrow areas of knowledge’, ‘technical formalism’, ‘impersonal theories and methodologies’, and most worrisome of all, their ability and willingness to be **seduced by power**.17 Said mentions in this context the funding of academic programmes and research which came out of the exigencies of the Cold War18, an area in which there was considerable traffic of political scientists (largely trained as IR and comparative politics scholars) with institutions of policy-making. Looking at various influential US academics as ‘organic intellectuals’ involved in a dialectical relationship with foreign policy-makers and examining the institutional relationships at and among numerous think tanks and universities that create convergent perspectives and interests, Christopher Clement has studied US intervention in the Third World both during and after the Cold War made possible and justified through various forms of ‘intellectual articulation’.19 This is not simply a matter of scholars working for the state, but indeed a larger question of intellectual orientation. It is not uncommon for IR scholars to feel the need to formulate their scholarly conclusions in terms of its relevance for global politics, where ‘relevance’ is measured entirely in terms of policy wisdom. Edward Said’s searing indictment of US intellectuals – policy-experts and Middle East experts - in the context of the first Gulf War20 is certainly even more resonant in the contemporary context preceding and following the 2003 invasion of Iraq. The space for a critical appraisal of the motivations and conduct of this war has been considerably diminished by the expertise-framed national debate wherein certain kinds **of ethical questions** irreducible **to formulaic ‘for or against’ and** ‘costs and benefits’ analysiscan simply **not be raised**. In effect, what Said argues for, and IR scholars need to pay particular heed to, is an understanding of ‘intellectual relevance’ that is larger and more worthwhile, that is about the posing of critical, historical, ethical and perhaps unanswerable questions rather than the offering of recipes and solutions, that is about politics (rather than techno-expertise) in the most fundamental and important senses of the vocation.21

#### That’s key to avoid inevitable policy failure

**Reus-Smit 12** – Professor of International Relations at the European University Institute, Florence (Christian, 6/2012, “International Relations, Irrelevant? Don’t Blame Theory”, Millennium Journal of International Studies 40(3), EBSCO)

However widespread it might be, the notion that IR’s lack of practical relevance stems from excessive theorising rests more on **vigorous assertion** than weighty evidence. As noted above, we lack good data on the field’s practical relevance, and the difficulties establishing appropriate measures are all too apparent in the fraught attempts by several governments to quantify the impact of the humanities and social sciences more generally. Beyond this, though, we lack any credible evidence that any fluctuations in the field’s relevance are due to more or less high theory. We hear that policymakers complain of not being able to understand or apply much that appears in our leading journals, but it is unclear why we should be any more concerned about this than physicists or economists, who take theory, even high theory, to be the bedrock of advancement in knowledge. Moreover, there is now a **wealth of research**, inside and outside IR, that shows that policy communities are not open epistemic or cognitive realms, simply awaiting well-communicated, non-jargonistic knowledge – they are bureaucracies, deeply susceptible to groupthink, that filter information through their own intersubjective frames. 10 Beyond this, however, there are good reasons to believe that precisely the reverse of the theory versus relevance thesis might be true; that theoretical inquiry may be a necessary prerequisite for the generation of practically relevant knowledge. I will focus here on the value of metatheory, as this attracts most contemporary criticism and would appear the most difficult of theoretical forms to defend. Metatheories take other theories as their subject. Indeed, their precepts establish the conditions of possibility for second-order theories. In general, metatheories divide into three broad categories: epistemology, ontology and meta-ethics. The first concerns the nature, validity and acquisition of knowledge; the second, the nature of being (what can be said to exist, how things might be categorised and how they stand in relation to one another); and the third, the nature of right and wrong, what constitutes moral argument, and how moral arguments might be sustained. Second-order theories are constructed within, and on the basis of, assumptions formulated at the metatheoretical level. Epistemological assumptions about what constitutes legitimate knowledge and how it is legitimately acquired delimit the questions we ask and the kinds of information we can enlist in answering them. 11 Can social scientists ask normative questions? Is literature a valid source of social-scientific knowledge? Ontological assumptions about the nature and distinctiveness of the social universe affect not only what we ‘see’ but also how we order what we see; how we relate the material to the ideational, agents to structures, interests to beliefs, and so on. If we assume, for example, that individuals are rational actors, engaged in the efficient pursuit of primarily material interests, then phenomena such as faith-motivated politics will remain at the far periphery of our vision. 12 Lastly, meta-ethical assumptions about the nature of the good, and about what constitutes a valid moral argument, frame how we reason about concrete ethical problems. Both deontology and consequentialism are meta-ethical positions, operationalised, for example, in the differing arguments of Charles Beitz and Peter Singer on global distributive justice. 13 Most scholars would acknowledge the background, structuring role that metatheory plays, but argue that we can take our metatheoretical assumptions off the shelf, get on with the serious business of research and leave explicit metatheoretical reflection and debate to the philosophers. If practical relevance is one of our concerns, however, there are several reasons why this is misguided. Firstly, whether IR is practically relevant depends, in large measure, on the kinds of questions that animate our research. I am not referring here to the commonly held notion that we should be addressing questions that practitioners want answered. Indeed, our work will at times be most relevant when **we pursue questions that policymakers** and others **would prefer left buried**. My point is a different one, which I return to in greater detail below. It is sufficient to note here that being practically relevant involves asking questions of practice; not just retrospective questions about past practices – their nature, sources and consequences – but prospective questions about what human agents should do. As I have argued elsewhere, being practically relevant means asking questions of how we, ourselves, or some other actors (states, policymakers, citizens, NGOs, IOs, etc.) should act. 14 Yet our ability, nay willingness, to ask such questions is determined by the metatheoretical assumptions that structure our research and arguments. This is partly an issue of ontology – what we see affects how we understand the conditions of action, rendering some practices possible or impossible, mandatory or beyond the pale. If, for example, we think that political change is driven by material forces, then we are unlikely to see communicative practices of argument and persuasion as potentially successful sources of change. More than this, though, it is also an issue of epistemology. If we assume that the proper domain of IR as a social science is the acquisition of empirically verifiable knowledge, then we will struggle to comprehend, let alone answer, normative questions of how we should act. We will either reduce ‘ought’ questions to ‘is’ questions, or place them off the agenda altogether. 15 Our metatheoretical assumptions thus determine the macro-orientation of IR towards questions of practice, directly affecting the field’s practical relevance. Secondly, metatheoretical revolutions license new second-order theoretical and analytical possibilities while foreclosing others, directly affecting those forms of scholarship widely considered most practically relevant. The rise of analytical eclecticism illustrates this. As noted above, Katzenstein and Sil’s call for a pragmatic approach to the study of world politics, one that addresses real-world problematics by combining insights from diverse research traditions, resonates with the mood of much of the field, especially within the American mainstream. Epistemological and ontological debates are widely considered irresolvable dead ends, grand theorising is unfashionable, and gladiatorial contests between rival paradigms appear, increasingly, as unimaginative rituals. Boredom and fatigue are partly responsible for this new mood, but something deeper is at work. Twenty-five years ago, Sil and Katzenstein’s call would have fallen on deaf ears; the neo-neo debate that preoccupied the American mainstream occurred within a metatheoretical consensus, one that combined a neo-positivist epistemology with a rationalist ontology. This singular metatheoretical framework defined the rules of the game; analytical eclecticism was unimaginable. The Third Debate of the 1980s and early 1990s destabilised all of this; not because American IR scholars converted in their droves to critical theory or poststructuralism (far from it), but because metatheoretical absolutism became less and less tenable. The anti-foundationalist critique of the idea that there is any single measure of truth did not produce a wave of relativism, but it did generate a widespread sense that battles on the terrain of epistemology were unwinnable. Similarly, the Third Debate emphasis on identity politics and cultural particularity, which later found expression in constructivism, did not vanquish rationalism. It did, however, establish a more pluralistic, if nevertheless heated, debate about ontology, a terrain on which many scholars felt more comfortable than that of epistemology. One can plausibly argue, therefore, that the metatheoretical struggles of the Third Debate created a space for – even made possible – the rise of analytical eclecticism and its aversion to metatheoretical absolutes, a principal benefit of which is said to be greater practical relevance. Lastly, most of us would agree that for our research to be practically relevant, it has to be good – it has to be the product of sound inquiry, and our conclusions have to be plausible. The pluralists among us would also agree that different research questions require different methods of inquiry and strategies of argument. Yet across this diversity there are several practices widely recognised as essential to good research. Among these are clarity of purpose, logical coherence, engagement with alternative arguments and the provision of good reasons (empirical evidence, corroborating arguments textual interpretations, etc.). Less often noted, however, is the importance of metatheoretical reflexivity. If our epistemological assumptions affect the questions we ask, then **being conscious of** these **assumptions** is necessary to ensure that we are not fencing off questions of importance, and that if we are, we can justify our choices. Likewise, if our ontological assumptions affect how we see the social universe, determining what is in or outside our field of vision, then reflecting on these assumptions can prevent us being blind to things that matter. A similar argument applies to our meta-ethical assumptions. Indeed, if deontology and consequentialism are both meta-ethical positions, as I suggested earlier, then reflecting on our choice of one or other position is part and parcel of weighing rival ethical arguments (on issues as diverse as global poverty and human rights). Finally, our epistemological, ontological and meta-ethical assumptions are not metatheoretical silos; assumptions we make in one have a tendency to shape those we make in another. The oft-heard refrain that ‘if we can’t measure it, it doesn’t matter’ is an unfortunate example of epistemology supervening on ontology, something that metatheoretical reflexivity can help guard against. In sum, like clarity, coherence, consideration of alternative arguments and the provision of good reasons, metatheoretical reflexivity is part of keeping us honest, making it practically relevant despite its abstraction.

### AT Plan Focus

#### Plan focus is bad –

#### 1. Reductionist – a 9 minute speech is reduced to a 10 second sentence. Focusing exclusively on the plan limits us to the tip of the political iceberg.

#### 2. Choice – plans are constrained by the resolution, but advantages are unrestrained. This means they have more responsibility for choosing and should be held accountable. They get strategic advantages from reading hyperbolic impact cards, they should have to bear the costs.

#### 3. Word PICs are worse – plan focus encourages sheisty word PICs with 1 random card and no solvency advocate – hurts discussion of the 1AC and core literature

#### 4. Predictability – the ballot says “did the better debating” – If they can’t defend the majority of their representations, they haven’t done the better debating – debate is an academic activity where you have to defend your ideas

### AT Useless / Irrelevant

#### We must ask epistemological questions to avoid inevitable policy failure

**Reus-Smit 12** – Professor of International Relations at the European University Institute, Florence (Christian, 6/2012, “International Relations, Irrelevant? Don’t Blame Theory”, Millennium Journal of International Studies 40(3), EBSCO)

However widespread it might be, the notion that IR’s lack of practical relevance stems from excessive theorising rests more on **vigorous assertion** than weighty evidence. As noted above, we lack good data on the field’s practical relevance, and the difficulties establishing appropriate measures are all too apparent in the fraught attempts by several governments to quantify the impact of the humanities and social sciences more generally. Beyond this, though, we lack any credible evidence that any fluctuations in the field’s relevance are due to more or less high theory. We hear that policymakers complain of not being able to understand or apply much that appears in our leading journals, but it is unclear why we should be any more concerned about this than physicists or economists, who take theory, even high theory, to be the bedrock of advancement in knowledge. Moreover, there is now a **wealth of research**, inside and outside IR, that shows that policy communities are not open epistemic or cognitive realms, simply awaiting well-communicated, non-jargonistic knowledge – they are bureaucracies, deeply susceptible to groupthink, that filter information through their own intersubjective frames. 10 Beyond this, however, there are good reasons to believe that precisely the reverse of the theory versus relevance thesis might be true; that theoretical inquiry may be a necessary prerequisite for the generation of practically relevant knowledge. I will focus here on the value of metatheory, as this attracts most contemporary criticism and would appear the most difficult of theoretical forms to defend. Metatheories take other theories as their subject. Indeed, their precepts establish the conditions of possibility for second-order theories. In general, metatheories divide into three broad categories: epistemology, ontology and meta-ethics. The first concerns the nature, validity and acquisition of knowledge; the second, the nature of being (what can be said to exist, how things might be categorised and how they stand in relation to one another); and the third, the nature of right and wrong, what constitutes moral argument, and how moral arguments might be sustained. Second-order theories are constructed within, and on the basis of, assumptions formulated at the metatheoretical level. Epistemological assumptions about what constitutes legitimate knowledge and how it is legitimately acquired delimit the questions we ask and the kinds of information we can enlist in answering them. 11 Can social scientists ask normative questions? Is literature a valid source of social-scientific knowledge? Ontological assumptions about the nature and distinctiveness of the social universe affect not only what we ‘see’ but also how we order what we see; how we relate the material to the ideational, agents to structures, interests to beliefs, and so on. If we assume, for example, that individuals are rational actors, engaged in the efficient pursuit of primarily material interests, then phenomena such as faith-motivated politics will remain at the far periphery of our vision. 12 Lastly, meta-ethical assumptions about the nature of the good, and about what constitutes a valid moral argument, frame how we reason about concrete ethical problems. Both deontology and consequentialism are meta-ethical positions, operationalised, for example, in the differing arguments of Charles Beitz and Peter Singer on global distributive justice. 13 Most scholars would acknowledge the background, structuring role that metatheory plays, but argue that we can take our metatheoretical assumptions off the shelf, get on with the serious business of research and leave explicit metatheoretical reflection and debate to the philosophers. If practical relevance is one of our concerns, however, there are several reasons why this is misguided. Firstly, whether IR is practically relevant depends, in large measure, on the kinds of questions that animate our research. I am not referring here to the commonly held notion that we should be addressing questions that practitioners want answered. Indeed, our work will at times be most relevant when **we pursue questions that policymakers** and others **would prefer left buried**. My point is a different one, which I return to in greater detail below. It is sufficient to note here that being practically relevant involves asking questions of practice; not just retrospective questions about past practices – their nature, sources and consequences – but prospective questions about what human agents should do. As I have argued elsewhere, being practically relevant means asking questions of how we, ourselves, or some other actors (states, policymakers, citizens, NGOs, IOs, etc.) should act. 14 Yet our ability, nay willingness, to ask such questions is determined by the metatheoretical assumptions that structure our research and arguments. This is partly an issue of ontology – what we see affects how we understand the conditions of action, rendering some practices possible or impossible, mandatory or beyond the pale. If, for example, we think that political change is driven by material forces, then we are unlikely to see communicative practices of argument and persuasion as potentially successful sources of change. More than this, though, it is also an issue of epistemology. If we assume that the proper domain of IR as a social science is the acquisition of empirically verifiable knowledge, then we will struggle to comprehend, let alone answer, normative questions of how we should act. We will either reduce ‘ought’ questions to ‘is’ questions, or place them off the agenda altogether. 15 Our metatheoretical assumptions thus determine the macro-orientation of IR towards questions of practice, directly affecting the field’s practical relevance. Secondly, metatheoretical revolutions license new second-order theoretical and analytical possibilities while foreclosing others, directly affecting those forms of scholarship widely considered most practically relevant. The rise of analytical eclecticism illustrates this. As noted above, Katzenstein and Sil’s call for a pragmatic approach to the study of world politics, one that addresses real-world problematics by combining insights from diverse research traditions, resonates with the mood of much of the field, especially within the American mainstream. Epistemological and ontological debates are widely considered irresolvable dead ends, grand theorising is unfashionable, and gladiatorial contests between rival paradigms appear, increasingly, as unimaginative rituals. Boredom and fatigue are partly responsible for this new mood, but something deeper is at work. Twenty-five years ago, Sil and Katzenstein’s call would have fallen on deaf ears; the neo-neo debate that preoccupied the American mainstream occurred within a metatheoretical consensus, one that combined a neo-positivist epistemology with a rationalist ontology. 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#### Academic investigations into framing are a precondition for policy proposals

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How are scholarly ideas utilised? IR scholars concerned with the ‘gap’ between the ‘two worlds’ complain about the allegedly limited impact their research has on the practice of foreign policy.14 They express a noteworthy dissatisfaction, on the one hand with the apparent lack of interest for ‘policy-relevant’ research in their own discipline, and on the other with a lack of concern for relevant research among practitioners of foreign policy.15 Although they are not concerned with IR, the available empirical studies of how other social sciences have been politically utilised confirm that research only very rarely leads to direct implementation of policy recommendations.16 For two reasons, however, the prevailing dissatisfaction with the lack of discernable policy effects of research is misguided. Firstly, it expresses a traditional ‘engineering’ perspective, based on unrealistic assumptions of rationality in social science and public policy.17 Secondly, as public policy theorist Tim Booth has argued, it is far too limiting to conceive of ‘policy relevance’ in terms of effects that ‘will be concrete [. . .] and open to direct and objective appraisal’.18 Expectations of a strictly ‘rational’ or ‘undiluted’ usage of scholarly ideas will only lead to disillusionment.19 In contrast, a perspective focusing on political utilisation takes into account a much wider array of possible connections between research and policy, which includes instrumental as well as conceptual and symbolic usage. Clearly, the distinction between instrumental, conceptual, and symbolic usage is analytical rather than empirical, and the three categories are not mutually exclusive. Thus, an idea may at the same time have an instrumental, conceptual, and symbolic function in politics, or be utilised in only one or two of these ways. The theory of interdemocratic peace,20 for example, can be interpreted as a ‘roadmap’21 for US foreign policy. Not only does this usage suggest concrete policy recommendations (for example, support general elections as a peace-building measure), but also imply a particular concept of the world (universal liberalism) with obvious symbolic implications (legitimating foreign policy actions with authoritative scholarship). Several observers of the research-policy interface argue that if anything, scholarly ideas are of greatest value when used conceptually.22 In supplying concepts, scholars can serve an ‘enlightenment’ function, which does not solve policy problems, but which supplies ‘the intellectual conditions for problem solving’.23 Thus, the impact of IR scholarship and indeed of social science research more generally, has had little to do with the presentation of empirical evidence and providing policy recommendations, and a lot more to do with restructuring and reorganising knowledge.24 We argue, however, that even if instrumental usage is unusual, it should not be dismissed. Symbolic usage is more specifically about reinforcing commitments, bolstering support, shifting responsibilities, legitimating decisions already made, and defending against criticism by referring to respected researchers.25 When policymakers describe how they make use of social science they use graphic words: ‘support’, ‘back up’, ‘sell’, ‘justify’, ‘document’ and ‘counter’.26 In short, legitimisation and blame avoidance27 are two symbolic ways of utilising scholarship which are particularly noteworthy. Policymakers use science in accordance with their own interests and demands, but there are also **transformative effects of communication**, diffusion, and interpretation. Once an idea has been incorporated in the formulation of policy individual policy makers have little or no control of how it is interpreted or used by other actors in the policy process. Thus, we also want add to this typology by arguing that even if strategically employed for the purpose of legitimisation, the inclusion of research ideas in policy formulations tend to make such ideas a part of the general vocabulary of policy makers. Thus, the symbolic use of ideas often has wider implications than those that were calculated as part of the initial strategy, highlighting the need to take seriously this particular type of research utilisation. When are scholarly ideas politically utilised? Obstacles and opportunities When – or under what conditions – is IR scholarship politically utilised? Drawing on the literature on ideas and agendas, the public policy literature on the relationship between social science and public policy, and past IR writings on this relationship, we focus on two conditions that arguably are particularly benign for political utilisation of scholarship: 1. If scholarship is framed in a way that is easily accessible for policymakers: This concerns both the ‘packaging’ and ‘marketing’ of ideas. 2. If scholarship is compatible with established policy paradigms: That is, the degree to which an idea is able to ‘install’ itself within institutionalised ways of conceptualising problems and solutions. These two conditions are sufficiently specific to be empirically studied, yet broad enough to incorporate basic building blocks of political analysis – actors and their framing strategies, underlying ideas, and institutional context.28 Framing matters It is often argued that if scholars are able to popularise their findings and arguments and tweak them for the audience they have in mind, the chances of getting audience attention increase. On the highest level of generality, this also means conforming to the characterisation of policy making as preoccupied with ‘objectives’ and ‘objectivity’.29 More specifically, this might imply excluding lengthy theoretical and methodological exercises and instead moving directly to the points that policymakers might find most useful. Much of the ‘scientific paraphernali’ gets lost, or has to get lost, in order to become politically utilised.30 In contrast to researchers, practitioners are rarely interested in what methods or theories are used to produce a particular observation or argument.31 In short, packaging matters. This point can be further developed by drawing on the framing literature.32 Depending on how a situation or idea is framed, the chances of resolving intractable policy controversies can change dramatically.33 More generally, the point could be made that both science and politics are practices of argumentation, and that ‘strategic framing’ is therefore essential for the saliency of an idea.34 The power of policy paradigms The literature on the power of ideas highlights the significance of institutionalised ideational frameworks, which correspond to policy paradigms, doctrines, policy schemes, and other descriptors of these overarching conceptual and cognitive structures in policy systems.35 Policy paradigms are maintained by networks of centrally placed actors – what Baumgartner and Jones call ‘policy monopolies.36 Put simply, if scholarly ideas are not compatible with the ruling policy paradigm, the chance of any form of research utilisation is very small.37 Ideational impact within an unchanged policy paradigm should not be dismissed, however.38 We suggest this observation is qualified by clarifying that non-compatible ideas can be used as targets of critique, and, as noted earlier, for the purpose of blame avoidance.39 If policymakers do not see any need to consider scholarly (or indeed any other type of ideas), but are in fact satisfied with the status quo, then the chances for influencing policy are meager, ceteris paribus. This is a point addressed, for instance, in epistemic community theory.40 If on the other hand there is uncertainty in the policy community on how to approach certain policy issues, there will be a political ‘demand’ for new ideas, including those produced in the academic community. However, a ‘demand’ caused by a general uncertainty has to be expressed and acted upon. Without ‘policy entrepreneurs’41 who know how and when to act to make a difference, not even the most golden opportunity will result in policy change. When policymakers do not see any need for new input of ideas, for example because their style of decision making is action-oriented and based on ‘gut feeling’ rather than on research and lengthy intellectual deliberations, this can prevent even the most fervent advocacy coalition from breaking a policy monopoly. If, however, an advocacy coalition can be formed with key actors inside the governmental apparatus itself, the possibility that ideas will be utilised is increased. Such coalitions can also have significance for the shaping of demand for new ideas.42 Institutionalised communication allows policy entrepreneurs to get involved at a fairly early stage in the policy process. Later in the process, issues tend to ‘solidify’ around more or less fixed positions, decreasing the room for conceptual discussions, and hence, for scholarly ideas to become utilised.43

### AT Reps Irrelevant

#### Not just a question of representation – the alternative rejects the aff’s security discourse – this encompasses reps as well as the epistemological and ontological focus behind the aff – means we still get all of our impacts

#### Representations must precede policy discussion – it determines what is politically thinkable

Crawford 2 -- Neta,PhD MA MIT, BA Brown, Prof. of poli sci at boston univ. Argument and Change in World Politics, p. 19-21

**Coherent arguments** are unlikely to take place unless and until actors, at least on some level, agree on what they are arguing about. The at least temporary resolution of meta-arguments- regarding the nature of the good (the content of prescriptive norms); what is out there, the way we know the world, how we decide between competing beliefs (ontology and epistemology); and the nature of the situation at hand( the proper frame or representation)- **must occur before specific arguments that could lead to decision and action may take place.** Meta-arguments over epistemology and ontology, relatively rare, occur in instances where there is a fundamental clash between belief systems and not simply a debate within a belief system. Such arguments over the nature of the world and how we come to know it are **particularly rare in politics** though they are more frequent in religion and science. Meta-arguments over the “good” are contests over what it is good and right to do, and even how we know the good and the right. They are about the nature of the good, specifically, defining the qualities of “good” so that we know good when we see it and do it. Ethical arguments are about how to do good in a particular situation. **More common** are meta-arguments over representations or frames- about how we out to understand a particular situation. Sometimes actors agree on how they see a situation. More often there are different possible interpretations. Thomas Homer-Dixon and Roger karapin suggest, “Argument and debate occur when people try to gain acceptance for their interpretation of the world”. For example, “is the war defensive or aggressive?”. Defining and controlling representations and images, or the frame, affects whether one thinks there is an issue at stake and **whether a particular argument applies** to the case. An actor fighting a defensive war is within international law; an aggressor may legitimately be subject to sanctions. Framing and reframing involve mimesis or putting forward representations of what is going on. In mimetic meta-arguments, actors who are struggling to characterize or frame the situation accomplish their ends by drawing vivid pictures of the “reality” through **exaggeration**, analogy, or differentiation. Representations of a situation **do not re-produce accurately** so much as they **creatively re-present** situations in a way that makes sense. “mimesis is a metaphoric or ‘iconic argumentation of the real.’ Imitating not the effectivity of events but their logical structure and meaning.” Certain features are emphasized and others de-emphasized **or completely ignored** as their situation is recharacterized or reframed. Representation thus **becomes a “constraint on reasoning in that it limits understanding to a specific organization of conceptual knowledge**.” The dominant representation delimits which arguments will be considered legitimate, framing how actors see possibities. As Roxanne Doty argues, “the possibility of practices presupposes the ability of an agent to imagine certain courses of action. Certain background meanings, kinds of social actors and relationships, must already be in place.” If, as Donald Sylvan and Stuart Thorson argue, “politics involves the selective privileging of representations, “it **may not matter whether one representation or another is true or not**. **Emphasizing whether frames articulate accurate or inaccurate perceptions misses the rhetorical import** of representation- how frames affect what is seen or not seen, and subsequent choices. **Meta-arguments over representation are thus crucial elements of political argument** because an actor’s arguments about what to do will be more persuasive if their characterization or framing of the situation holds sway. But, as Rodger Payne suggests, “No frame is an omnipotent persuasive tool that can be decisively wielded by norm entrepreneurs without serious political wrangling.” Hence framing is a meta-argument.

#### Broader studies are intimately tied to national policy – they establish, support and foreclose policy decisions

Morrissey 2011 (John, Director of the MA in Environment, Society and Development at NUI Galway and Acting Head of Geography, PhD (University of Exeter), "Architects of Empire: The Military–Strategic Studies Complex and the Scripting of US National Security," Antipode, Vol 43, No. 2)

In the power–knowledge symmetry of the academic–military world, strategic studies discourses do vital geopolitical work: they prioritize, disguise, legitimize and characterize entire conflicts; they reduce political and cultural geographical knowledges of distant places; and they erase the signature of, and accountability for, “our” violence. In a world of euphemisms and neologisms, well paid mercenary soldiers become “contractors” or “security employees”; ungovernable spaces of abject violence andmisery become areas currently experiencing “a slight uptick in violence”; and waterboarding becomes “simulated drowning”, not actual drowning interrupted or torture. As David Bromwich (2008) succinctly puts it, the “‘global war on terrorism’ promotes a mood of comprehension in the absence of perceived particulars, and that is a mood in which euphemisms may comfortably take shelter”. He points out that critical accounts of US foreign policy and its consequences and accountability are limited to popular academic works such as Chalmers Johnson’s *Blowback* or Robert Pape’s *Dying toWin* (Johnson 2000; Pape 2005).23 The reductive “imaginative geographies” of the military–strategic studies complex not only support the operations of US geopolitical and geoeconomic calculation in the Middle East; they also contribute to a pervasive and predominant cultural discourse on the region that has all the hallmarks of Orientalism (Gregory 2004; Little 2002; Said 2003; Shapiro 1997). National security “specialist” commentaries have long enunciated the threat of Islamic fundamentalism in the Middle East and linked it to the feared potential of new political and economic orders emerging in the region (Lewis 1995; Roberts 1995). Since the war on terrorism began, such sentiment has been relentlessly championed in broader popular media circles; a development that has had grave consequences. As Stephen Graham (2005:6, 8) notes, the result of the “combined vitriol of a whole legion of US military “commentators” who enjoy huge coverage, exposure, and influence in the US media” is a world in which whole populations are positioned as unworthy of any “political or human rights”: 24 In the construction of people as inhuman “terrorist” barbarians understanding little but force, and urban places as animalistic labyrinths or “nests” demanding massive military assault, Islamic cities, and their inhabitants, are, in turn, cast out beyond any philosophical, legal, or humanitarian definitions of humankind or “civilisation”. Russell Smith (2003b) was in the minority in lamenting the standard and integrity of US reporting during the early stages of the Iraq War: “North American reporting, and in particular on the US television stations, has been cravenly submissive to the Pentagon and the White House”. As Smith dolefully observes, both the embedded and studio reporting of Fox, CNN and others “dutifully” used the “language chosen by people in charge of ‘media relations’ at the Pentagon”— describing, for example, the exploding of Iraqi soldiers in their bunkers as “softening up”, or referring to slaughtered Iraqi units as “degraded”. Reifying military sentiment rather than critical journalism resulted in the production and circulation of prioritized strategic and geopolitical discourses that worked to foster a reductive public understanding of the conflict (Pred 2007). In such a simplified discursive world, a closeup photograph of a battle-weary, frontline American infantry soldier— Marine Lance Corporal James Blake Miller—during the second Fallujah offensive in Iraq in November 2004 became the “Face of Fallujah” on CBS News, and on the front page of the *Los Angeles Times*, *New York Post* and more than 150 other American newspapers (Sinco 2007a). From the rubble and carnage of Fallujah, it was Miller’s image that became “iconic”; not, as Naomi Klein (2004) points out, an altogether different and proportionately more relevant image—that of “a dead child lying in the street, clutching the headless body of an adult”. The photograph of Lance Corporal Miller was ultimately mobilized into a well established scripting of US national security strategy in which young American men and women each play a heroic part in the defense of freedom overseas for all those who enjoy it at home.25 The recent work of Simon Dalby, Stephen Graham, Derek Gregory and others is both insightful and urgent in illuminating the “huge discursive efforts” in the US-led war on terror in “constructing and reconstructing” key spaces of the Middle East “as little more than receiving points for US military ordnance” (Graham 2005:6; cf Dalby 2007b; Gregory 2004). As outlined earlier, there is of course a long history of the US military, and its strategic studies advisors, mobilizing abstract geostrategic discourses of the Middle East (Klein 1994). The lead-up to the Gulf War in 1991, for example, was a particularly fertile period for airing reductive military visions (Sidaway 1998); and there is a continuum of essentialist scriptings of the Middle East that extend back to at least the late 1970s when the military–strategic studies complex began to assiduously assert US geopolitical and geoeconomic designs for the region in the name of national security (Morrissey 2008). These strategic studies scriptings have collectively served to establish a register of ageographical spaces, have long spoken of terrains and not worlds, and have been typically indifferent to the lives of “Others” (Epstein 1987; Record 1981a; Ullman et al 1996). Critical to our reading of the military–strategic studies complex, moreover, is the recognition that it does not operate outside of the political, decision-making process; as shown above in relation to the Center for Strategic and Budgetary Assessments. Upon taking up office in 1981, the Reagan administration actively consulted with the Institute for Foreign Policy Analysis in planning an effective US geopolitical strategy for the Middle East, and promptly followed its recommendations (and those of its chief specialist, Jeffrey Record) in initiating, and budgeting for, US Central Command as a military necessity to defend US national interests in the Gulf (Record 1981a). The long-standing influence on US foreign policy of American pro-Israel lobby groups and think tanks has been recently demonstrated by John Mearsheimer and Stephen Walt (2006). Others have shown the influence of the Project for the New American Century on the current Bush administration’s particular brand of aggressive foreign policy (Dalby 2006). And one of the architects of that policy, Donald Rumsfeld, as Secretary of Defense, was not averse to sitting down for panel discussions to review the findings of, for example, Brookings Institution surveys (US Department of Defense 2003). It is important to remember too that many of the leading Pentagon and Congressional advisors on the Middle East, such as Kenneth Katzman, for instance, are typically also research analysts in strategic studies institutes (Katzman is an external researcher for the Strategic Studies Institute at the US Army War College); thus enabling the “government–strategic studies” loop (Katzman 2006). Thomas Barnett, too, who worked as the Assistant for Strategic Futures in the Office of Force Transformation at the DoD from the end of 2001 to mid 2003 simultaneously held a professorship in strategic studies at the WarfareAnalysis and Research Department at theUSNavalWar College in Newport, Rhode Island. His combined DoD and strategic studies work culminated in the publication of his influential and commercially successful *The Pentagon’s New Map*s in 2004, in which he envisages a new grand strategy for the USA in a post-Cold War and post-9/11 age: closing the gaps of neoliberal economic order across the globe (Barnett 2004; cf Dalby 2007a). Such “academic” strategic scriptings of US national security have long proved a supporting and legitimating intellectual cache for military action; they have been instrumental in the advancement of what Bradley Klein calls a “cultural hegemony of organized state violence” (1988a:136). A recent case in point was provided by the current Commander of the Multi-National Force in Iraq, General David Petraeus. Writing in 2006, the much-heralded military saviour for the Iraq War did not just see an infantry surge as the key to success. He recognized too the importance of what has become a buzz word in US military circles in recent years, “culture”: Knowledge of the cultural terrain can be as important as, and sometimes even more important than, the knowledge of the geographical terrain. This observation acknowledges that people are, in many respects, the decisive terrain, and that we must study that terrain in the same way that we have always studied the geographical terrain (2006:51). A subsequent publication of a Professor of East Asian Studies at Oberlin College in Ohio, entitled *On the Uses of Cultural Knowledge*, variously echoed and held up Petraeus’ sentiments. In it, Dr Sheila Jager (2007:1) sets the tone for her appraisal of the importance of “culture” for the Iraq War thus: Faced with a brutal war and insurgency in Iraq, the many complex political and social issues confronted by U.S. military commanders on the ground have given rise to a new awareness that a cultural understanding of an adversary society is imperative if counterinsurgency is to succeed. Dr Jager was writing from, and for, the Strategic Studies Institute of the U.S. Army War College, where she was then a Visiting Fellow in National Security Studies. She concluded her analysis of the “uses of cultural knowledge” for the US military by suggesting that “perhaps it not too late [sic.] for culture to also rescue the United States from the *strategic* failures of the Bush Doctrine” (2007:24; emphasis added).26 As Derek Gregory (2008a:8) correctly notes, the recent development of “culture-centric warfare” did not emanate from “academics, military theorists or think-tanks”; it emerged largely from the “improvised tactics developed and shared by responsive commanders in the field”. However, themilitary’s “cultural turn”was quickly supported, expedited and legitimized by strategic studies. For both Jager and Petraeus, the cultural terrain of the military landscape now needs to be increasingly studied—strategically. Moreover, as Gregory has also shown, the US military’s cultural turn “does not dispense with killing” but rather is “a prerequisite for its refinement” (2008a:10). That the US military has reached a dangerously clinical appreciation of culture, and why knowledge of it matters in wartime, should shock us but it should not surprise us. What is even more troubling is that uncritical elements of the intellectual academy—from East Asian studies to geography, from international relations to psychology—are being increasinglymobilized in the service, support and sustenance of the military; developments that are of course entirely consistent with the increased neoliberalization of war and use of private contractors.

### AT Perm – Do Both

#### 1. Cross-apply framework – the aff must prove there’s value in incorporating their discourse and epistemology. Testing competitiveness with the plan is nonsensical because our kritik is about their scholarship.

#### 2. Theory – permutations must include 1AC representations, they’re the majority of the opening speech. Severance makes the aff a moving target and being neg becomes impossible. The aff isn’t selected in a vacuum, they had infinite prep to select advantages they had defenses of.

#### 3. Liberal policy option ward off critique

Burke 7 – Associate Professor of Politics and International Relations in the University of New South Wales (Anthony, Beyond Security, Ethics and Violence, p. 3-4)

These frameworks are interrogated at the level both of their theoretical conceptualisation and their practice: in their influence and implementation in specific policy contexts and conflicts in East and Central Asia, the Middle East and the 'war on terror', where their meaning and impact take on greater clarity. This approach is based on a conviction that the meaning of powerful political concepts cannot be abstract or easily universalised: they all have histories, often complex and conflictual; their forms and meanings change over time; and they are developed, refined and deployed in concrete struggles over power, wealth and societal form. While this should not preclude normative debate over how political or ethical concepts should be defined and used, and thus be beneficial or destructive to humanity, it embodies a caution that the meaning of concepts can never be stabilised or unproblematic in practice. Their normative potential must always be considered in relation to their utilisation in systems of political, social and economic power and their consequent worldly effects. Hence this book embodies a caution by Michel Foucault, who warned us about the 'politics of truth . . the battle about the status of truth and the economic and political role it plays', and it is inspired by his call to 'detach the power of truth from the forms of hegemony, social, economic and cultural, within which it operates at the present time'.1 It is clear that traditionally coercive and violent approaches to security and strategy are both still culturally dominant, and politically and ethically suspect. However, the reasons for pursuing a critical analysis **relate not only to the** most destructive or controversial approaches, such as the war in Iraq, **but also to their available** (and generally preferable) alternatives. There is a necessity to question not merely extremist versions such as the Bush doctrine, Indonesian militarism or Israeli expansionism, **but also their mainstream critique**s - whether they take the form **of liberal policy approaches** in international relations (IR), just war theory, US realism, optimistic accounts of globalisation, rhetorics of sensitivity to cultural difference, or centrist Israeli security discourses based on territorial compromise with the Palestinians. The surface appearance of lively (and often significant) debate masks a deeper agreement **about major concepts**, forms of political identity and the imperative to secure them. Debates about when and how it may be effective and legitimate to use military force in tandem with other policy options, for example, mask a more fundamental discursive consensus about the meaning of security, the effectiveness of strategic power, the nature of progress, the value of freedom or the promises of national and cultural identity. As a result, political and intellectual debate about insecurity, violent conflict and global injustice can become hostage to a claustrophic structure of political and ethical possibility that systematically wards off critique**.**

**4. Multiple perms are a VI – no risk option for the aff that demands lots of block time and are impossible to generate offense against, sandbags explanation to the 1AR screwing the neg, ci – they get 1 permutation.**

#### Embedded in their 1ac discourse –

### Wayne St JS – Declaration of War

#### Assuming we can legally justify intervention cements epistemologically suspect juridical warfare---that naturalizes global preemptive violence

Morrissey 11 (John Morrissey, Lecturer in Political and Cultural Geography, National University of Ireland, Galway; has held visiting research fellowships at University College Cork, City University of New York, Virginia Tech and the University of Cambridge. Liberal Lawfare and Biopolitics: US Juridical Warfare in the War on Terror, Geopolitics, Volume 16, Issue 2, 2011)

Foucault’s envisioning of a more governmentalized and securitized modernity, framed by a ubiquitous architecture of security, speaks on various levels to the contemporary US military’s efforts in the war on terror, but I want to mention three specifically, which I draw upon through the course of the paper. First, in the long war in the Middle East and Central Asia, the US military actively seeks to legally facilitate both the ‘circulation’ and ‘conduct’ of a target population: its own troops. This may not be commonly recognized in biopolitical critiques of the war on terror but, as will be seen later, the Judge Advocate General Corps has long been proactive in a ‘juridical’ form of warfare, or lawfare, that sees US troops as ‘technical-biopolitical’ objects of management whose ‘operational capabilities’ on the ground must be legally enabled. Secondly, as I have explored elsewhere, the US military’s ‘grand strategy of security’ in the war on terror — which includes a broad spectrum of tactics and technologies of security, including juridical techniques — has been relentlessly justified by a power/knowledge assemblage in Washington that has successfully scripted a neoliberal political economy argument for its global forward presence.’9 Securitizing economic volatility and threat and regulating a neoliberal world order for the good of the global economy are powerful discursive touchstones registered perennially on multiple forums in Washington — from the Pentagon to the war colleges, from IR and Strategic Studies policy institutes to the House and Senate Armed Services Committees — and the endgame is the legitimization of the military’s geopolitical and biopolitical technologies of power overseas,20 Finally, Foucault’s conceptualization of a ‘society of security’ is marked by an urge to ‘govern by contingency’, to ‘anticipate the aleatory’, to ‘allow for the evental’.2’ It is a ‘security society’ in which the very language of security is promissory, therapeutic and appealing to liberal improvement. The lawfare of the contemporary US military is precisely orientated to plan for the ‘evental’, to anticipate a 4 series of future events in its various ‘security zones’ — what the Pentagon terms ‘Areas of Responsibility’ or ‘AORs’ (see figure 1)•fl These AORs equate, in effect, to what Foucault calls “spaces of security”, comprising “a series of possible events” that must be securitized by inserting both “the temporal” and “the uncertain”. And it is through preemptive juridical securitization ‘beyond the battlefield’ that the US military anticipates and enables the necessary biopolitical modalities of power and management on the ground for any future interventionary action. AORs and the ‘milieu’ of security For CENTCOM Commander General David Petraeus, and the other five US regional commanders across the globe, the population’ of primary concern in their respective AORs is the US military personnel deployed therein. For Petraeus and his fellow commanders, US ground troops present perhaps less a collection of “juridical-political” subjects and more what Foucault calls “technical- political” objects of “management and government”.25 In effect, they are tasked with governing “spaces of security” in which “a series of uncertain elements” can unfold in what Foucault terms the “milieu”.26 What is at stake in the milieu’ is “the problem of circulation and causality”, which must be anticipated and pLanned for in terms of “a series of possible events” that need to “be regulated within a multivalent and transformable framework”.27 And the “technical problem” posed by the eighteenth-century town planners Foucault has in mind is precisely the same technical problem of 5 space, population and regulation that US military strategists and Judge Advocate General Corps (JAG) personnel have in the twenty-first century. For US military JAGs, their endeavours to legally securitize the AORs of their regional commanders are ultimately orientated to “fabricate, organize, and plan a milieu” even before ground troops are deployed (as in the case of the first action in the war on terror, which I return to later: the negotiation by CENTCOM JAGs of a Status of Forces Agreement with Uzbekistan in early October 2OO1).2 JAGs play a key role in legally conditioning the battlefield, in regulating the circulation of troops, in optimizing their operational capacities, and in sanctioning the privilege to kill. The JAG’s milieu is a “field of intervention”, in other words, in which they are seeking to “affect, precisely, a population”.29 To this end, securing the aleatory or the uncertain is key. As Michael Dillon argues, central to the securing of populations are the “sciences of the aleatory or the contingent” in which the “government of population” is achieved by the regulation of “statistics and probability”.30 As he points out elsewhere, you “cannot secure anything unless you know what it is”, and therefore securitization demands that “people, territory, and things are transformed into epistemic objects”.3’ And in planning the milieu of US ground forces overseas, JAGs translate regional AORs into legally-enabled grids upon which US military operations take place. This is part of the production of what Matt Hannah terms “mappable landscapes of expectation”;32 and to this end, the aleatory is anticipated by planning for the ‘evental’ in the promissory language of securitization. The ontology of the event’ has recently garnered wide academic engagement. Randy Martin, for example, has underlined the evental discursive underpinnings of US military strategy in the war on terror; highlighting how the risk of future events results in ‘preemption’ being the tactic of their securitization.33 Naomi Klein has laid bare the powerful event-based logic of disaster capitalism’;34 while others have pointed out how an ascendant logic of premediation’. in which the future is already anticipated and mediated”. is a marked feature of the “post-9/1 I cultural landscape”.35 But it was Foucault who first cited the import of the evental’ in the realm of biopolitics. He points to the “anti-scarcity system” of seventeenth-century Europe as an early exemplar of a new ‘evental’ biopolitics in which “an event that could take place” is prevented before it “becomes a reality”.36 To this end, the figure of ‘population’ becomes both an ‘object’, “on which and towards which mechanisms are directed in order to have a particular effect on it”, but also a ‘subject’, “called upon to conduct itself in such and such a fashion”.37 Echoing Foucault, David Nally usefully argues that the emergence of the “era of bio-power” was facilitated by “the ability of ‘government’ to seize, manage and control individual bodies and whole populations”.38 And this is part of Michael Dillon’s argument about the “very operational heart of the security dispositif of the biopolitics of security”, which seeks to ‘strategize’, ‘secure’. ‘regulate’ and ‘manipulate’ the “circulation of species Iife”.3 For the US military, it is exactly the circulation and regulation of life that is central to its tactics of lawfare to juridically secure the necessary legal geographies and biopolitics of its overseas ground presence.

#### Hegemonic mapping –

#### Gallagher -- the US has the "world’s most capable war-fighting machine" -- frustrated our battles keep ending in stalemate – wants the US to maintain image by winning wars

#### Brezinski -- former natl security advisor that is globally mapping threats – he says among other things…

**-- Russia will take over FSR**

**-- Turkey will reclaim the Ottoman empire**

**-- Asia of the 21st century will resemble Europe of the 20th century -- "violent and bloodthirsty"**

#### US hegemony maps the world as a source of danger and insecurity. These representations produce the world that they claim to describe.

Campbell et al. 7 [David, Professor of Cultural and Political Geography at Durham University, Luiza Bialasiewicz, Senior Lecturer in the Department of Geography at Royal Holloway University of London, Stuart Elden, Professor in the Department of Geography at Durham University, Stephen Graham, Professor of Human Geography in the Department of Geography at Durham University, Alex Jeffrey, Lecturer in the School of Geography, Politics and Sociology at Newcastle University, Alison J. Williams, Post-Doctoral Research Associate in the International Boundaries Research Unit of the Geography Department at Durham University, Political Geography 26, “Performing security: The imaginative geographies of current US strategy,” p. 409-411]

It is important to highlight the way performativity’s idea of reiteration calls attention to changes in historically established imaginative geographies. While US foreign policy has been traditionally written in the context of identity/difference expressed in self/other relationships (Campbell, 1992), we detect in recent strategic performances a different articulation of America’s relationship to the world. Signified by the notion of integration we identify elements in the formation of a new imaginative geography which enable the US to draw countries into its spheres of influence and control. We show how integration (and its coeval strategies of exclusion) has been enunciated over the last 15 years through popular-academic books, think-tank documents, policy programmes and security strategies, as well as popular geopolitical sources. This concept of integration, we argue, is enacted through a number of practices of representation and coercion that encourage countries to adopt a raft of US attitudes and ways of operating or else suffer the consequences. As such, we are witnessing the performance of a security problematic that requires critical perspectives to move beyond a simple ideal/material dichotomy in social analysis in order to account for more complex understandings of opposition, including the emergence of new, mobile geographies of exclusion.¶ Non-state scribes¶ To understand the power of the imaginative geographies guiding current US strategy it is important to look back at the recitation, reiteration and resignification of previous strategic formulations. During the Clinton years, a number of figures who had been involved in various guises in previous Republican administrations wrote widely on the geopolitical opportunities and threats of a post-Cold War era. From specifications of the threat posed by international terrorism, ‘failed states’ and ‘rogue regimes’, to the dangers posed by cultural/civilisational conflicts. The individuals and institutions we choose to examine in this section are those whose geographical imaginations have been central in laying the ground for some of the securitizing strategies of the current Bush administration and, specifically, whose work has been key in specifying the importance of ‘‘integrating’’ a chaotic world where conflict is inevitable.¶ The writers whose work we highlight here occupy a liminal position within policy circles. While not paid members of the administration, they have either occupied such positions in the past or were aspiring to them in the future. They do not, therefore, directly speak for the state (a position that grants them a veneer of ‘‘objectivity’’), and they navigate in the interstices between academic and ‘‘policy-oriented’’ research: a location that, in turn, absolves them from the rigors of a scholarly discipline, including disciplinary critique. By the term ‘non-state scribes’ we wish to indicate those who occupy a liminal zone between academic and non-academic work, working in a range of governmental and private research centres, think-tanks and study groups. What we would like to highlight are some of the ways in which their influence problematises simple, secure understandings of the state and the constitution of ‘state-interest’. While these individuals appear as impartial commentators-cum-advisers-cum-analysts, their access to policy circles is open, if not privileged. To the extent that their geographical imaginations are invoked by state power, they are also today’s consummate ‘‘intellectuals of statecraft’’: those who ‘‘designate a world and ‘fill’ it with certain dramas, subjects, histories and dilemmas’’ (O ́ Tuathail & Agnew, 1992: 192).¶ Certainly the most prominent self-styled ‘community of experts’ intersecting with the Bush administration is the Project for a New American Century (for critical analysis see Sparke, 2005). The PNAC, founded in the spring of 1997, defines itself as a ‘‘non-profit, educational organization whose goal is to promote American global leadership’’ (see PNAC, 2006). Putatively lying outside ‘‘formal’’ policy networks, the Project from its inception has aimed to provide the intellectual basis for continued US military dominance – and especially the willingness to use its military might.¶ As sole hegemon, PNAC argued, the US could not ‘‘avoid the responsibilities of global leadership’’. But it should not simply ‘‘react’’ to threats as they present themselves: it should, rather, actively shape the global scenario before such threats emerge: ‘‘the history of the 20th century should have taught us that it is important to shape circumstances before crises emerge, and to meet threats before they become dire’’ (PNAC, 2000: i).¶ The resonance of these views with those of the Bush administration should come as no surprise: among the Project’s founders were individuals who had held posts in previous Republican administrations and went on to serve in Bush’s cabinet: Vice-President Dick Cheney, former Defense Secretary Donald Rumsfeld and his deputy and now World Bank President Paul Wolfowitz, along with the former ambassador to Iraq (and soon to be US Ambassador to the UN) Zalmay Khalilzad, in addition to well known neoconservatives shaping policy debates in the US today, including Francis Fukuyama, Norman Podhoretz, and William Kristol (see Fukuyama, 2006; Williams, 2005). Unsurprisingly, the most explicit formulation of what would become goals of the Bush administration can be found in the PNAC’s manifesto Rebuilding America’s Defenses, which appeared in the election year of 2000. Here and in subsequent documents, the PNAC envisages the US military’s role to be fourfold: ‘‘Defend the American Homeland’’; ‘‘fight and decisively win multiple, simultaneous major theatre wars’’; ‘‘perform the ‘constabulary’ duties associated with shaping the security environment in critical regions’’; and ‘‘transform U.S. forces to exploit the ‘revolution in military affairs’’’ (PNAC, 2000: iv, 5; cf. The White House, 2002b: 30).¶ It is telling just how spatialised some of these specifications become when worked through in detail. Already in 2000, PNAC argued that the major military mission is no longer to deter Soviet expansionism, but to ‘‘secure and expand zones of democratic peace; deter rise of new great-power competitor; defend key regions; exploit transformation of war’’ (PNAC, 2000: 2). They suggested that rather than the Cold War’s ‘‘potential global war across many theatres’’, the concern now is for several ‘‘potential theatre wars spread across the globe’’ fought against ‘‘separate and distinct adversaries pursuing separate and distinct goals’’ (2000: 2, 3). To counter such threats, the US needs to station its troops broadly, and their presence ‘‘in critical regions around the world is the visible expression of the extent of America’s status as a superpower and as the guarantor of liberty, peace and stability’’ (2000: 14). They claimed that while US security interests have ‘‘expanded’’, and that its forces ‘‘provide the first line of defense in what may be described as the ‘American security perimeter’’’, at the same time ‘‘the worldwide archipelago of U.S. military installations has contracted’’ (2000: 14, 15). Because the security perimeter ‘‘has expanded slowly but inexorably’’ since the end of the Cold War, US forces – ‘‘the cavalry on the new American frontier’’ – ‘‘must be positioned to reflect the shifting strategic landscape’’ (2000: 14, 15). Equally, their use of the term ‘homeland’ drew strongly on its use in the Clinton administration – and prefigured the creation of the Office for Homeland Security under G.W. Bush, with the concept strengthened by both the PATRIOT acts and the establishment of U.S. Northern Command.¶ Again, it is essential that we conceptualize these strategies as both containing and making imaginative geographies; specifying the ways ‘‘the world is’’ and, in so doing, actively (re)-making that same world. This goes beyond merely the military action or aid programmes that governments follow, but indicates a wider concern with the production of ways of seeing the world, which percolate through media, popular imaginations as well as political strategy. These performative imaginative geographies are at the heart of this paper and will re-occur throughout it. Our concern lies specifically with the ways in which the US portrays – and over the past decade has portrayed – certain parts of the world as requiring involvement, as threats, as zones of instability, as rogue states, ‘‘states of concern’’, as ‘‘global hotspots’’, as well as the associated suggestion that by bringing these within the ‘‘integrated’’ zones of democratic peace, US security – both economically and militarily – can be preserved. Of course, the translation of such imaginations into actual practice (and certainly results) is never as simple as some might like to suggest. Nonetheless, what we wish to highlight here is how these strategies, in essence, produce the effect they name. This, again, is nothing new: the United States has long constituted its identity at least in part through discourses of danger that materialize others as a threat (see Campbell, 1992). Equally, much has been written about the new set of threats and enemies that emerged to fill the post-Soviet void – from radical Islam through the war on drugs to ‘‘rogue states’’ (for a critical analyses see, among others, Benjamin & Simon, 2003; Stokes, 2005; on the genealogies of the idea of ‘‘rogue states’’ see Blum, 2002; Litwak, 2000).

#### -- says US would be more nationalistic, you cause that with your rhetoric and only the alt’ can solve it

Fettweis 10 (Christopher J., Professor of Political Science at Tulane, “Threat and Anxiety in US Foreign Policy,” Survival 52.2, Informaworld)

For the architects of US foreign policy, one belief has remained constant since the Second World War: we are living in dangerous times. In the 1950s, fears of communism caused the United States to raise and maintain an enormous peacetime military for the first time in its history, an action that would have horrified the founding generation. The Cold War ended, but the perception of threat lived on. Today, the Committee on the Present Danger, first established in the 1950s, has re-emerged to assure America that mortal danger had not gone the way of the Soviet Union. Former Speaker of the House Newt Gingrich is typical of many American leaders in his belief that the challenges of the current era are every bit as great as those faced by Abraham Lincoln during the Civil War, taking it as given that America's present enemies pose a 'mortal threat to our survival as a free country'.11 To US foreign policymakers, the world is full of enemies and evil, and America must never relax its guard. More than one observer has noted that the United States displays a level of threat perception that is far higher than that of the other great powers.12 This feeling of insecurity is not limited to US leaders. Six in ten Americans apparently think that a Third World War is 'likely to occur' in their lifetime; others, including influential opinion-makers, believe it has already begun.13 In April 2007, 82% of Americans told pollsters that the world is a more dangerous place than it used to be, and that it is getting worse. One year later, another poll by the same firm found that a 'significant majority' of Americans were anxious about US security, demonstrating that in the United States, 'anxiety remains steady over time'.14 This level of anxiety is striking when compared to public opinion in other post-Cold War powers. Whether the issue is Islamic fundamentalist terrorism or rogue actors such as Saddam Hussein or Hugo Chaacutevez, the United States detects higher levels of danger than any other state. During the Cold War, the pattern was the same: the United States feared an attack by the Warsaw Pact far more than did its West European allies, who presumably had more to lose if such an event occurred; it worried about the influence of communist China more than did South Korea, Japan or the ASEAN states; and it obsessed over the potential pernicious influence of Fidel Castro and the Sandinistas more than did the smaller states of the region.15 Despite the fact that virtually all other states are demonstrably weaker than the United States, and therefore presumably more vulnerable to a variety of threats, they do not seem to worry about their safety nearly as much as does Uncle Sam. Is the US perception justified? Just because a country is paranoid does not mean that there are not forces seeking to do it harm. Any modern state is confronted with a number of possible dangers and threats. The question is whether those facing the twenty-first-century United States are quite as dire as its leaders seem to believe. Conventional security threats Compared to any other country in the long history of international affairs, the United States is fundamentally safe from conventional assault. It is hard to imagine how even the combined military and economic might of Eurasia (if such a combination were possible) could be harnessed to mount a successful trans-oceanic invasion. Today, a few nuclear weapons would probably suffice to deter **any imaginable approaching armada**, but even before the nuclear age few serious strategists considered invasion a realistic possibility. 'Shall we expect some transatlantic military giant, to step the Ocean, and crush us at a blow?' wondered Abraham Lincoln in 1838: Never! All the armies of Europe, Asia and Africa combined, with all the treasure of the earth (our own excepted) in their military chest; with a Bonaparte for a commander, could not by force, take a drink from the Ohio, or make a track on the Blue Ridge, in a trial of a thousand years.16 Princeton international-relations scholars Harold and Margaret Sprout spoke for many security analysts when they argued in 1939 that by the time the United States entered the First World War, 'it was manifest, both from indisputable data publicly available at that time and from inferences easily and fairly deductible therefrom' that a trans-oceanic invasion 'simply could not occur'.17 Not only is the invasion and conquest of the United States virtually unthinkable, but warfare of all kinds is everywhere on the decline. Since the end of the Cold War, inter-and intra-national conflict and crises have steadily declined in number and intensity.18 The risk for the average person of dying in battle has plummeted since the Second World War, especially since the end of the Cold War.19 The incidence of new wars is also at an all-time low.20 Only one international war has been fought since the invasion of Iraq, and it can be counted only if the common understanding of 'war' is stretched a bit. Despite the sound and fury that accompanied the 2008 Russo-Georgian clash, the combined battle-death figure appears to be under 1,000, which means it would not even qualify as a war using the most-used definitions.21 By virtually all measures, the world is a far more peaceful place than it has been at any time in recorded history. This trend is apparent on every continent. At the beginning of 2010, the only conflict raging in the Western Hemisphere was the ongoing civil war in Colombia, but even this conflict is far less severe today than it was ten years ago. Europe, which has in the past been the most war-prone of continents, is entirely calm, without even the threat of inter-state conflict. Little war planning now goes on among the European powers, a rather stark departure from previous eras.22 Every one of the two billion or so people of the Pacific Rim is currently living in a society at peace. The brief but bloody Sri Lankan civil war was Asia's only conflict in 2009. In Africa, despite a variety of serious on-going challenges, levels of conflict are the lowest they have been in the centuries of written history we have about the continent. In the greater Middle East, the Israeli-Palestinian issue continues to simmer, if at a relatively low level, as do the civil war in Yemen and the two counterinsurgency campaigns in which the United States and its allies currently find themselves bogged down. None of this is to suggest that these places are without problems, or that war is impossible. But given the rapid increase in the world's population and the number of countries (the League of Nations had 63 members at its peak between the wars, while the United Nations currently has 192), a pure extrapolation of historical trends might lead one to expect a great deal more warfare than there actually is. Conquest, it seems, is far less common today than it has been throughout history. Territorial disputes, the most common cause of warfare in the past, have dropped to record low levels, especially among the great powers. International borders have all but hardened. By any reasonable measure, the world is living in a golden age of peace and security, even if it may not always appear so. If indeed major war is all but obsolete, as an increasing number of prominent observers believe,23 then surely even the most diehard pessimists can admit that the United States need not fear invasion and conquest. State survival, the key factor behind state behaviour according to 'defensive realists', is today all but assured for even the smallest states.24 To be sure, throughout most of human history, the obliteration of political entities was a distinct possibility. Polities as diverse as Central Asian empires, Greek poleis and German 'princely states' were all at risk of conquest or absorption by powerful neighbours. That this no longer occurs is an under-appreciated break from the past. Since the Second World War, precisely zero UN members have been forcibly removed from the map.25 Today, states are safe from complete annihilation. The stronger countries are even safer; the strongest is the safest. A variety of explanations have been proposed to account for this peaceful trend. Some realists take the view that nuclear weapons have thrust peace upon the otherwise conflictual system.26 Liberal explanations include the expanding number of democracies, multilateral institutions and the deepening complexity of economic interdependence.27 Constructivists do not necessarily deny the importance of any of these factors, but give primary credit to a change in ideas in contemporary international society.28 Those factors exogenous to the human mind are important only to the extent that they affect the way people think, and that society functions. It is ideational evolution, and the corresponding change in behavioural norms regarding conflict, that has been decisive in this view. All these explanations share one important factor: the change they describe is likely to be irreversible. Nuclear weapons cannot be uninvented, and no defence against their use is ever going to be completely foolproof. The pace of globalisation and economic interdependence shows no sign of slowing. Democracy seems to be firmly embedded in the cultural fabric of many of the places it currently exists, and may well be in the process of spreading to the places where it does not. The United Nations shows no signs of disappearing. Finally, normative progress, like that which brought an end to slavery and duelling, tends to be unidirectional. One potential explanation for the growth of global peace can be dismissed fairly quickly: US actions do not seem to have contributed much. The limited evidence suggests that there is little reason to believe in the stabilising power of the US hegemon, and that there is no relation between the relative level of American activism and international stability. During the 1990s, the United States cut back on its defence spending fairly substantially. By 1998, the United States was spending $100 billion less on defence in real terms than it had in 1990, a 25% reduction.29 To internationalists, defence hawks and other believers in hegemonic stability, this irresponsible 'peace dividend' endangered both national and global security. 'No serious analyst of American military capabilities', argued neo-conservatives William Kristol and Robert Kagan in 1996, 'doubts that the defense budget has been cut much too far to meet America's responsibilities to itself and to world peace'.30 And yet the verdict from the 1990s is fairly plain: the world grew more peaceful while the United States cut its forces. No state seemed to believe that its security was endangered by a less-capable US military, or at least none took any action that would suggest such a belief. No militaries were enhanced to address power vacuums; no security dilemmas drove insecurity or arms races; no regional balancing occurred once the stabilis-ing presence of the US military was diminished. The rest of the world acted as if the threat of international war was not a pressing concern, despite the reduction in US military capabilities. Most of all, the United States was no less safe. The incidence and magnitude of global conflict declined while the United States cut its military spending under President Bill Clinton, and kept declining as the George W. Bush administration ramped the spending back up. Complex statistical analysis is unnecessary to reach the conclusion that world peace and US military expenditure are unrelated. Unconventional security threats Conventional war, much less outright assault, is not the leading security challenge in the minds of most Americans today. Instead, irregular or non-state actors, especially terrorists, top the list of threats to the West since 11 September 2001. The primary guiding principle of US foreign policymaking, for better or worse, is the continuing struggle against terrorism. President Bush repeatedly used the term 'Islamofascists' to describe the enemy that he re-oriented the US defence establishment to fight, transforming al-Qaeda from a ragtag band of lunatics into a threat to the republic itself. It is not uncommon for even sober analysts to claim that Islamic terrorists present an 'existential threat' to the United States, especially if they were ever to employ nuclear, biological or chemical weapons. Perhaps it is Parkinson's Law that inspires some analysts to compare Islamic fundamentalists with the great enemies of the past, such as the Nazis or the Communists, since no rational analysis of their destructive potential would allow such a conclusion. Threat is a function of capabilities and intent; even if al-Qaeda has the intent to threaten the existence of the United States, it does not possess the capability to do so. This is not to deny that Islamist terrorists pose a danger to the United States, or to suggest that policymakers are poised to 'let down their guard', as President Bush has worried. A rational United States, however, would interpret this issue for what it is: a law-enforcement challenge of the first order rather than an existential strategic threat. Fortunately, there is no meaningful dissension in the industrialised world about modern transnational problems such as terrorism, weapons proliferation, human trafficking, drug smuggling or piracy. Multilateral cooperation, coordination and intelligence-sharing to address such issues are in the interest of every state and occur at high, if often under-reported, levels. Police action against terrorism is much less expensive than war, and is likely to be far more productive. Even terrorists equipped with nuclear, biological or chemical weapons would be incapable of causing damage so cataclysmic that it would prove fatal to modern states. Though the prospect of terrorists obtaining and using such weapons is one of the most consistently terrifying scenarios of the new era, it is also highly unlikely and not nearly as dangerous as sometimes portrayed. As the well-funded, well-staffed Aum Shinrikyo cult found out in the 1990s, workable forms of weapons of mass destruction are hard to purchase, harder still to synthesise without state help, and challenging to use effectively. The Japanese group managed to kill a dozen people on the Tokyo subway system at rush hour. While tragic, the attack was hardly the stuff of apocalyptic nightmares. Super-weapons are simply not easy for even the most sophisticated non-state actors to use.31 If terrorists were able to overcome the substantial obstacles and use the most destructive weapons in a densely populated area, the outcome would of course be terrible for those unfortunate enough to be nearby. But we should not operate under the illusion that doomsday would arrive. Modern industrialised countries can cope with disasters, both natural and man-made. As unpleasant as such events would be, they do not represent existential threats. Responsibility lies with those who ought to know better The American public can be forgiven for being afraid of nuclear-, biological-or chemical-armed terrorists, since the messages they have been receiving from US leaders have been uniformly apocalyptic, informed by worst-case thinking. The responsibility for this pathological fear lies with those who ought to know better - who know, for instance, that plastic sheeting and duct tape are not realistic protections against anything, but who recommend their stockpiling anyway. Terrorists can kill people and scare many more, but the localised damage they can cause is by itself incapable of changing the character of Western civilisation. Only the people of the West, largely through their own overreaction, can accomplish that. While US analysts spend time worrying about such events, it is worth recalling that the diplomats of any prior age would likely have been quite grateful to have our problems in lieu of their own. Today's security debate often seems to be driven less by actual threats than vague, unnamed dangers. Former Secretary of Defense Donald Rumsfeld warned about 'unknown unknowns': the threats 'we don't know we don't know', which 'tend to be the difficult ones'.32 Kristol and Kagan worry that if the United States fails to remain highly engaged, the international system 'is likely to yield very real external dangers, as threatening in their own way as the Soviet Union was a quarter century ago'.33 What exactly these dangers are is left open to interpretation. In the absence of identifiable threats, the unknown can provide us with an enemy, one whose power is limited only by the imagination. This is what Benjamin Friedman and Harvey Sapolsky call 'the threat of no threats', and is perhaps the most frightening danger of all.34 Even if, as folk wisdom has it, anything is possible, not everything is plausible. Vague, generalised dangers should never be acceptable replacements for specific threats when crafting national policy. There is no limit to the potential dangers the human mind can manufacture, but there are very definite limits to the specific threats the world contains. 'To make any thing very terrible, obscurity seems in general to be necessary', noted Edmund Burke. 'When we know the full extent of any danger, when we can accustom our eyes to it, a great deal of the apprehension vanishes.'35 The full extent of today's dangers is not only knowable, but relatively minor. Non-security threats: liberty and prosperity Security is not the only vital national interest, of course. Prosperity and democracy are typically items included on the short list of issues for which the United States should be willing to fight. During the Cold War, neither could be taken for granted. The health of the US economy would presumably have been at grave risk if the rest of the world had been swept into the communist camp. A united, hostile, Soviet-led Eurasia could have posed a major threat to the United States. Embargoes or other forms of economic warfare could have proved devastating to the US standard of living. Furthermore, as economist and political theorist (and later national security advisor) Walter Rostow argued at the time, if totalitarian dictatorships had come to power across the world, the very survival of democracy in the United States would have been imperiled.36 The precarious balance that every country must strike between liberty and security might have tilted decisively toward the latter if the United States were left alone in a hostile world. It was difficult for Rostow to imagine how American democracy could have long survived as an island in a totalitarian sea. It was therefore imperative for the United States to oppose the spread of communism in Eurasia, to secure the future of both prosperity and liberty. The vigour with which post-Cold War American administrations have pursued the promotion of democracy around the world might make one believe that without a strong ally, liberty and freedom are powerless and doomed, and even under threat in the United States. One need not be convinced that history has ended, however, to accept the notion that the collapse of communism has left no viable political challenger to democracy and no economic alternative to free markets.37 No political ideology exists around which to rally a hostile coalition of states against the major democratic powers. Communism and fascism, while perhaps not completely dead, are relegated to the background, and although totalitarianism persists in some regions of the world, political legitimacy in today's international society comes from a mandate from the masses. Even if democracy does not soon infiltrate those last bastions of illiberalism (and it might), it is not losing ground to other forms of government. Meanwhile, 'waves' of democracy have at times swept over the world with very little direct aid from abroad, and it is reasonable to assume that the values of liberty and freedom will endure even without US efforts to promote them.38 In addition, although the flavours may differ, free-market capitalism is today almost universally recognised as the fastest route to prosperity and wealth. Were a group of unfriendly governments to come to power in Eurasia, they would still find it in their interest to maintain trade and financial relations with the United States. No state would benefit from cutting ties with the world's largest market and producer of goods. Economic inter-dependence is, after all, a two-way street; the major trading partners of the United States are all more dependent upon the US market than vice versa.39 As long as capitalism remains the dominant form of economic organisation, and there is little reason to believe that any change is on the horizon, the economic danger presented by even the most hostile of coalitions will remain extremely low. Explaining the pathology If a mismatch between perceptions of threat and reality indeed exists in the United States, how can it be explained? If the connection between power and paranoia is an example of a political pathology, one that compels irrational reactions and behaviour, why is it present? Potential explanations draw from structural features of the international system; those unique to the American experience; and factors of individual psychology. Systemic-level explanations Since great powers have broader interests than do smaller powers, one might expect that the lone hyperpower in a unipolar system would have the broadest interests of all.40 With great power comes both great flexibility to pursue a wide variety of goals and great responsibility to affect the progression of events. 'Most countries are primarily concerned with what happens in their neighborhoods', says Robert Jervis, 'but the world is the unipole's neighborhood'.41 As interests expand, new threats appear which, if states are not careful, can soon take on an inflated importance and inspire unnecessary action. Threats to secondary interests can rapidly be misinterpreted as significant dangers if not kept in perspective by a constant, conscious process of evaluation. The expansion of interests as power grows is natural, but the interpretation of those new interests as vital is not. Vital national interests do not change from decade to decade, much less from administration to administration, but interest inflation is a central aspect of foreign-policy pathology in unipolar systems. Great powers of the past have often proved unable to disconnect vital interests from peripheral ones as expansion occurred. Newly perceived dangers have seemed to require action, which has often taken the form of further expansion, leading to the identification of new threats. There will never be a time when no threats can be generated by the human imagination. States can never be fully safe if all interests are vital and all threats dire. Insecurity has no natural limits, and if not kept in check can easily lead to overexpansion, overspending and decline.42 Historical examples are not difficult to find. Two millennia after its collapse, it is easy to forget that insecurity contributed to the growth of the Roman Empire. Many of its most prominent conquests, from Gaul to Dacia to Iberia, were driven not only by the desire for glory or plunder but also by the sincere belief that the populations along Rome's widening periphery could represent a threat. Cicero observed that many Romans felt that expansion was thrust upon them, as part of a project to rid themselves of 'frightening neighbours'.43 The fact that most of these neighbours were manifestly weaker did not matter. As its power grew, so too did Rome's insecurity. Even Rome's most ardent defenders stop short of claiming that Roman expansion can be fully explained with reference to virtuous, defensive motives. But prestige and financial gain were not the only motivations of Roman strategists. As both Cicero and Virgil argued, Rome never felt safe as long as it had enemies, both real and imagined.44 The most powerful - and in many ways safest - society in the ancient world was unconvinced that its security was assured as long as it had neighbours. Their mere existence constituted a potential threat. Great Britain exhibited a similar level of insecurity as its power grew throughout the eighteenth and nineteenth centuries. As the boundaries of its empire expanded, new dangers constantly appeared just over the horizon. British politicians and strategists felt that turbulence on colonial borders 'pulled them toward expansion', in the words of historian John Galbraith.45 The notion that empire could never be safe until all potential threats were addressed encouraged unnecessary and strength-sapping forays into such places as Afghanistan, Zululand and the Crimea. There is little doubt that the empires of the past did have real enemies that could have been the cause of genuine security concerns. Insecurity is only pathological when elevated to disproportionate, irrational levels. Today the United States faces far fewer existential dangers than did either the Roman or British empires. American dominance is far greater, as is the strength of its pathology. State-level explanations Given that the geographic position of the United States occasionally allows its people the luxury of forgetting about the problems of the world, greaterthan-average shock follows when that seeming isolation is shattered by surprise attack.46 The vast distance separating the United States from any potential foe tends to create the preconditions for overreaction if and when its presumed safety is violated. As a result, surprise attacks have a greater influence on the development of the national-security posture of the United States than any other great power.47 Since the attacks of September 2001 were a major shock, one might expect a US reaction that was out of proportion to extant threats. As New York Times columnist Thomas Friedman put it, '9/11 made us stupid'.48 The liberal tradition encourages a Manichaean worldview The United States might also be peculiarly susceptible to the insecurity pathology because of what political scientist Louis Hartz called the 'liberal tradition' in the United States, at least as compared with those states whose intellectual inheritances are based more squarely in the lessons of realpolitik.49 This liberal political tradition encourages a Manichaean worldview and a simultaneous acceptance of messianic responsibilities. It is unsurprising to American liberals that their country - a major force for good in the world - is the target of a variety of evil-doers. Islamist fundamentalist terrorists, they argue, harbour hatred for the United States not based upon what it has done, but what it is: the world's leading voice for freedom, democracy and modernity.50 Realists are usually somewhat more sanguine about the threats facing a state, and are by nature less prone to exaggeration. Liberalism has been particularly influential in the White House over the past 16 years. The administration of George W. Bush contained a number of people who inhabited the far end of the threat-perception spectrum, and who drove it in a decidedly liberal direction. There is no doubt that the neo-conservatives, who represent a muscular version of the American liberal tradition, tend to perceive more danger in the international system than do many other observers. Indeed, inherent in many of the definitions of neoconservatism is a high perception of threat; it is an essential part of what differentiates a neocon from other analysts.51 The extent to which the United States overestimates the level of danger in the world is at least in part directly related to the influence of neo-conservatives both directly upon policymaking and indirectly in the marketplace of ideas. When neo-conservatives are prominent, as they have been since the Cold War ended, either in administrations or as leading voices of the opposition, the people of the United States are bound to feel more insecure than they actually are. The liberal tradition has helped foster a sense of moral superiority that is a central feature of the American historical narrative. While it is normal for people to take pride in their country or culture, Americans have long been exceptional in their exceptionalism.52 A key component of the US national self-image is moral, driven in part by the comparative strength of religious belief in the United States: America is not only unique and essential, but good. And good cannot exist without evil. The greater the power of good, the greater the threat it represents to evil, which will respond in diabolical ways, employing all of the cunning and deception at its disposal. No amount of security will ever be enough to assure safety in a world beset by the forces of darkness; as US strength grows, so too will that of Satan's minions, even if they are not always detectable. Finally, the United States is served, or held hostage, by a 24-hour news cycle that thrives on conflict and danger. Fear is an essential component of the business model of both CNN and Fox News, a necessary tool to keep fingers away from remote controls during commercial breaks. Voices of reason tend to spoil the fun, and may inspire people to seek excitement elsewhere. News outlets win by presenting stories that are more frightening, angry and simple than those of their competitors, not by supplying historical perspective and reassurance. If no danger exists, it must be created, or at least creatively implied. Truth, as George Kennan noted, is sometimes a poor competitor in the marketplace of ideas. 'The counsels of impatience and hatred can always be supported by the crudest and cheapest symbols', he wrote: For the counsels of moderation, the reasons are often intricate, rather than emotional, and difficult to explain. And so the chauvinists of all times and places go their appointed way: plucking the easy fruits, reaping the little triumphs of the day at the expense of someone else tomorrow, deluging in noise and filth anyone who gets in their way, dancing their reckless dance on the prospects for human progress.53 The noise and filth produced by the American media is louder and thicker than in any other state. Individual explanations At least three mental processes may help account for the overestimation of threat among US policymakers. Firstly, a number of scholars have proposed that the creation of enemies is a natural and inevitable part of human social interaction, for both individuals and groups.54 People need enemies for their own self-image; it is meaningless to be the good guy if there is no corresponding bad guy. Evil will always be found, even if none exists. In the absence of clear enemies foreign policy tends to flounder, as critics accused US foreign policy of doing in the 1990s. The attacks of 2001 merely con-firmed what many already believed: our enemies are massing against us. But the psychological need to have a rival does not make a danger real. Secondly, there seems to be a tendency towards a correlation between power and insecurity, or even paranoia, in individual leaders.55 Time and again, people who have exhibited borderline deranged behaviour have attracted followers, solidified bases, come to power and remained there for extended periods across a wide variety of settings. It could be there are times when paranoia is advantageous for the would-be leader, since broad purges surely kill conspirators alongside innocents. US leaders are not autocrats, of course, but they do enjoy an unprecedented level of power, which is virtually uncheckable by the international system. Perhaps they too, like the dictator or the king, though not to the same degree, are affected by the destabilising effects of great power. Finally, security discourse itself may help explain the high level of threat perception in the United States. That we live in a dangerous world has become something of a truism, a shared belief in the foreign-policy community that is rarely subjected to rational analysis. Official discourse can not only affect popular perceptions but frame potential reactions and shape state behaviour. Constant repetition of the idea that we live in a dangerous world can, over time, easily lead to genuine belief, for leaders and followers alike.56 A more rational examination of threats could therefore be useful in altering the current conventional wisdom in both popular and strategic circles. US leaders have repeatedly decided to raise threat levels to encourage Americans to support otherwise unpopular policy choices. This is not new phenomenon; H.L. Mencken observed that in order to create support for America's entry into the First World War, Woodrow Wilson and other US liberals realised that 'the only way to make the mob fight was to scare it half to death'.57 More recently, the American public showed little enthusiasm for the first Gulf War until President George H.W. Bush began injecting the threat of Iraqi nuclear weapons into his speeches. Likewise, National Security Advisor Condoleezza Rice and Vice President Dick Cheney were fond of arguing that a failure to attack Iraq could well result in a nuclear attack on the United States. When faced with such choices, the American people understandably go along. Manipulation of popular perceptions by individual leaders surely contributes to the national pathology. Stoking such fires not only has effects for the short term, raising support for otherwise unnecessary action, but tends to do long-term damage as well. Once lit, such fires are hard to extinguish. Fear and anxiety persist long after they are useful, and continue to drive decisions. It can prove beyond the power of more rational leaders to control them. President Barack Obama has repeatedly demonstrated an instinct toward restraint and moderation, but time and again has decided that the political situation requires hyperventilation, or at least that overreaction would not be costly. On a range of issues, including the Russian incursion into Georgia, the Iranian nuclear programme and the so-called 'Underpants Bomber', Obama's instincts initially produced measured and calm reactions, but each time, criticism from the right, and comparisons with the perceived weaknesses of the Jimmy Carter administration, convinced him to change his reaction and become much more belligerent. Only in a deeply pathological society is reason a synonym for weakness. It will probably never be possible to determine the precise explanatory power of any of these explanations, none of which are mutually exclusive. But in the final analysis, understanding the cause is not as urgent as recognition, treatment and cure. Policymakers would be wise to take account of Parkinson's Law, the natural tendency to see more threats as power grows. In unipolar systems, the dominant state sees more monsters in need of destruction than do lesser states. Unnecessary ventures follow, accompanied by overextension, overspending and eventual decline. Perhaps this tendency to identify more threats as power increases is one of the natural levelling forces of international politics. Unless US leaders wish to see the unipolar moment end sooner than need be, they must recognise that the threats they perceive are generally less dire than they appear. The pathological, exaggerated sense of threat among many Americans is potentially harmful to the future of the country and the world. Born in irrationality, it inspires equally irrational actions, many of which are costly beyond any possible benefit. With a new administration in power and serious economic uncertainty gripping the nation, one can hope that the American public will be receptive to a more reasonable conception of danger, now that it has seen the results of overreaction. As with alcoholics, sometimes a nation must hit rock bottom before it sees the need to make drastic changes. Iraq should be that rock bottom for America. If the consequences lead the United States to return to its traditional, restrained grand strategy, then perhaps the whole experience will not have been in vain.

#### Owen -- quantitative analysis turned qualitative -- no way we can say that US is the reason – proves your studies reify exceptionalism

#### Orientalism –

#### Oren -- "it begins with a single rocket launched by Hamas" -- that's happened within the last week – that threat construction is wht enables us to intervene when we shouldn’t

#### Representations can’t be divorced from policy actions- they establish a framework for thinking about the Middle East. They selectively reveal and conceal aspects of the Middle East to represent it as conflict prone

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Throughout the twentieth century, the Middle East remained as an arena of incessant conflict attracting global attention. As the recent developments in Israel/Palestine and the US-led war on Iraq have showed, it is difficult to exaggerate the signifcance of Middle Eastern insecurities for world politics. By adopting a critical approach to re-think security in the Middle East, this study addresses an issue that continues to attract the attention of students of world politics. Focusing on the constitutive relationship between (inventing) regions, and (conceptions and practices of) security, the study argues that the current state of 'regional security' - often a euphemism for regional insecurities - has its roots in practices that have throughout history been shaped by its various representations - the geopolitical inventions of security. In doing this, it lays out the contours of a framework for thinking differently about regional security in the Middle East. Prevailing approaches to regional security have had their origins in the security concerns and interests of Western states, mainly the United States. The implication of this Western bias in security thinking within the Middle Eastern context has been that much of the thinking done on regional security in the Middle East has been based on Western conceptions of 'security'. During the Cold War what was meant by 'security in the Middle East' was maintaining the security of Western (mostly US) interests in this part of the world and its military defence against other external actors (such as the Soviet Union that could jeopardise the regional and/or global status quo). Western security interests in the Middle East during the Cold War era could be summed up as the unhindered flow of oil at reasonable prices, the cessation of the Arab-Israeli conflict, the prevention of the emergence of any regional hegemon, and the maintenance of 'friendly' regimes that were sensitive to these concerns. This was (and still is) a top-down conception of security that was military-focused, directed outwards and privileged the maintenance of stability. Let us take a brief look at these characteristics. The Cold War approach to regional security in the Middle East was top-down because threats to security were defined largely from the perspective of external powers rather than regional states or peoples. In the eyes of British and US defence planners, communist infiltration and Soviet intervention constituted the greatest threats to security in the Middle East during the Cold War. The way to enhance regional security, they argued, was for regional states to enter into alliances with the West. Two security umbrella schemes, the Middle East Defence Organisation (1951) and the Baghdad Pact (1955), were designed for this purpose. Although there were regional states such as Iraq (until the 1958 coup), Iran (until the 1978-79 revolution), Saudi Arabia, Israel and Turkey that shared this perception of security to a certain extent, many Arab policy-makers begged to differ. Traces of this top-down thinking are still prevalent in the US approach to security in the 'Middle East'. During the 1990s, in following a policy of dual containment US policy-makers presented Iran and Iraq as the main threats to regional security largely due to their military capabilities and the revisionist character of their regimes that were not subservient to US interests. In the aftermath of the events of September 11 US policy-makers have focused on 'terrorism' as a major threat to security in the Middle East and elsewhere. Yet, US policy so far has been one of 'confronting the symptoms rather than the cause' (Zunes 2002:237) as it has focused on the military dimension of security (to the neglect of the socio-economic one) and relied on military tools (as with the war on Iraq) in addressing these threats. This is not to underestimate the threat posed by weapons of mass destruction or terrorism to global and regional security. Rather, the point is that these top-down perspectives, while revealing certain aspects of regional insecurity at the same time hinder others. For example, societal and environmental problems caused by resource scarcity do not only threaten the security of individual human beings but also exacerbate existing conflicts (as with the struggle over water resources in Israel/Palestine; see Sosland 2002). Besides, the lives of women in Kuwait and Saudi Arabia were made insecure not only by the threat caused by Iraq's military capabilities, but also because of the conservative character of their own regimes that restrict women's rights under the cloak of religious tradition. For, it is women who suffer disproportionately as a result of militarism and the channelling of valuable resources into defence budgets instead of education and health (see Mernissi 1993). What is more, the measures that are adopted to meet such military threats sometimes constitute threats to the security of individuals and social groups. The sanctions regime adopted to rid Iraq of weapons of mass destruction has caused a problem of food insecurity for Iraqi people during the 1990s. In the aftermath of the US-led war on Iraq, Iraqi people are still far from meeting their daily needs. Indeed, it is estimated that if it were not for the monthly basket distributed as part of the United Nations' 'Oil for Food' programme, 'approximately 80 percent of the Iraqi population would become vulnerable to food insecurity' (Hurd 2003). Such concerns rarely make it into analyses on regional security in the Middle East.

#### Russell -- prof at naval scholar -- in the context of US strat stability – overly concerned about Iran

#### **This makes conflict inevitable – changing US perceptions key**

Chernus 12**,** 1/29—Professor of Religious Studies (Ira, 1/29/12, “New York Times Hypes Israeli Attack On Iran,” <http://www.huffingtonpost.com/ira-chernus/israel-iran-attack_b_1240510.html?ref=media>)

It's an impressive piece of art: the cover of this week's New York Times Magazine. "ISRAEL VS. IRAN," spelled out in charred black lettering, with flame and smoke still rising from "IRAN," as if the great war were already over. Below those large lurid letters is the little subtitle: "When Will It Erupt?" -- not "if," but "when," as if it were inevitable. Though the article itself is titled "Will Israel Attack Iran?", author Ronen Bergman, military analyst for Israel's largest newspaper, leaves no doubt of his answer: "Israel will indeed strike Iran in 2012." Bergman does cite some compelling arguments against an Israeli strike from former heads of Mossad (Israel's CIA). And he makes it clear that no attack can prevent Iran from building nuclear weapons if it wants them. Everyone agrees on that. The argument is only about whether an attack would delay the Iranian program by a few years or just a few months. Nevertheless, his article stacks the deck in favor of supposedly persuasive reasons for Israel to act. It's almost a hymn of praise to what one Jewish Israeli scholar has called Iranophobia, an irrational fear promoted by the Jewish state because "Israel needs an existential threat." Why? To sustain the myth that shapes its national identity: the myth of Israel's insecurity. That myth comes out clearly in Bergman's conclusion: Israel will attack Iran because of a "peculiar Israeli mixture of fear -- rooted in the sense that Israel is dependent on the tacit support of other nations to survive -- and tenacity, the fierce conviction, right or wrong, that only the Israelis can ultimately defend themselves." Fear of what? Defend against whom? It doesn't really matter. Israeli political life has always been built on the premise that Israel's very existence is threatened by some new Hitler bent on destroying the Jewish people. How can Israel prove that Jews can defend themselves if there's no anti-semitic "evil-doer" to fight against? So here is Israel's defense minister, Ehud Barak, talking to Bergman about Iran's "desire to destroy Israel." Proof? Who needs it? It's taken for granted. In fact, in accurate translations of anti-Israel diatribes from Iranian president Mahmoud Ahmadinejad, there's no mention of destroying or even harming Jews, nor any threat of war. There's only a clear call for a one-state solution: replacing a distinctly Jewish state, which privileges its Jewish citizens and imposes military occupation on Palestinians, with a single political entity from the Jordan River to the Mediterranean Sea. Guess who else called for exactly the same resolution to the conflict: the most renowned Jewish thinker of the 20th century, Martin Buber. Plenty of Jews keep Buber's vision alive today, offering cogent (though debatable) arguments that a one-state solution would be in the best interests of Jews as well as Palestinians. Yet Ronen Bergman and the editors of the New York Times Magazine see no need for their readers to encounter these facts. Nor do they see any need to mention the most important fact of all, the one most flagrantly missing from Bergman's long article: No matter what Iran's leaders might desire, it's beyond belief that they would ever launch a single nuke against Israel. They know full well that it would be national suicide. Israel has at least 100 nukes, and 200 or more by many estimates, all ready to be used in a counterattack. Which makes it hard not to laugh when Bergman reports Ehud Barak's other arguments for attacking Iran. Even if Iran doesn't intend to kill all the Jews, "the moment Iran goes nuclear, other countries in the region will feel compelled to do the same." That's the foolish "stop a Middle East nuclear arms race" argument we hear so often coming out of Washington, too -- as if Israel had not already started the Middle East nuclear arms race decades ago. And how can a supposedly serious journalist like Bergman solemnly repeat the latest popular argument of the Iranophobes: A nuclear-armed Iran (in Barak's words) "offers an entirely different kind of protection to its proxies," Hezbollah and Hamas. That "would definitely restrict our range of operations" in any war against those so-called "proxies." As if Iran would even consider committing national suicide to serve the interests of any Lebanese or Palestinian factions. Yet the myth of "poor little Israel, surrounded by fanatic enemies bent on destroying it" is so pervasive here in the U.S., most readers might easily take this Iranophobic article at face value, forgetting the absurd premises underlying all arguments that Israel "must" attack Iran. **What American readers think is key** here. Most Israelis do believe that (as Bergman puts it) Israel needs "the support of other nations to survive." It's a **crucial piece** of their **myth of insecurity**. And the only nation that really supports them any more is the U.S. So Israel won't attack Iran without a green light from Washington. Bergman glibly asserts that there's some "unspoken understanding that America should agree, at least tacitly, to Israeli military actions." For years, though, a torrent of reports from Washington have all agreed that both the White House and the Pentagon, under both the Bush and Obama administrations, would refuse to support an Israeli attack on Iran. The consequences for the U.S. are too drastic to even consider it. Why should that change now?

### AT Judge Choice

#### 1. Judge choice assumes plan focus and that’s debated elsewhere

#### 2. We engage all representations, if there are good ones the affirmative should be able to leverage those representations as offense.

#### 3. Town hall model is false – the affirmative isn’t tacking on good representations to the negative representations of another party, they are directly responsible for the good and the bad.

#### 4. Form and content are indistinguishable. Plan can’t be divorced from its justifications.

**Hill 91** (Thomas E. Jr., Professor of Philosophy – University of North Carolina, “The Message of Affirmative Action”, The Affirmative Action Debate (1995), Ed. Cahn, p. 169-170)

Actions, as the saying goes, often *speak* louder than words. There are times, too, when only actions can effectively communicate the message we want to convey, and times when giving a message is a central part of the purpose of action. What our actions say to others depends largely, though not entirely, upon our avowed reasons for acting; and this is a matter for reflective [end page 169] decision, not something we discover later by looking back at what we did and its effects. The decision is important because "the same act" can have very different consequences, depending upon how we choose to justify it. In a sense, acts done for different reasons are not "the same act" even if otherwise similar, and so not merely the consequences but also the moral nature of our acts depend in part on our decisions about the reasons for doing them. Unfortunately, the message actually conveyed by our actions does not depend only on our intentions and reasons, for our acts may have a meaning for others quite at odds with what we hoped to express. Others may misunderstand our intentions, doubt our sincerity, or discern a subtext that undermines the primary message. Even if sincere, well-intended, and successfully conveyed, the message of an act or policy does not by itself justify the means by which it is conveyed; it is almost always a relevant factor, however, in the moral assessment of the act or policy. These remarks may strike you as too obvious to be worth mentioning; for, even if we do not usually express the ideas so abstractly, we are all familiar with them in our daily interactions with our friends, families, and colleagues. Who, for example, does not know the importance of the message expressed in offering money to another person, as well as the dangers of misunderstanding? What is superficially "the same act" can be an offer to buy, an admission of guilt, an expression of gratitude, a contribution to a common cause, a condescending display of superiority, or an outrageous insult. Because all this is so familiar, the extent to which these elementary points are ignored in discussions of the pros and cons of social policies such as affirmative action is surprising. The usual presumption is that social policies can be settled entirely by debating the rights involved or by estimating the consequences, narrowly conceived apart from the messages that we want to give and the messages that are likely to be received.

### AT Nunes

#### Nunes concludes Neg – he’s saying demands for security might be good when they’re leveled by people who are being dominated – not when they’re made on behalf of global dominance. The Aff re-inscribes the bad forms of security.

Nunes 2012 [Joao – Postdoctorl Research Fellow in Politics and International Studies at the University of Warwick, Reclaiming the political: Emancipation and critique in security studies, Security Dialogue 43, p.353-357]

There is, however, scope for nudging the debate in a more productive direction – one that allows for a deeper engagement with the actual shortcomings of security as emancipation and that, as a result, enables its potential to be fully realized. In fact, while Booth and others have done much work on fine-tuning the account of what emancipation is, not enough attention has been given to the complexities of what one is to be emancipated from. Here, the literature has remained at a rather unspecified level: in order to justify the need for emancipation, Booth has either referred to the experiences of the ‘victims’ of insecurity (2007: 160) or described a global historical crisis characterized by the combustible interplay of interstate conflict, globalization, population growth, extremist ideologies, apparently unstoppable technological momentum, terrorism, consumerism, tyranny, massive disparities of wealth, rage, imperialism, nuclear-biological-chemical weapons, and brute capitalism – as well as more traditional cultural threats to peoples’ security as a result of patriarchy and religious bigotry (Booth, 2005b: 1–2).¶ A thorough understanding of the condition of insecurity requires that we go beyond simple enumeration – as extensive as it might be. How exactly are these situations a threat? How do they constitute impediments to life? How do they translate into claims for security and emancipation? Looking at the claims themselves does not solve the problem, particularly when one is faced with conflicting claims, or when one begins to question the ways in which the ‘victims of insecurity’ are defined. In order to provide a convincing account of the need for emancipation and devise practical steps to achieve it, emancipatory approaches need to include a sophisticated account of what the problem is. The condition of insecurity upon which visions of emancipation are to be predicated must not be taken for granted.¶ Two themes, largely overlooked by Booth and Wyn Jones, can help to specify the condition of insecurity. By improving its capacity to understand the political intricacies of the ‘reality’ of security and the different dimensions of its power, security as emancipation would be in a better position to contribute to the critical security field.¶ To begin with, security as emancipation has much to gain from fully taking on board the ways in which the reality of security is traversed by politics – even in reality’s most ‘material’ core. More precisely, this approach needs to shift from an unquestioned reliance upon material individuals (or bodies) suffering insecurity towards an analysis of the politics of materialization. The work of Michael C. Williams shows that an engagement with materialization is essential for understanding the modern politics of security. He argues that the security understandings that constitute the modern sovereign state were underpinned by a transformation of the way in which the individual was conceived. This transformation implied the materialization of the individual: that is, the ‘reduction of the “referent objects” of security to abstract, individual persons, rendered as atomistic, material bodies united through a political authority’ (Williams, 1998b: 438; see also Williams, 1998a). Thus, instead of a truthful depiction of reality, the focus on material individuals is the result of political practices.¶ Judith Butler has explored materialization by arguing that bodies also need to be understood politically. She maintains that gender is not an essential biological characteristic of the body but rather an organizing principle. In her words, gender ‘does not describe a prior materiality, but produces and regulates the intelligibility of the materiality of bodies’ (Butler, 1992: 17; see also Butler, 1993). She gives the example of the practice of coercive surgery on infants and children with sexually indeterminate or hermaphroditic anatomy, which aims at normalizing their bodies in accordance with idealized morphologies. For her, the body is always embedded within culturally and historically specific processes of materialization.¶ Williams and Butler highlight the importance of questioning what is taken for granted as ‘real’ – even when this reality appears to us as embodied and material. Their contributions are important for emancipatory approaches because unpacking the politics of reality is an essential step towards a detailed and nuanced view of the insecurities that justify emancipation. It provides the opportunity to conceptualize insecurities beyond the enumeration of threats, namely by identifying the social relations and structures that constitute the condition of insecurity.¶ Emancipatory accounts in the feminist security literature (Tickner, 1995; Hoogensen and Rottem, 2004; Lee-Koo, 2007; Basu, 2011) provide indications of how insecurity can be specified along these lines. Starting from the analysis of the gendered practices that place certain individuals and groups in situations of vulnerability, feminist approaches have helped to unpack situations of insecurity by highlighting some of the social relations, political structures and institutional settings that produce and perpetuate it. The gender–security nexus scrutinized by feminist authors – with the aid of a series of innovative research methodologies (see, for example, Ackerly et al., 2006) – shows that it is possible to go beyond the enumeration of threats and conduct an analytically rigorous critique of important aspects of insecurity. Security as emancipation can be strengthened by expanding on these insights and exploring in greater depth gender-based relations and structures of insecurity – in addition to other aspects that have been largely overlooked, such as class and economic relations (Herring, 2010).¶ The security-as-emancipation literature can also benefit greatly from a more developed understanding of power. Despite mentioning the term frequently, Booth has remained at a very abstract level when it comes to pinning down what power is and does. No indication is given as to how power operates; no systematic analysis is provided of its effects. Even though a Gramscian understanding of hegemony is present in Wyn Jones’s writings, his critical approach to security has not included a detailed engagement with the power of predominant security understandings and practices. How can these be seen as instances of power? How do they reflect and reproduce existing relations and structures? An engagement with these questions is essential if security as emancipation is to provide a sophisticated analysis of existing insecurities. At the same time, an emancipatory approach must be based upon a solid diagnosis of the power relations and structures in which claims for emancipation and possibilities for transformation are embedded.¶ The understanding of power in security as emancipation can be enhanced, first, by the incorporation of Michel Foucault’s notion of power as government. So far, security as emancipation has overwhelmingly relied on the assumption that security understandings and practices work through the determination of action – that is, by encroaching upon and restricting what would otherwise be free decision and action. This latter view is present in the work of Steven Lukes, for whom power consists in ‘the ability to constrain the choices of others, coercing them or securing their compliance, by impeding them from living as their own nature and judgment dictate’ (2005: 85). Action can be constrained by coercion, threat, by the delimitation of acceptable and desirable behaviour, or by foreclosing dissent and alternatives.¶ The idea of power as government (Dean, 1999) introduces important revisions to this model. It sees power as not merely constraining but also productive. For Foucault, government signals a shift, from the exclusive concern with the protection of the sovereign towards the optimization of the natural capacities of individuals and populations – in the name of an efficient economic and political organization. This means that power does not just repress and stifle subjects, but plays a fundamental role in constituting them (Foucault, [1982] 2000). Seeing power as productive of subjects enables a recognition of its multiple instances and sites: power becomes a network of relations between various nodes – such as schools, hospitals, prisons and armies – that interact in the management of actions and dispositions.¶ Incorporating this view of power into the security-as-emancipation framework has decisive implications for the latter’s ability to recognize the effects of predominant security arrangements and to act upon them. It allows this approach to analyse in detail how security is involved in the constitution of subjects. In addition to these analytical benefits, power as government can also reinforce the political agenda of security as emancipation: after all, in order to be truly effective, the identification of opportunities for resisting and transforming security arrangements requires a recognition of their power, its multiple sites and modalities, and the way it runs through the fabric of society in the form of social relations.¶ While adding the notion of governmentality would help security as emancipation catch up with recent developments in the critical security field, a further revision of the understanding of power assumed by this approach would enable it to ‘give something back’. It is surprising that an approach that has drawn from the Marxist tradition to highlight the global production of inequality is yet to include an in-depth account of the domination side of power – and, concomitantly, of understandings and practices of security as instances of domination. Domination can be conceived as ‘a condition experienced by persons or groups to the extent that they are dependent on a social relationship in which some other person or group wields arbitrary power over them’ (Lovett, 2010: 2). Iris Marion Young’s work supplements this definition: for her, the groups themselves must be seen as collective experiences and ‘forms of social relations’ ([1990] 2011: 44), and not entities reified around shared attributes. Thus, rather than a binary confrontation between a dominating and a dominated group, domination is at once a structural phenomenon and the result of fluid and complex relations. Young ([1990] 2011: 38) writes:¶ Domination consists in institutional conditions which inhibit or prevent people from participating in determining their actions or the conditions of their actions. Persons live within structures of domination if other persons or groups can determine without reciprocation the conditions of their action, either directly or by virtue of the structural consequences of their actions.¶ Young recognizes that the existence of a dominated group does not necessarily imply a consciously dominating one. Nonetheless, a situation of domination does mean that one group is systematically privileged in relation to another. Put differently, to be dominated means to be involved in an unequal relationship, the terms of which are not fully controlled by all groups involved. The terms of the relationship force some groups to be subordinate or deferential ‘in order to secure reasonably good outcomes or results’ (Lovett, 2010: 47). Determination of action is thus embedded in a broader relational and structural context.¶ In addition to there being imbalance or inequality, domination also means that a certain degree of arbitrariness is present. Arbitrary power implies that decisions are made or effects are produced to the benefit of certain groups, without the constraint of effective rules and procedures and not reflecting the interests of all parties affected. Dominated groups are thus vulnerable to decisions and outcomes with a high impact upon their life, and which they cannot control or predict.¶ This notion of power as domination advances the emancipatory agenda by taking further the idea of power as determination of action and by allowing for a specification of the ‘oppressions’ that Booth mentions in his definition of emancipation. Domination allows for an enquiry into the context-specific, structurally constrained relations through which life chances are curtailed for some and through which vulnerability is intertwined with the systematic production of disadvantage. Simultaneously, domination is also useful in that it supplements governmentality: first, it allows for an analysis of the connections between structures, disadvantaged subject-positions and their accompanying subjectivities; second, it adds a normative edge that, as has been noted (O’Malley et al., 1997), is often lacking in governmentality studies. More precisely, it provides a clearer direction for the transformation of existing power relations in the transformation of unequal subject-positions. By incorporating into its account of power the notions of governmentality and domination – with the former’s focus on the fluid production of subjects and the latter’s emphasis on systematic disadvantage in subject-positions – security as emancipation has the potential to make an important contribution to critical security debates.

### 2NC Overview

#### K outweighs the case

#### -- Magnitude -- logic of security created the most destructive features of the international system -- war, oppression, and ecological destruction are all inevitable when particular decisions become necessities. Try or die -- voting aff makes their impacts inevitable.

#### -- Turns case --

#### -- Independent impact --

#### -- Alt' solves case -- rejecting dominant political discourse challenges the root cause of violent identity construction, undermining the solar reason for war. It's a prerequisite to better policy-making and a matter of sequencing -- good theory now causes better action later.

### Burke (VtL)

#### Security necessitates calculation – that outweighs war

Burke 7 – Associate Professor of Politics and International Relations in the University of New South Wales (Anthony “What security makes possible,” Working Paper 2007 p.11-12)

**Even if threats are credible and existential**, I do not believe that they warrant invoking the ‘state of exception’, which has in our time been more commonly enacted in the detention and rendition of terrorism suspects, immigration detention centres and the use of arbitrary arrest and deportation powers. The ‘state of exception’ also haunts much legial innovation in counter-terrorism policy. And, as Agamben, Judith Butler and Arendt have argued, such approaches have their roots in processes (namely colonialism and the Holocaust) that **systematically dehumanized their victims producing lives that were ‘bare’, ‘ungreivable’, ‘unliveable’ and ‘superfluous’**. If nothing else, it ought to raise serious doubts as to how securitization theory can be helpful in resignifying security as emancipation. It also precludes the ability to speak of human or environmental security in terms consistent with democratic political processes in a state of normalacy. The existential threat of human beings may be real enough, but it should generate a **very different policy logic** than outlined by the Copenhagen School. As Rocanne Lynn Doty and Karin Fierke have argued, the Copenhagen School’s conceptualization blocks the path to human security. This would seem to be implicit in the way Waever, in his 1995 article, attempts to provide security with ontological grounding. There he states that ‘as concepts, neither individual nor international security exist’: National security, that is the security of a state, is the name of an ongoing debate, tradition, an established set of practices ... there is no literature, no philosophy, no tradition of security in non-state terms ... the concept of security refers to the state.36

### Cavelty (No Impact Calc)

#### Don’t multiply probability times magnitude – methodological black-mail that causes error replication and sereal policy failure

Hagmann & Cavelty 12 – \*senior researcher at the Center for Security Studies, lecturer at the Department of Humanities, Social and Political Sciences, ETH Zürich, holds a Doctorate and an MA in International Relations from the Graduate Institute of International and Development Studies in Geneva AND \*\*lecturer for security studies and a senior researcher in the field of risk and resilience at the Center for Security Studies, PhD, studied International Relations, History, and International Law at the University of Zurich (Jonas and Myriam Dunn, 2/15/2012, "National risk registers: Security scientism and the propagation of permanent insecurity," Security Dialogue 43(1), Sage)

Risk registers’ adoption of conventional risk-assessment methodology – the formula that defines risk as **likelihood multiplied by impact** – also has a distinct influence on how insecurity is to be understood and handled. On the one hand, the emphasis on ‘likelihood’ initiates a consequential rationalization of danger occurrence. This rationalization, of course, is geared towards forecasting future developments. It is methodologically grounded in an in-depth analysis of danger’s ‘natural’ patterns of manifestation. As already mentioned, existing datasets and historical case studies are central elements in the identification of these patterns. The rationalization of risks based on past events is analytically efficacious, given that it empowers a projection of the past into the future. There is an implicit argument in the methodological measurement of ‘likelihood’ to the effect that the future essentially emulates history – the risk themes described in risk registers are extrapolations of misfortunes already experienced (Bigo, 2007; Jasanoff, 2009). Focusing on these risk themes, then, not only means focusing on past insecurities. It also means that, as technologies, risk registers project the very same insecurities into the future. With this, the very variable of ‘likelihood’ empowers an inert view of reality. This is problematic in the case of those risks that openly rely on, or are mediated by, social actors. Social actors are capable of adopting new types of behaviour over time. The risk of terrorism, for instance, can only be regarded as a persistent one under the assumption that terrorists will never cease, or be induced to cease, their activities. Given their commitment to engineering and econometric risk-assessment methodology, then, risk registers advance a regularized assessment of future practices. They **leave little room for contingency, change and alternative trajectories**, and so they tend to project a rather fatalist account of public insecurity. Another effect then adds to this projection. The reliance on past experiences as proof of the existence of risks negates the need to test their current viability. There is no requirement to prove that these issues will ever ‘actually’ become relevant in the future. Together with risk registers’ reliance on probability syllogisms, this causes these projected risks to gain a very specific kind of traction in the present. As risks are claimed to exist, but their date and place of **materialization are held impossible to predict**, a sense of comprehensive and ever-present insecurity is created. Insecurity comes to be regarded as substantial if not all-encompassing, always present and always possible – an understanding that directly **caters to the permanent mobilization of a** comprehensive kind of **security dispositif**. On the other hand, the focus on ‘impact’ as a determinant of risks also implies larger analytical claims. The problem here is the intimate focus of risk registers on damaging effects as such. The focus on material damage and financial costs in particular raises difficult questions as to what kinds of harmful effects can be claimed to be relevant to human beings and political collectives. In the risk registers, this question is simply delegated to the underlying risk formula. There are no selection criteria underlying risk registers other than a cost–benefit rationale, which comes into play when everything that seemed relevant to experts is compared by its calculated magnitude in the risk matrix. Another problematic aspect is the fact that while analyses of quantities of harm reveal a lot about damage, such an approach is of limited use in understanding how public dangers are created in the first place. The classic lines of enquiry in risk assessment are: ‘What can go wrong? What is the likelihood of it going wrong? What are the consequences if it goes wrong?’ (Haimes, 1998: 54–5). This means that risk assessments do not ask why something can go wrong, or how one’s own actions might be complicit in engendering such dangers. The focus on risk as harmful ‘impact’, then, not only implies debatable assumptions about relevant measures. Its focus on **the consequences of risks and ignorance of their origins** also poses limits to the reflexivity with which risks are approached.

### Pieterse (Case is a Lie)

#### The 1AC harms claims are manufactured – the threat industry fabricates danger to justify military expansion.

Pieterse 7 [Jan Nederveen, professor of sociology at the University of Illinois, Review of International Political Economy, Vol. 14, No. 3, Aug., “Political and Economic Brinkmanship,” p. 473-4]

Brinkmanship and producing instability carry several meanings. The American military spends 48% of world military spending (2005) and rep resents a vast, virtually continuously growing establishment that is a world in itself with its own lingo, its own reasons, internecine battles and projects. That this large security establishment is a bipartisan project makes it politically relatively immune. That for security reasons it is an insular world shelters it from scrutiny. For reasons of 'deniability' the president is insulated from certain operations (Risen, 2006). That it is a completely hierarchical world onto itself makes it relatively unaccountable. Hence, to quote 'stuff happens'. In part this is the familiar theme of the Praetorian Guard and the shadow state (Stockwell, 1991). It includes a military on the go, a military that seeks career advancement through role expansion, seeks expansion through threat inflation, and in inflated threats finds rationales for ruthless action and is thus subject to feedback from its own echo chambers. Misinformation broadcast by part of the intelligence apparatus blows back to other security circles where it may be taken for real (Johnson, 2000). Inhabiting a hall of mirrors this apparatus operates in a perpetual state of self hypnosis with, since it concerns classified information and covert ops, limited checks on its functioning.¶ The military stages phirric victories that come at a price of lasting instability. In Afghanistan the US staged a swift settlement by backing and funding the Northern Alliance, which brought warlords and drug lords to power and a corrupt power structure that eventually precipitated the comeback of the Taliban. In Iraq the US backed the Kurds and permitted Shiite militias to operate (until the Samarra bombing of April 2006) and thus created conditions for lasting instability.¶ The American rules of engagement are self-serving. But because the military inhabits a parallel universe and the media are clogged with 'defense experts', discussion of these tactics and hence the capacity for self-correction is limited.¶ Part of the backdrop is the trend of the gradual erosion of state capacities because of 25 years, since the Reagan era, of cutting government services except the military and security. The laissez-faire state in the US has created an imbalance in which the military remains the major growing state capability, which leaves military power increasingly unchecked because **monitoring institutions have been downsized or dismantled** too. When recently the Pentagon wanted to review all the subcontracts it has outsourced this task was outsourced too. This redistribution of power within the US government played a key part leading up to the war and in the massive failure in Iraq. Diplomacy was under resourced, intelligence was manipulated and the Pentagon and the Office of Strategic Planning ignored experts' advice and State Department warnings on the need for postwar planning (Packer, 2005; Lang, 2004).

### Yudkowsky (Conjunctive Fallacy)

#### Prefer our disjunctive scenarios to their short-term conjunctive scenarios.

Yudkowsky 6 – Research Fellow & Director @ Singularity Institute for Artificial Intelligence (Eliezer, 8/31/. Palo Alto, CA. “Cognitive biases potentially affecting judgment of global risks,” Forthcoming in Global Catastrophic Risks, eds. Nick Bostrom and Milan Cirkovic, singinst.org/upload/cognitive-biases.pdf)

The conjunction fallacy similarly applies to futurological forecasts. Two independent sets of professional analysts at the Second International Congress on Forecasting were asked to rate, respectively, the probability of "A complete suspension of diplomatic relations between the USA and the Soviet Union, sometime in 1983" or "A Russian invasion of Poland, and a complete suspension of diplomatic relations between the USA and the Soviet Union, sometime in 1983". The second set of analysts responded with significantly higher probabilities. (Tversky and Kahneman 1983.) In Johnson et. al. (1993), MBA students at Wharton were scheduled to travel to Bangkok as part of their degree program. Several groups of students were asked how much they - 6 - were willing to pay for terrorism insurance. One group of subjects was asked how much they were willing to pay for terrorism insurance covering the flight from Thailand to the US. A second group of subjects was asked how much they were willing to pay for terrorism insurance covering the round-trip flight. A third group was asked how much they were willing to pay for terrorism insurance that covered the complete trip to Thailand. These three groups responded with average willingness to pay of $17.19, $13.90, and $7.44 respectively. According to probability theory, adding additional detail onto a story must render the story less probable. It is less probable that Linda is a feminist bank teller than that she is a bank teller, since all feminist bank tellers are necessarily bank tellers. Yet human psychology seems to follow the rule that adding an additional detail can make the story more plausible. People might pay more for international diplomacy intended to prevent nanotechnological warfare by China, than for an engineering project to defend against nanotechnological attack from any source. The second threat scenario is less vivid and alarming, but the defense is more useful because it is more vague. More valuable still would be strategies which make humanity harder to extinguish without being specific to nanotechnologic threats - such as colonizing space, or see Yudkowsky (this volume) on AI. Security expert Bruce Schneier observed (both before and after the 2005 hurricane in New Orleans) that the U.S. government was guarding specific domestic targets against "movie-plot scenarios" of terrorism, at the cost of taking away resources from emergency-response capabilities that could respond to any disaster. (Schneier 2005.) Overly detailed reassurances can also create false perceptions of safety: "X is not an existential risk and you don't need to worry about it, because A, B, C, D, and E"; where the failure of any one of propositions A, B, C, D, or E potentially extinguishes the human species. "We don't need to worry about nanotechnologic war, because a UN commission will initially develop the technology and prevent its proliferation until such time as an active shield is developed, capable of defending against all accidental and malicious outbreaks that contemporary nanotechnology is capable of producing, and this condition will persist indefinitely." Vivid, specific scenarios can inflate our probability estimates of security, as well as misdirecting defensive investments into needlessly narrow or implausibly detailed risk scenarios. More generally, people tend to overestimate conjunctive probabilities and underestimate disjunctive probabilities. (Tversky and Kahneman 1974.) That is, **people tend to overestimate the probability that**, e.g., **seven events of 90% probability will all occur**. Conversely, **people tend to underestimate the probability that at least one of seven events of 10% probability will occur**. Someone judging whether to, e.g., incorporate a new startup, must evaluate the probability that many individual events will all go right (there will be sufficient funding, competent employees, customers will want the product) while also considering the likelihood that at least one critical failure will occur (the bank refuses - 7 - a loan, the biggest project fails, the lead scientist dies). This may help explain why only 44% of entrepreneurial ventures3 survive after 4 years. (Knaup 2005.) Dawes (1988) observes: 'In their summations lawyers avoid arguing from disjunctions ("either this or that or the other could have occurred, all of which would lead to the same conclusion") in favor of conjunctions. Rationally, of course, disjunctions are much more probable than are conjunctions.' The scenario of humanity going extinct in the next century is a disjunctive event. It could happen as a result of any of the existential risks discussed in this book - or some other cause which none of us foresaw. Yet for a futurist, disjunctions make for an awkward and unpoetic-sounding prophecy.

### AT Jones

#### 1. Our alt isn’t a counterplan – we don’t claim to pragmatically solve aff impacts. The alt is a framing of the world. Our links are all predicated on the context in which you identify your impacts – not the impacts themselves. Evaluate the alt as a context within which politics should be evaluated.

#### 2. Critical intellectualism creates change – answers all of their “alt fails” args

**Jones 99** (Richard Wyn, Professor of International Relations – Aberystwyth University, Security, Strategy, and Critical Theory, p. 155-163)

The central political task of the intellectuals is to aid in the construction of a counterhegemony and thus undermine the prevailing patterns of discourse and interaction that make up the currently dominant hegemony. This task is accomplished through educational activity, because, as Gramsci argues, “every relationship of ‘hegemony’ is necessarily a pedagogic relationship” (Gramsci 1971: 350). Discussing the relationship of the “philosophy of praxis” to political practice, Gramsci claims: It [the theory] does not tend to leave the “simple” in their primitive philosophy of common sense, but rather to lead them to a higher conception of life. If it affirms the need for contact between intellectuals and “simple” it is not in order to restrict scientific activity and preserve unity at the low level of the masses, but precisely in order to construct an intellectual-moral bloc which can make politically possible the intellectual progress of the mass and not only of small intellectual groups. (Gramsci 1971: 332-333). According to Gramsci, this attempt to construct an alternative “intellectual-moral bloc” should take place under the auspices of the Communist Party – a body he described as the “modern prince.” Just as Niccolo Machiavelli hoped to see a prince unite Italy, rid the country of foreign barbarians, and create a virtu-ous state, Gramsci believed that the modern price could lead the working class on its journey toward its revolutionary destiny of an emancipated society (Gramsci 1971: 125-205). Gramsci’s relative optimism about the possibility of progressive theorists playing a constructive role in emancipatory political practice was predicated on his belief in the existence of a universal class (a class whose emancipation would inevitably presage the emancipation of humanity itself) with revolutionary potential. It was a gradual loss of faith in this axiom that led Horkheimer and Adorno to their extremely pessimistic prognosis about the possibilities of progressive social change. But does a loss of faith in the revolutionary vocation of the proletariat necessarily lead to the kind of quietism ultimately embraced by the first generation of the Frankfurt School? The conflict that erupted in the 1960s between them and their more radical students suggests not. Indeed, contemporary critical theorists claim that the deprivileging of the role of the proletariat in the struggle for emancipation is actually a positive move. Class remains a very important axis of domination in society, but it is not the only such axis (Fraser 1995). Nor is it valid to reduce all other forms of domination – for example, in the case of gender – to class relations, as orthodox Marxists tend to do. To recognize these points is not only a first step toward the development of an analysis of forms of exploitation and exclusion within society that is more attuned to social reality; it is also a realization that there are other forms of emancipatory politics than those associated with class conflict.1 This in turn suggests new possibilities and problems for emancipatory theory. Furthermore, the abandonment of faith in revolutionary parties is also a positive development. The history of the European left during the twentieth century provides myriad examples of the ways in which the fetishization of party organizations has led to bureaucratic immobility and the confusion of means with ends (see, for example, Salvadori 1990). The failure of the Bolshevik experiment illustrates how disciplined, vanguard parties are an ideal vehicle for totalitarian domination (Serge 1984). Faith in the “infallible party” has obviously been the source of strength and comfort to many in this period and, as the experience of the southern Wales coalfield demonstrates, has inspired brave and progressive behavior (see, for example, the account of support for the Spanish Republic in Francis 1984). But such parties have so often been the enemies of emancipation that they should be treated with the utmost caution. Parties are necessary, but their fetishization is potentially disastrous. History furnishes examples of progressive developments that have been positively influenced by organic intellectuals operating outside the bounds of a particular party structure (G. Williams 1984). Some of these developments have occurred in the particularly intractable realm of security. These examples may be considered as “resources of hope” for critical security studies (R. Williams 1989). They illustrate that ideas are important or, more correctly, that change is the product of the dialectical interaction of ideas and material reality. One clear security-related example of the role of critical thinking and critical thinkers in aiding and abetting progressive social change is the experience of the peace movement of the 1980s. At that time the ideas of dissident defense intellectuals (the “alternative defense” school) encouraged and drew strength from peace activism. Together they had an effect not only on short-term policy but on the dominant discourses of strategy and security, a far more important result in the long run. The synergy between critical security intellectuals and critical social movements and the potential influence of both working in tandem can be witnessed particularly clearly in the fate of common security. As Thomas Risse-Kappen points out, the term “common security” originated in the contribution of peace researchers to the German security debate of the 1970s (Risse-Kappen 1994: 186ff.); it was subsequently popularized by the Palme Commission report (Independent Commission on Disarmament and Security Issues 1982). Initially, mainstream defense intellectuals dismissed the concept as hopelessly idealistic; it certainly had no place in their allegedly hardheaded and realist view of the world. However, notions of common security were taken up by a number of different intellectuals communities, including the liberal arms control community in the United States, Western European peace researchers, security specialists in the center-left political parties of Western Europe, and Soviet “institutchiks” – members of the influential policy institutes in the Soviet Union such as the United States of America and Canada Institute (Landau 1996: 52-54; Risse-Kappen 1994: 196-200; Kaldor 1995; Spencer 1995). These communities were subsequently able to take advantage of public pressure exerted through social movements in order to gain broader acceptance for common security. In Germany, for example, “in response to social movement pressure, German social organizations such as churches and trade unions quickly supported the ideas promoted by peace researchers and the SPD” (Risse-Kappen 1994: 207). Similar pressures even had an effect on the Reagan administration. As Risse-Kappen notes: When the Reagan administration brought hard-liners into power, the US arms control community was removed from policy influence. It was the American peace movement and what became known as the “freeze campaign” that revived the arms control process together with pressure from the European allies. (Risse-Kappen 1994: 205; also Cortright 1993: 90-110). Although it would be difficult to sustain a claim that the combination of critical movements and intellectuals persuaded the Reagan government to adopt the rhetoric and substance of common security in its entirety, it is clear that it did at least have a substantial impact on ameliorating U.S. behavior. The most dramatic and certainly the most unexpected impact of alternative defense ideas was felt in the Soviet Union. Through various East-West links, which included arms control institutions, Pugwash conferences, interparty contacts, and even direct personal links, a coterie of Soviet policy analysts and advisers were drawn toward common security and such attendant notions as “nonoffensive defense” (these links are detailed in Evangelista 1995; Kaldor 1995; Checkel 1993; Risse-Kappen 1994; Landau 1996 and Spencer 1995 concentrate on the role of the Pugwash conferences). This group, including Palme Commission member Georgii Arbatov, Pugwash attendee Andrei Kokoshin , and Sergei Karaganov, a senior adviser who was in regular contact with the Western peace researchers Anders Boserup and Lutz Unterseher (Risse-Kappen 1994: 203), then influenced Soviet leader Mikhail Gorbachev. Gorbachev’s subsequent championing of common security may be attributed to several factors. It is clear, for example, that new Soviet leadership had a strong interest in alleviating tensions in East-West relations in order to facilitate much-needed domestic reforms (“the interaction of ideas and material reality”). But what is significant is that the Soviets’ commitment to common security led to significant changes in force sizes and postures. These in turn aided in the winding down of the Cold War, the end of Soviet domination over Eastern Europe, and even the collapse of Russian control over much of the territory of the former Soviet Union. At the present time, in marked contrast to the situation in the early 1980s, common security is part of the common sense of security discourse. As MccGwire points out, the North Atlantic Treaty Organization (NATO) (a common defense pact) is using the rhetoric of common security in order to justify its expansion into Eastern Europe (MccGwire 1997). This points to an interesting and potentially important aspect of the impact of ideas on politics. As concepts such as common security, and collective security before it (Claude 1984: 223-260), are adopted by governments and military services, they inevitably become somewhat debased. The hope is that enough of the residual meaning can survive to shift the parameters of the debate in a potentially progressive direction. Moreover, the adoption of the concept of common security by official circles provides critics with a useful tool for (immanently) critiquing aspects of security policy (as MccGwire 1997 demonsrates in relation to NATO expansion). The example of common security is highly instructive. First, it indicates that critical intellectuals can be politically engaged and play a role – a significant one at that – in making the world a better and safer place. Second, it points to potential future addressees for critical international theory in general, and critical security studies in particular. Third, it also underlines the role of ideas in the evolution in society. CRITICAL SECURITY STUDIES AND THE THEORY-PRACTICE NEXUS Although most proponents of critical security studies reject aspects of Gramsci’s theory of organic intellectuals, in particular his exclusive concentration on class and his emphasis on the guiding role of the party, the desire for engagement and relevance must remain at the heart of their project. The example of the peace movement suggests that critical theorists can still play the role of organic intellectuals and that this organic relationship need not confine itself to a single class; it can involve alignment with different coalitions of social movements that campaign on an issue or a series of issues pertinent to the struggle for emancipation (Shaw 1994b; R. Walker 1994). Edward Said captures this broader orientation when he suggests that critical intellectuals “are always tied to and ought to remain an organic part of an ongoing experience in society: of the poor, the disadvantaged, the voiceless, the unrepresented, the powerless” (Said 1994: 84). In the specific case of critical security studies, this means placing the experience of those men and women and communities for whom the present world order is a cause of insecurity rather than security at the center of the agenda and making suffering humanity rather than raison d’etat the prism through which problems are viewed. Here the project stands full-square within the critical theory tradition. If “all theory is for someone and for some purpose,” then critical security studies is for “the voiceless, the unrepresented, the powerless,” and its purpose is their emancipation. The theoretical implications of this orientation have already been discussed in the previous chapters. They involve a fundamental reconceptualization of security with a shift in referent object and a broadening of the range of issues considered as a legitimate part of the discourse. They also involve a reconceptualization of strategy within this expanded notion of security. But the question remains at the conceptual level of how these alternative types of theorizing – even if they are self-consciously aligned to the practices of critical or new social movements, such as peace activism, the struggle for human rights, and the survival of minority cultures – can become “a force for the direction of action.” Again, Gramsci’s work is insightful. In the Prison Notebooks, Gramsci advances a sophisticated analysis of how dominant discourses play a vital role in upholding particular political and economic orders, or, in Gramsci’s terminology, “historic blocs” (Gramsci 1971: 323-377). Gramsci adopted Machiavelli’s view of power as a centaur, ahlf man, half beast: a mixture of consent and coercion. Consent is produced and reproduced by a ruling hegemony that holds sway through civil society and takes on the status of common sense; it becomes subconsciously accepted and even regarded as beyond question. Obviously, for Gramsci, there is nothing immutable about the values that permeate society; they can and do change. In the social realm, ideas and institutions that were once seen as natural and beyond question (i.e., commonsensical) in the West, such as feudalism and slavery, are now seen as anachronistic, unjust, and unacceptable. In Marx’s well-worn phrase, “All that is solid melts into the air.” Gramsci’s intention is to harness this potential for change and ensure that it moves in the direction of emancipation. To do this he suggests a strategy of a “war of position” (Gramsci 1971: 229-239). Gramsci argues that in states with developed civil societies, such as those in Western liberal democracies, any successful attempt at progressive social change requires a slow, incremental, even molecular, struggle to break down the prevailing hegemony and construct an alternative counterhegemony to take its place. Organic intellectuals have a crucial role to play in this process by helping to undermine the “natural,” “commonsense,” internalized nature of the status quo. This in turn helps create political space within which alternative conceptions of politics can be developed and new historic blocs created. I contend that Gramsci’s strategy of a war of position suggests an appropriate model for proponents of critical security studies to adopt in relating their theorizing to political practice. THE TASKS OF CRITICAL SECURITY STUDIES If the project of critical security studies is conceived in terms of war of position, then the main task of those intellectuals who align themselves with the enterprise is to attempt to undermine the prevailing hegemonic security discourse. This may be accomplished by utilizing specialist information and expertise to engage in an immanent critique of the prevailing security regimes, that is, comparing the justifications of those regimes with actual outcomes. When this is attempted in the security field, the prevailing structures and regimes are found to fail grievously on their own terms. Such an approach also involves challenging the pronouncements of those intellectuals, traditional or organic, whose views serve to legitimate, and hence reproduce, the prevailing world order. This challenge entails teasing out the often subconscious and certainly unexamined assumptions that underlie their arguments while drawing attention to the normative viewpoints that are smuggled into mainstream thinking about security behind its positivist façade. In this sense, proponents of critical security studies approximate to Foucault’s notion of “specific intellectuals” who use their expert knowledge to challenge the prevailing “regime of truth” (Foucault 1980: 132). However, critical theorists might wish to reformulate this sentiment along more familiar Quaker lines of “speaking truth to power” (this sentiment is also central to Said 1994) or even along the eisteddfod lines of speaking “truth against the world.” Of course, traditional strategists can, and indeed do, sometimes claim a similar role. Colin S. Gray, for example, states that “strategists must be prepared to ‘speak truth to power’” (Gray 1982a: 193). But the difference between Gray and proponents of critical security studies is that, whereas the former seeks to influence policymakers in particular directions without questioning the basis of their power, the latter aim at a thoroughgoing critique of all that traditional security studies has taken for granted. Furthermore, critical theorists base their critique on the presupposition, elegantly stated by Adorno, that “the need to lend suffering a voice is the precondition of all truth” (cited in Jameson 1990: 66). The aim of critical security studies in attempting to undermine the prevailing orthodoxy is ultimately educational. As Gramsci notes, “every relationship of ‘hegemony’ is necessarily a pedagogic relationship” (Gramsci 1971: 350; see also the discussion of critical pedagogy in Neufeld 1995: 116-121). Thus, by criticizing the hegemonic discourse and advancing alternative conceptions of security based on different understandings of human potentialities, the approach is simultaneously playing apart in eroding the legitimacy of the ruling historic bloc and contributing to the development of a counterhegemonic position. There are a number of avenues of avenues open to critical security specialists in pursuing this educational strategy. As teachers, they can try to foster and encourage skepticism toward accepted wisdom and open minds to other possibilities. They can also take advantage of the seemingly unquenchable thirst of the media for instant pundistry to forward alternative views onto a broader stage. Nancy Fraser argues: “As teachers, we try to foster an emergent pedagogical counterculture …. As critical public intellectuals we try to inject our perspectives into whatever cultural or political public spheres we have access to” (Fraser 1989: 11). Perhaps significantly, support for this type of emancipatory strategy can even be found in the work of the ultrapessimistic Adorno, who argues: In the history of civilization there have been not a few instances when delusions were healed not by focused propaganda, but, in the final analysis, because scholars, with their unobtrusive yet insistent work habits, studied what lay at the root of the delusion. (cited in Kellner 1992: vii) Such “unobtrusive yet insistent work” does not in itself create the social change to which Adorno alludes. The conceptual and the practical dangers of collapsing practice into theory must be guarded against. Rather, through their educational activities, proponent of critical security studies should aim to provide support for those social movements that promote emancipatory social change. By providing a critique of the prevailing order and legitimating alternative views, critical theorists can perform a valuable role in supporting the struggles of social movements. That said, the role of theorists is not to direct and instruct those movements with which they are aligned; instead, the relationship is reciprocal. The experience of the European, North American, and Antipodean peace movements of the 1980s shows how influential social movements can become when their efforts are harnessed to the intellectual and educational activity of critical thinkers. For example, in his account of New Zealand’s antinuclear stance in the 1980s, Michael C. Pugh cites the importance of the visits of critical intellectuals such as Helen Caldicott and Richard Falk in changing the country’s political climate and encouraging the growth of the antinuclear movement (Pugh 1989: 108; see also COrtright 1993: 5-13). In the 1980s peace movements and critical intellectuals interested in issues of security and strategy drew strength and succor from each other’s efforts. If such critical social movements do not exist, then this creates obvious difficulties for the critical theorist. But even under these circumstances, the theorist need not abandon all hope of an eventual orientation toward practice. Once again, the peace movement of the 1980s provides evidence of the possibilities. At that time, the movement benefited from the intellectual work undertaken in the lean years of the peace movement in the late 1970s. Some of the theories and concepts developed then, such as common security and nonoffensive defense, were eventually taken up even in the Kremlin and played a significant role in defusing the second Cold War. Those ideas developed in the 1970s can be seen in Adornian terms of the a “message in a bottle,” but in this case, contra Adorno’s expectations, they were picked up and used to support a program of emancipatory political practice. Obviously, one would be naïve to understate the difficulties facing those attempting to develop alternative critical approaches within academia. Some of these problems have been alluded to already and involve the structural constraints of academic life itself. Said argues that many problems are caused by what he describes as the growing “professionalisation” of academic life (Said 1994: 49-62). Academics are now so constrained by the requirements of job security and marketability that they are extremely risk-averse. It pays – in all senses – to stick with the crowd and avoid the exposed limb by following the prevalent disciplinary preoccupations, publish in certain prescribed journals, and so on. The result is the navel gazing so prevalent in the study of international relations and the seeming inability of security specialists to deal with the changes brought about by the end of the Cold War (Kristensen 1997 highlights the search of U.S. nuclear planners for “new targets for old weapons”). And, of course, the pressures for conformism are heightened in the field of security studies when governments have a very real interest in marginalizing dissent. Nevertheless, opportunities for critical thinking do exist, and this thinking can connect with the practices of social movements and become a “force for the direction of action.” The experience of the 1980s, when, in the depths of the second Cold War, critical thinkers risked demonization and in some countries far worse in order to challenge received wisdom, thus arguably playing a crucial role in the very survival of the human race, should act as both an inspiration and a challenge to critical security studies.

### 2NC Alt Solvency

#### The alternative reject's the affirmative's security discourse – think of the alternative as a broader process rather thean a finished product – our untimely rejection in the face of impending threats overturn what it means to be relevant – only a rupture of the political imaginary can challenge the confinement of the present to security – refusing to take part in security politics is our only hope for a counter-discourse – tha's **Calkivik**

#### Only resistance to security logic can generate genuine political thought

Neocleous 8 – Mark Neocleous, Prof. of Government @ Brunel, 2008 [Critique of Security, 185-6]

The only way out of such a dilemma, to escape the fetish, is perhaps to eschew the logic of security altogether - to reject it as so ideologically loaded in favour of the state that any real political thought other than the authoritarian and reactionary should be pressed to give it up. That is clearly something that can not be achieved within the limits of bourgeois thought and thus could never even begin to be imagined by the security intellectual. It is also something that the constant iteration of the refrain 'this is an insecure world' and reiteration of one fear, anxiety and insecurity after another will also make it hard to do. But it is something that the critique of security suggests we may have to consider if we want a political way out of the impasse of security. This impasse exists because security has now become so all-encompassing that it marginalises all else, most notably the constructive conflicts, debatesand discussionsthat animate political life. The constant prioritising of a mythical security as a political end - as the political end constitutes a rejection of politics in any meaningful sense of the term. That is, as a mode of action in which differences can be articulated, in which the conflicts and struggles that arise from such differences can be fought for and negotiated, in which people might come to believe that another world is possible - that they might transform the world and in turn be transformed. Security politics simply removes this; worse, it remoeves it while purportedly addressing it. In so doing it suppresses all issues of power and turns political questions into debates about the most efficient way to achieve 'security', despite the fact that we are never quite told - never could be told - what might count as having achieved it. Security politics is, in this sense, an anti-politics,"' dominating political discourse in much the same manner as the security state tries to dominate human beings, reinforcing security fetishism and the monopolistic character of security on the political imagination. We therefore need to get beyond security politics, not add yet more 'sectors' to it in a way that simply expands the scope of the state and legitimises state intervention in yet more and more areas of our lives. Simon Dalby reports a personal communication with Michael Williams, co-editor of the important text Critical Security Studies, in which the latter asks: if you take away security, what do you put in the hole that's left behind? But I'm inclined to agree with Dalby: maybe there is no hole."' The mistake has been to think that there is a hole and that this hole needs to be filled with a new vision or revision of security in which it is re-mapped or civilised or gendered or humanised or expanded or whatever. All of these ultimately remain within the statist political imaginary, and consequently end up reaffirming the state as the terrain of modern politics, the grounds of security. The real task is not to fill the supposed hole with yet another vision of security, but to fight for an alternative political language which takes us beyond the narrow horizon of bourgeois security and which therefore does not constantly throw us into the arms of the state. That's the point of critical politics: to develop a new political language more adequate to the kind of society we want. Thus while much of what I have said here has been of a negative order, part of the tradition of critical theory is that the negative may be as significant as the positive in setting thought on new paths. For if security really is the supreme concept of bourgeois society and the fundamental thematic of liberalism, then to keep harping on about insecurity and to keep demanding 'more security' (while meekly hoping that this increased security doesn't damage our liberty) is to blind ourselves to the possibility of building real alternatives to the authoritarian tendencies in contemporary politics. To situate ourselves against security politics would allow us to circumvent the debilitating effect achieved through the constant securitising of social and political issues, debilitating in the sense that 'security' helps consolidate the power of the existing forms of social domination and justifies the short-circuiting of even the most democratic forms. It would also allow us to forge another kind of politics centred on a different conception of the good. We need a new way of thinking and talking about social being and politics that moves us beyond security. This would perhaps be emancipatory in the true sense of the word. What this might mean, precisely, must be open to debate. But it certainly requires recognising that security is an illusion that has forgotten it is an illusion; it requires recognising that security is not the same as solidarity; it requires accepting that insecurity is part of the human condition, and thus giving up the search for the certainty of security and instead learning to tolerate the uncertainties, ambiguities and 'insecurities' that come with being human; it requires accepting that 'securitizing' an issue does not mean dealing with it politically, but bracketing it out and handing it to the state; it requires us to be brave enough to return the gift."'

## 1NR – Case

### K

#### Critical intellectualism creates change – answers all of their “alt fails” args

**Jones 99** (Richard Wyn, Professor of International Relations – Aberystwyth University, Security, Strategy, and Critical Theory, p. 155-163)

The central political task of the intellectuals is to aid in the construction of a counterhegemony and thus undermine the prevailing patterns of discourse and interaction that make up the currently dominant hegemony. This task is accomplished through educational activity, because, as Gramsci argues, “every relationship of ‘hegemony’ is necessarily a pedagogic relationship” (Gramsci 1971: 350). Discussing the relationship of the “philosophy of praxis” to political practice, Gramsci claims: It [the theory] does not tend to leave the “simple” in their primitive philosophy of common sense, but rather to lead them to a higher conception of life. If it affirms the need for contact between intellectuals and “simple” it is not in order to restrict scientific activity and preserve unity at the low level of the masses, but precisely in order to construct an intellectual-moral bloc which can make politically possible the intellectual progress of the mass and not only of small intellectual groups. (Gramsci 1971: 332-333). According to Gramsci, this attempt to construct an alternative “intellectual-moral bloc” should take place under the auspices of the Communist Party – a body he described as the “modern prince.” Just as Niccolo Machiavelli hoped to see a prince unite Italy, rid the country of foreign barbarians, and create a virtu-ous state, Gramsci believed that the modern price could lead the working class on its journey toward its revolutionary destiny of an emancipated society (Gramsci 1971: 125-205). Gramsci’s relative optimism about the possibility of progressive theorists playing a constructive role in emancipatory political practice was predicated on his belief in the existence of a universal class (a class whose emancipation would inevitably presage the emancipation of humanity itself) with revolutionary potential. It was a gradual loss of faith in this axiom that led Horkheimer and Adorno to their extremely pessimistic prognosis about the possibilities of progressive social change. But does a loss of faith in the revolutionary vocation of the proletariat necessarily lead to the kind of quietism ultimately embraced by the first generation of the Frankfurt School? The conflict that erupted in the 1960s between them and their more radical students suggests not. Indeed, contemporary critical theorists claim that the deprivileging of the role of the proletariat in the struggle for emancipation is actually a positive move. Class remains a very important axis of domination in society, but it is not the only such axis (Fraser 1995). Nor is it valid to reduce all other forms of domination – for example, in the case of gender – to class relations, as orthodox Marxists tend to do. To recognize these points is not only a first step toward the development of an analysis of forms of exploitation and exclusion within society that is more attuned to social reality; it is also a realization that there are other forms of emancipatory politics than those associated with class conflict.1 This in turn suggests new possibilities and problems for emancipatory theory. Furthermore, the abandonment of faith in revolutionary parties is also a positive development. The history of the European left during the twentieth century provides myriad examples of the ways in which the fetishization of party organizations has led to bureaucratic immobility and the confusion of means with ends (see, for example, Salvadori 1990). The failure of the Bolshevik experiment illustrates how disciplined, vanguard parties are an ideal vehicle for totalitarian domination (Serge 1984). Faith in the “infallible party” has obviously been the source of strength and comfort to many in this period and, as the experience of the southern Wales coalfield demonstrates, has inspired brave and progressive behavior (see, for example, the account of support for the Spanish Republic in Francis 1984). But such parties have so often been the enemies of emancipation that they should be treated with the utmost caution. Parties are necessary, but their fetishization is potentially disastrous. History furnishes examples of progressive developments that have been positively influenced by organic intellectuals operating outside the bounds of a particular party structure (G. Williams 1984). Some of these developments have occurred in the particularly intractable realm of security. These examples may be considered as “resources of hope” for critical security studies (R. Williams 1989). They illustrate that ideas are important or, more correctly, that change is the product of the dialectical interaction of ideas and material reality. One clear security-related example of the role of critical thinking and critical thinkers in aiding and abetting progressive social change is the experience of the peace movement of the 1980s. At that time the ideas of dissident defense intellectuals (the “alternative defense” school) encouraged and drew strength from peace activism. Together they had an effect not only on short-term policy but on the dominant discourses of strategy and security, a far more important result in the long run. The synergy between critical security intellectuals and critical social movements and the potential influence of both working in tandem can be witnessed particularly clearly in the fate of common security. As Thomas Risse-Kappen points out, the term “common security” originated in the contribution of peace researchers to the German security debate of the 1970s (Risse-Kappen 1994: 186ff.); it was subsequently popularized by the Palme Commission report (Independent Commission on Disarmament and Security Issues 1982). Initially, mainstream defense intellectuals dismissed the concept as hopelessly idealistic; it certainly had no place in their allegedly hardheaded and realist view of the world. However, notions of common security were taken up by a number of different intellectuals communities, including the liberal arms control community in the United States, Western European peace researchers, security specialists in the center-left political parties of Western Europe, and Soviet “institutchiks” – members of the influential policy institutes in the Soviet Union such as the United States of America and Canada Institute (Landau 1996: 52-54; Risse-Kappen 1994: 196-200; Kaldor 1995; Spencer 1995). These communities were subsequently able to take advantage of public pressure exerted through social movements in order to gain broader acceptance for common security. In Germany, for example, “in response to social movement pressure, German social organizations such as churches and trade unions quickly supported the ideas promoted by peace researchers and the SPD” (Risse-Kappen 1994: 207). Similar pressures even had an effect on the Reagan administration. 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This challenge entails teasing out the often subconscious and certainly unexamined assumptions that underlie their arguments while drawing attention to the normative viewpoints that are smuggled into mainstream thinking about security behind its positivist façade. In this sense, proponents of critical security studies approximate to Foucault’s notion of “specific intellectuals” who use their expert knowledge to challenge the prevailing “regime of truth” (Foucault 1980: 132). However, critical theorists might wish to reformulate this sentiment along more familiar Quaker lines of “speaking truth to power” (this sentiment is also central to Said 1994) or even along the eisteddfod lines of speaking “truth against the world.” Of course, traditional strategists can, and indeed do, sometimes claim a similar role. Colin S. Gray, for example, states that “strategists must be prepared to ‘speak truth to power’” (Gray 1982a: 193). But the difference between Gray and proponents of critical security studies is that, whereas the former seeks to influence policymakers in particular directions without questioning the basis of their power, the latter aim at a thoroughgoing critique of all that traditional security studies has taken for granted. Furthermore, critical theorists base their critique on the presupposition, elegantly stated by Adorno, that “the need to lend suffering a voice is the precondition of all truth” (cited in Jameson 1990: 66). The aim of critical security studies in attempting to undermine the prevailing orthodoxy is ultimately educational. As Gramsci notes, “every relationship of ‘hegemony’ is necessarily a pedagogic relationship” (Gramsci 1971: 350; see also the discussion of critical pedagogy in Neufeld 1995: 116-121). Thus, by criticizing the hegemonic discourse and advancing alternative conceptions of security based on different understandings of human potentialities, the approach is simultaneously playing apart in eroding the legitimacy of the ruling historic bloc and contributing to the development of a counterhegemonic position. There are a number of avenues of avenues open to critical security specialists in pursuing this educational strategy. As teachers, they can try to foster and encourage skepticism toward accepted wisdom and open minds to other possibilities. They can also take advantage of the seemingly unquenchable thirst of the media for instant pundistry to forward alternative views onto a broader stage. Nancy Fraser argues: “As teachers, we try to foster an emergent pedagogical counterculture …. As critical public intellectuals we try to inject our perspectives into whatever cultural or political public spheres we have access to” (Fraser 1989: 11). Perhaps significantly, support for this type of emancipatory strategy can even be found in the work of the ultrapessimistic Adorno, who argues: In the history of civilization there have been not a few instances when delusions were healed not by focused propaganda, but, in the final analysis, because scholars, with their unobtrusive yet insistent work habits, studied what lay at the root of the delusion. (cited in Kellner 1992: vii) Such “unobtrusive yet insistent work” does not in itself create the social change to which Adorno alludes. The conceptual and the practical dangers of collapsing practice into theory must be guarded against. Rather, through their educational activities, proponent of critical security studies should aim to provide support for those social movements that promote emancipatory social change. By providing a critique of the prevailing order and legitimating alternative views, critical theorists can perform a valuable role in supporting the struggles of social movements. That said, the role of theorists is not to direct and instruct those movements with which they are aligned; instead, the relationship is reciprocal. The experience of the European, North American, and Antipodean peace movements of the 1980s shows how influential social movements can become when their efforts are harnessed to the intellectual and educational activity of critical thinkers. For example, in his account of New Zealand’s antinuclear stance in the 1980s, Michael C. Pugh cites the importance of the visits of critical intellectuals such as Helen Caldicott and Richard Falk in changing the country’s political climate and encouraging the growth of the antinuclear movement (Pugh 1989: 108; see also COrtright 1993: 5-13). In the 1980s peace movements and critical intellectuals interested in issues of security and strategy drew strength and succor from each other’s efforts. If such critical social movements do not exist, then this creates obvious difficulties for the critical theorist. But even under these circumstances, the theorist need not abandon all hope of an eventual orientation toward practice. Once again, the peace movement of the 1980s provides evidence of the possibilities. At that time, the movement benefited from the intellectual work undertaken in the lean years of the peace movement in the late 1970s. Some of the theories and concepts developed then, such as common security and nonoffensive defense, were eventually taken up even in the Kremlin and played a significant role in defusing the second Cold War. Those ideas developed in the 1970s can be seen in Adornian terms of the a “message in a bottle,” but in this case, contra Adorno’s expectations, they were picked up and used to support a program of emancipatory political practice. Obviously, one would be naïve to understate the difficulties facing those attempting to develop alternative critical approaches within academia. Some of these problems have been alluded to already and involve the structural constraints of academic life itself. Said argues that many problems are caused by what he describes as the growing “professionalisation” of academic life (Said 1994: 49-62). Academics are now so constrained by the requirements of job security and marketability that they are extremely risk-averse. It pays – in all senses – to stick with the crowd and avoid the exposed limb by following the prevalent disciplinary preoccupations, publish in certain prescribed journals, and so on. The result is the navel gazing so prevalent in the study of international relations and the seeming inability of security specialists to deal with the changes brought about by the end of the Cold War (Kristensen 1997 highlights the search of U.S. nuclear planners for “new targets for old weapons”). And, of course, the pressures for conformism are heightened in the field of security studies when governments have a very real interest in marginalizing dissent. Nevertheless, opportunities for critical thinking do exist, and this thinking can connect with the practices of social movements and become a “force for the direction of action.” The experience of the 1980s, when, in the depths of the second Cold War, critical thinkers risked demonization and in some countries far worse in order to challenge received wisdom, thus arguably playing a crucial role in the very survival of the human race, should act as both an inspiration and a challenge to critical security studies.

### Conditionality – 2NC

#### 1. Counter Interpretation – the Neg gets \_\_\_\_\_ conditional options and the status quo.

#### 2. Negative Flexibility – the Aff gets to choose the topic of the debate and speaks first and last, so the Neg should get to test the Aff from multiple angles.

#### 3. Strategic Thinking – forces the Aff to choose their best arguments. That’s the biggest internal link to education since it’s the only education we get in the debate.

#### 4. Skew Inevitable – faster and more experienced teams and no-risk arguments like T and theory means there’s always some skew – that IS strategy.

#### 5. 1AC Checks – negation theory means we’re always saying the Aff is bad, so they have built in offense from 9 minutes of the 1AC saying the Aff is good.

#### 6. Diversity of Education – only conditionality lets the Neg test the Aff with policy and critical arguments - that’s key to testing Aff implementation AND assumptions.

#### 7. Real World – policymakers have to confront multiple alternatives, so narrowing the debate to 1 option is arbitrary.

#### 8. 2NR Checks – they’ll get the full 2AR to answer whatever we go for.

#### 9. Not A Voting Issue – at worst just stick us with the conditional options. Particularly true at GSU – impossible to predict all the different affs – no such thing as pre round conditionality

#### 10. Don’t Vote On Potential For Abuse – evaluating theory on competing interpretations encourages trivial procedurals at the expense of substantive debate. Only vote on conditionality if we made the debate impossible for the Aff.

#### 11. Multiple Perms Are A Voting Issue – they give the Aff numerous worlds to weigh against each of our options and cause a massive time trade off for the Aff at the expense of substantive comparison.

### AT: Counter Interpretations (Dispo, Pre-round conditionality, etc.)

#### 1. Doesn’t solve our offense – means the Neg is or can be locked into one option

#### 2. Counter-interpretations on theory are arbitrary and self-serving – vote on what we do, not what we justify.

#### 3. Dispo doesn’t solve THEIR offense – the Neg can force permutations

## Wars of Choice

#### Congressional involvement not key to solve better wars and they don't make sure we have clearer ideas - Congress approved all of the wars that we have gone to - Iraq and Vietnam were still a result of COngressional approval - in many cases Congress would go along with presidential decisions anyway - WW2 is an example of that - thats Nzelibe - our evidence all cites the sharp division inherent in the way we conduct war now

#### **---Aff can’t make grand predictions of war strategy – ignores concerns over allies and changes in strategic conditions** Cordesman 9 (Anthony H., Arleigh A. Burke Chair in Strategy at CSIS, "THE OBAMA ADMINISTRATION AND US STRATEGY: THE FIRST 100 DAYS", http://csis.org/files/media/csis/pubs/090414\_obama100.pdf)

This long list of shifts in US national security policy and strategy only covers part of ¶ President Obama’s first 100 days. It does not include changes in the new ¶ Administration’s approach to issues like Cuba, its overall strategic posture toward Latin ¶ American or Africa, its concern with the impact of the global financial crisis on low ¶ income states, or even relations with the full range of key strategic partners and states – ¶ such as India.¶ It is equally important to stress that this list of ―accomplishments‖ is largely a list of ¶ beginnings, concepts and intentions. It will be years before it will be fully clear what ¶ many really mean in terms of tangible actions and ―facts on the ground.‖ Most of the ¶ issues that the Obama Administration has tried to deal with in its first 100 days are at ¶ least a quarter of a century old, and many date back for more than half a century. ¶ ¶ There are many areas where the prospects for success in meeting the President’s goals are ¶ limited, or where outside pressures may force the US to change its policies and strategies. ¶ It is also a fundamental reality of every aspect of national security policy that good ¶ intentions are ultimately irrelevant unless they are followed by successful actions. Once ¶ again, a nation’s national security strategy – and indeed its security – is not defined by ¶ what it declares, but rather by what it does.

#### ---WPR solves

McMahon 9/1/13 Robert, Editor for CFR, “Balance of War Powers: The U.S. President and Congress,” http://www.cfr.org/united-states/balance-war-powers-us-president-congress/p13092#p6

Experts say it has had mixed results. Alton Frye, a CFR presidential senior fellow at the time, told the Senate Judiciary Committee in 2002 that the response to the act was disappointing. "The resistance of every president to the law," he said, "beginning with President Nixon's unsuccessful veto, and the Supreme Court's refusal to provide a definitive ruling on the law's constitutionality, have left a worrisome cloud over legislative-executive relations in this crucial field." The Congressional Research Service says that from 1975 through 2011, presidents submitted 132 reports related to deployment of U.S. forces (PDF), as required by the resolution. But only one--the 1975 Mayaguez incident--cited action triggering the time limit. It found the reports from presidents, who usually said their actions were "consistent with the War Powers Resolution," ranged from embassy operations to full combat like the 2003 war with Iraq, which Congress authorized. Fisher, of the Constitution Project, says there has been some acknowledgment from presidents of the law's power. "I think in a lot of actions--in Granada [in 1983], in Panama in 1989--there seemed to be efforts to get things wrapped up by the sixty-day limit," he says.

#### There is no groupthink - our evidence cites the models that their impact evidence talks about - groupthink can help group cohesiveness and actually lead to more effective decision making to ehance group performance - no statistical causation between groupthink and more wars - thats Hempell

#### CX proves - no historical examples of groupthink affecting Obama administration specifically

#### -----Informal checks are sufficient to address groupthink

Kennedy 12 [ Copyright (c) 2012 Gould School of Law Southern California Interdisciplinary Law Journal Spring, 2012 Southern California Interdisciplinary Law Journal 21 S. Cal. Interdis. L.J. 633 LENGTH: 23138 words NOTE: THE HIJACKING OF FOREIGN POLICY DECISION MAKING: GROUPTHINK AND PRESIDENTIAL POWER IN THE POST-9/11 WORLD NAME: Brandon Kennedy\* BIO: \* Class of 2012, University of Southern California Gould School of Law; M.A. Regional Studies: Middle East 2009, Harvard Graduate School of Arts and Sciences; B.A. Government 2009, Harvard University.]

Neither the president nor the decision-making group members implement "hybrid" checks; the checks do, however, originate in the executive branch and directly affect the president and the group members. Hybrid checks relate to the bureaucratic machine and typically address the structural faults within the executive branch that can affect the core decision-making group. Although the president and his or her advisers constitute the insiders of the decision-making group, they ultimately belong [\*676] to a larger organization - the executive branch - and thereby become part of the bureaucratic machine. 1. Inter-Agency Process The "inter-agency process" check involves getting approval for, or opinions about, a proposed decision from **other agencies**. n252 The inter-agency process is particularly common for national security and foreign policy decisions. n253 "Occasionally, it will operate at a higher level in principals' committees involving Cabinet-level or sub-Cabinet people and their deputies," thus directly checking the decision-making group members. n254 2. Intra-Agency Process Another similar check is the "intra-agency process," in which the circulation of proposed decisions **within the agency** empowers dissidents and harnesses a diversity of thinking. n255 If nothing else, the process catches errors, or at least increases the odds of avoiding them, given the number of people who must review or approve a document or decision within the agency. n256 3. Agency or Lawyer Culture The culture of a particular agency - the institutional self-awareness of its professionalism - provides another check. n257 "Lawyer culture" - which places high **value on competency** and adherence to rules and laws - resides at the core of agency culture; n258 its "nay-saying" objectivity "is especially important in the small inner circle of presidential decision making to counter the tendency towards groupthink and a vulnerability to sycophancy." n259 [\*677] 4. Public Humiliation A final check in this category is the "public humiliation" check. n260 This check only comes into play when the previous three have failed, and involves the threat to ""go public' by leaking embarrassing information or publicly resigning."

#### Groupthink Inevitable – secrecy means the executive retains control

Posner 12 (Eric, Kirkland & Ellis Professor, University of Chicago Law School,

REFLECTIONS ON THE LAW OF SEPTEMBER 11: A TEN-YEAR RETROSPECTIVE: DEFERENCE TO THE EXECUTIVE IN THE UNITED STATES AFTER SEPTEMBER 11: CONGRESS, THE COURTS, AND THE OFFICE OF LEGAL COUNSEL, Winter, 2012 Harvard Journal of Law & Public Policy 35 Harv. J.L. & Pub. Pol'y 213)

Recall that Professor Holmes says that the argument that the executive can act more swiftly than Congress and the courts does not apply to the rule-development stage because the crisis is past even if the threat remains. n33 But if we think back to September 11, the crisis did not end on that day, even if the immediate threat of violence did. It was reasonable to believe that other plots had been put into action and that violence could erupt at any moment. As the weeks and months passed, these concerns faded. But it also became clear that al Qaeda had sympathizers in the United States, and that these people might strike at any time, possibly on their own initiative, or volunteer for training that would later make them considerably more dangerous. The anthrax scare brought home the possibility that al Qaeda could use even more deadly weapons than hijacked airplanes. Every day brought another revelation of a hole in border security. Thus, it was a matter of urgency to develop new rules that would address the threat. The government maintained the confidentiality of a constant supply of intelligence, for fear of exposing sources and methods. n34 Meanwhile, the government was already taking secret actions (many of which were later exposed), including tapping cell phone calls, tracking monetary transfers, and infiltrating terrorist organizations. n35 Optimal policy going forward necessarily depended on secrecy. Policy X, which might seem plausible given publicly available information, might turn out to be unnecessary, redundant, or even counterproductive in light of secret information about the activities of al Qaeda or secret Policy Y. Thus, although Congress could no doubt give useful advice, it seems hard to believe that it could have contributed much to the development of counterterrorism tactics, any more than it can contribute to military tactics (where to invade, where to bomb) during a regular war. A set of constitutional protocols normally applies to the making of policy and its embodiment in government action. The executive [\*227] must act with Congress, and it must respect the courts; it cannot act by itself. But these rules apply to normal times, and the medical protocol analogy is of little use here. Medical protocols do not need to be secret because patients have no incentive to game them--unlike terrorists who benefit greatly from knowing the methods that the United States uses to spy on them, capture them, and interrogate them. Furthermore, medical protocols are not based on secret information; they are based on widely available medical research. Thus, when medical researchers develop medical protocols at the rule development stage, they can do so publicly without undermining the purpose of developing the protocols in the first place. By contrast, rules governing counterterrorism operations must be developed mostly in secret, and mostly on the basis of secret information. Hence the importance of keeping rule development as much as possible within the only branch that possesses the power to act against security threats. Those rules, of course, would constrain only lower-level executive agents, not the executive itself. There is an obvious reason for this; if the rules are wrong, they need to be corrected. It would similarly make little sense for doctors to develop emergency room protocols that could never be changed in the future as new technologies and new health problems rendered the old protocols worthless. Professor Holmes argues that the executive becomes subject to groupthink and other decision-making pathologies when it makes policy itself rather than with Congress and other agents. n36 But the same point can be made about executive decision-making during regular wars, when the risk of groupthink (if it is a risk) is tolerated because of the need for secrecy. If Congress and the judiciary cannot constrain the executive during emergencies because of the problem of secrecy, then perhaps this problem can be overcome by putting the source of constraint in the executive branch itself, where norms of secrecy prevail. That brings us to the Office of Legal Counsel.

#### There is no impact to heg - things like globalization and interdependence would all continue absent imperialist hegemony - thats Fettweis

#### Brezinski says US would be more nationalistic, you cause that with your rhetoric and only the alt’ can solve it

Fettweis 10 (Christopher J., Professor of Political Science at Tulane, “Threat and Anxiety in US Foreign Policy,” Survival 52.2, Informaworld)

For the architects of US foreign policy, one belief has remained constant since the Second World War: we are living in dangerous times. In the 1950s, fears of communism caused the United States to raise and maintain an enormous peacetime military for the first time in its history, an action that would have horrified the founding generation. The Cold War ended, but the perception of threat lived on. Today, the Committee on the Present Danger, first established in the 1950s, has re-emerged to assure America that mortal danger had not gone the way of the Soviet Union. Former Speaker of the House Newt Gingrich is typical of many American leaders in his belief that the challenges of the current era are every bit as great as those faced by Abraham Lincoln during the Civil War, taking it as given that America's present enemies pose a 'mortal threat to our survival as a free country'.11 To US foreign policymakers, the world is full of enemies and evil, and America must never relax its guard. More than one observer has noted that the United States displays a level of threat perception that is far higher than that of the other great powers.12 This feeling of insecurity is not limited to US leaders. Six in ten Americans apparently think that a Third World War is 'likely to occur' in their lifetime; others, including influential opinion-makers, believe it has already begun.13 In April 2007, 82% of Americans told pollsters that the world is a more dangerous place than it used to be, and that it is getting worse. One year later, another poll by the same firm found that a 'significant majority' of Americans were anxious about US security, demonstrating that in the United States, 'anxiety remains steady over time'.14 This level of anxiety is striking when compared to public opinion in other post-Cold War powers. Whether the issue is Islamic fundamentalist terrorism or rogue actors such as Saddam Hussein or Hugo Chaacutevez, the United States detects higher levels of danger than any other state. During the Cold War, the pattern was the same: the United States feared an attack by the Warsaw Pact far more than did its West European allies, who presumably had more to lose if such an event occurred; it worried about the influence of communist China more than did South Korea, Japan or the ASEAN states; and it obsessed over the potential pernicious influence of Fidel Castro and the Sandinistas more than did the smaller states of the region.15 Despite the fact that virtually all other states are demonstrably weaker than the United States, and therefore presumably more vulnerable to a variety of threats, they do not seem to worry about their safety nearly as much as does Uncle Sam. Is the US perception justified? Just because a country is paranoid does not mean that there are not forces seeking to do it harm. Any modern state is confronted with a number of possible dangers and threats. The question is whether those facing the twenty-first-century United States are quite as dire as its leaders seem to believe. Conventional security threats Compared to any other country in the long history of international affairs, the United States is fundamentally safe from conventional assault. It is hard to imagine how even the combined military and economic might of Eurasia (if such a combination were possible) could be harnessed to mount a successful trans-oceanic invasion. Today, a few nuclear weapons would probably suffice to deter **any imaginable approaching armada**, but even before the nuclear age few serious strategists considered invasion a realistic possibility. 'Shall we expect some transatlantic military giant, to step the Ocean, and crush us at a blow?' wondered Abraham Lincoln in 1838: Never! All the armies of Europe, Asia and Africa combined, with all the treasure of the earth (our own excepted) in their military chest; with a Bonaparte for a commander, could not by force, take a drink from the Ohio, or make a track on the Blue Ridge, in a trial of a thousand years.16 Princeton international-relations scholars Harold and Margaret Sprout spoke for many security analysts when they argued in 1939 that by the time the United States entered the First World War, 'it was manifest, both from indisputable data publicly available at that time and from inferences easily and fairly deductible therefrom' that a trans-oceanic invasion 'simply could not occur'.17 Not only is the invasion and conquest of the United States virtually unthinkable, but warfare of all kinds is everywhere on the decline. Since the end of the Cold War, inter-and intra-national conflict and crises have steadily declined in number and intensity.18 The risk for the average person of dying in battle has plummeted since the Second World War, especially since the end of the Cold War.19 The incidence of new wars is also at an all-time low.20 Only one international war has been fought since the invasion of Iraq, and it can be counted only if the common understanding of 'war' is stretched a bit. Despite the sound and fury that accompanied the 2008 Russo-Georgian clash, the combined battle-death figure appears to be under 1,000, which means it would not even qualify as a war using the most-used definitions.21 By virtually all measures, the world is a far more peaceful place than it has been at any time in recorded history. This trend is apparent on every continent. At the beginning of 2010, the only conflict raging in the Western Hemisphere was the ongoing civil war in Colombia, but even this conflict is far less severe today than it was ten years ago. Europe, which has in the past been the most war-prone of continents, is entirely calm, without even the threat of inter-state conflict. Little war planning now goes on among the European powers, a rather stark departure from previous eras.22 Every one of the two billion or so people of the Pacific Rim is currently living in a society at peace. The brief but bloody Sri Lankan civil war was Asia's only conflict in 2009. In Africa, despite a variety of serious on-going challenges, levels of conflict are the lowest they have been in the centuries of written history we have about the continent. In the greater Middle East, the Israeli-Palestinian issue continues to simmer, if at a relatively low level, as do the civil war in Yemen and the two counterinsurgency campaigns in which the United States and its allies currently find themselves bogged down. None of this is to suggest that these places are without problems, or that war is impossible. But given the rapid increase in the world's population and the number of countries (the League of Nations had 63 members at its peak between the wars, while the United Nations currently has 192), a pure extrapolation of historical trends might lead one to expect a great deal more warfare than there actually is. Conquest, it seems, is far less common today than it has been throughout history. Territorial disputes, the most common cause of warfare in the past, have dropped to record low levels, especially among the great powers. International borders have all but hardened. By any reasonable measure, the world is living in a golden age of peace and security, even if it may not always appear so. If indeed major war is all but obsolete, as an increasing number of prominent observers believe,23 then surely even the most diehard pessimists can admit that the United States need not fear invasion and conquest. State survival, the key factor behind state behaviour according to 'defensive realists', is today all but assured for even the smallest states.24 To be sure, throughout most of human history, the obliteration of political entities was a distinct possibility. Polities as diverse as Central Asian empires, Greek poleis and German 'princely states' were all at risk of conquest or absorption by powerful neighbours. That this no longer occurs is an under-appreciated break from the past. Since the Second World War, precisely zero UN members have been forcibly removed from the map.25 Today, states are safe from complete annihilation. The stronger countries are even safer; the strongest is the safest. A variety of explanations have been proposed to account for this peaceful trend. Some realists take the view that nuclear weapons have thrust peace upon the otherwise conflictual system.26 Liberal explanations include the expanding number of democracies, multilateral institutions and the deepening complexity of economic interdependence.27 Constructivists do not necessarily deny the importance of any of these factors, but give primary credit to a change in ideas in contemporary international society.28 Those factors exogenous to the human mind are important only to the extent that they affect the way people think, and that society functions. It is ideational evolution, and the corresponding change in behavioural norms regarding conflict, that has been decisive in this view. All these explanations share one important factor: the change they describe is likely to be irreversible. Nuclear weapons cannot be uninvented, and no defence against their use is ever going to be completely foolproof. The pace of globalisation and economic interdependence shows no sign of slowing. Democracy seems to be firmly embedded in the cultural fabric of many of the places it currently exists, and may well be in the process of spreading to the places where it does not. The United Nations shows no signs of disappearing. Finally, normative progress, like that which brought an end to slavery and duelling, tends to be unidirectional. One potential explanation for the growth of global peace can be dismissed fairly quickly: US actions do not seem to have contributed much. The limited evidence suggests that there is little reason to believe in the stabilising power of the US hegemon, and that there is no relation between the relative level of American activism and international stability. During the 1990s, the United States cut back on its defence spending fairly substantially. By 1998, the United States was spending $100 billion less on defence in real terms than it had in 1990, a 25% reduction.29 To internationalists, defence hawks and other believers in hegemonic stability, this irresponsible 'peace dividend' endangered both national and global security. 'No serious analyst of American military capabilities', argued neo-conservatives William Kristol and Robert Kagan in 1996, 'doubts that the defense budget has been cut much too far to meet America's responsibilities to itself and to world peace'.30 And yet the verdict from the 1990s is fairly plain: the world grew more peaceful while the United States cut its forces. No state seemed to believe that its security was endangered by a less-capable US military, or at least none took any action that would suggest such a belief. No militaries were enhanced to address power vacuums; no security dilemmas drove insecurity or arms races; no regional balancing occurred once the stabilis-ing presence of the US military was diminished. The rest of the world acted as if the threat of international war was not a pressing concern, despite the reduction in US military capabilities. Most of all, the United States was no less safe. The incidence and magnitude of global conflict declined while the United States cut its military spending under President Bill Clinton, and kept declining as the George W. Bush administration ramped the spending back up. Complex statistical analysis is unnecessary to reach the conclusion that world peace and US military expenditure are unrelated. Unconventional security threats Conventional war, much less outright assault, is not the leading security challenge in the minds of most Americans today. Instead, irregular or non-state actors, especially terrorists, top the list of threats to the West since 11 September 2001. The primary guiding principle of US foreign policymaking, for better or worse, is the continuing struggle against terrorism. President Bush repeatedly used the term 'Islamofascists' to describe the enemy that he re-oriented the US defence establishment to fight, transforming al-Qaeda from a ragtag band of lunatics into a threat to the republic itself. It is not uncommon for even sober analysts to claim that Islamic terrorists present an 'existential threat' to the United States, especially if they were ever to employ nuclear, biological or chemical weapons. Perhaps it is Parkinson's Law that inspires some analysts to compare Islamic fundamentalists with the great enemies of the past, such as the Nazis or the Communists, since no rational analysis of their destructive potential would allow such a conclusion. Threat is a function of capabilities and intent; even if al-Qaeda has the intent to threaten the existence of the United States, it does not possess the capability to do so. This is not to deny that Islamist terrorists pose a danger to the United States, or to suggest that policymakers are poised to 'let down their guard', as President Bush has worried. A rational United States, however, would interpret this issue for what it is: a law-enforcement challenge of the first order rather than an existential strategic threat. Fortunately, there is no meaningful dissension in the industrialised world about modern transnational problems such as terrorism, weapons proliferation, human trafficking, drug smuggling or piracy. Multilateral cooperation, coordination and intelligence-sharing to address such issues are in the interest of every state and occur at high, if often under-reported, levels. Police action against terrorism is much less expensive than war, and is likely to be far more productive. Even terrorists equipped with nuclear, biological or chemical weapons would be incapable of causing damage so cataclysmic that it would prove fatal to modern states. Though the prospect of terrorists obtaining and using such weapons is one of the most consistently terrifying scenarios of the new era, it is also highly unlikely and not nearly as dangerous as sometimes portrayed. As the well-funded, well-staffed Aum Shinrikyo cult found out in the 1990s, workable forms of weapons of mass destruction are hard to purchase, harder still to synthesise without state help, and challenging to use effectively. The Japanese group managed to kill a dozen people on the Tokyo subway system at rush hour. While tragic, the attack was hardly the stuff of apocalyptic nightmares. Super-weapons are simply not easy for even the most sophisticated non-state actors to use.31 If terrorists were able to overcome the substantial obstacles and use the most destructive weapons in a densely populated area, the outcome would of course be terrible for those unfortunate enough to be nearby. But we should not operate under the illusion that doomsday would arrive. Modern industrialised countries can cope with disasters, both natural and man-made. As unpleasant as such events would be, they do not represent existential threats. Responsibility lies with those who ought to know better The American public can be forgiven for being afraid of nuclear-, biological-or chemical-armed terrorists, since the messages they have been receiving from US leaders have been uniformly apocalyptic, informed by worst-case thinking. The responsibility for this pathological fear lies with those who ought to know better - who know, for instance, that plastic sheeting and duct tape are not realistic protections against anything, but who recommend their stockpiling anyway. Terrorists can kill people and scare many more, but the localised damage they can cause is by itself incapable of changing the character of Western civilisation. Only the people of the West, largely through their own overreaction, can accomplish that. While US analysts spend time worrying about such events, it is worth recalling that the diplomats of any prior age would likely have been quite grateful to have our problems in lieu of their own. Today's security debate often seems to be driven less by actual threats than vague, unnamed dangers. Former Secretary of Defense Donald Rumsfeld warned about 'unknown unknowns': the threats 'we don't know we don't know', which 'tend to be the difficult ones'.32 Kristol and Kagan worry that if the United States fails to remain highly engaged, the international system 'is likely to yield very real external dangers, as threatening in their own way as the Soviet Union was a quarter century ago'.33 What exactly these dangers are is left open to interpretation. In the absence of identifiable threats, the unknown can provide us with an enemy, one whose power is limited only by the imagination. This is what Benjamin Friedman and Harvey Sapolsky call 'the threat of no threats', and is perhaps the most frightening danger of all.34 Even if, as folk wisdom has it, anything is possible, not everything is plausible. Vague, generalised dangers should never be acceptable replacements for specific threats when crafting national policy. There is no limit to the potential dangers the human mind can manufacture, but there are very definite limits to the specific threats the world contains. 'To make any thing very terrible, obscurity seems in general to be necessary', noted Edmund Burke. 'When we know the full extent of any danger, when we can accustom our eyes to it, a great deal of the apprehension vanishes.'35 The full extent of today's dangers is not only knowable, but relatively minor. Non-security threats: liberty and prosperity Security is not the only vital national interest, of course. Prosperity and democracy are typically items included on the short list of issues for which the United States should be willing to fight. During the Cold War, neither could be taken for granted. The health of the US economy would presumably have been at grave risk if the rest of the world had been swept into the communist camp. A united, hostile, Soviet-led Eurasia could have posed a major threat to the United States. Embargoes or other forms of economic warfare could have proved devastating to the US standard of living. Furthermore, as economist and political theorist (and later national security advisor) Walter Rostow argued at the time, if totalitarian dictatorships had come to power across the world, the very survival of democracy in the United States would have been imperiled.36 The precarious balance that every country must strike between liberty and security might have tilted decisively toward the latter if the United States were left alone in a hostile world. It was difficult for Rostow to imagine how American democracy could have long survived as an island in a totalitarian sea. It was therefore imperative for the United States to oppose the spread of communism in Eurasia, to secure the future of both prosperity and liberty. The vigour with which post-Cold War American administrations have pursued the promotion of democracy around the world might make one believe that without a strong ally, liberty and freedom are powerless and doomed, and even under threat in the United States. One need not be convinced that history has ended, however, to accept the notion that the collapse of communism has left no viable political challenger to democracy and no economic alternative to free markets.37 No political ideology exists around which to rally a hostile coalition of states against the major democratic powers. Communism and fascism, while perhaps not completely dead, are relegated to the background, and although totalitarianism persists in some regions of the world, political legitimacy in today's international society comes from a mandate from the masses. Even if democracy does not soon infiltrate those last bastions of illiberalism (and it might), it is not losing ground to other forms of government. Meanwhile, 'waves' of democracy have at times swept over the world with very little direct aid from abroad, and it is reasonable to assume that the values of liberty and freedom will endure even without US efforts to promote them.38 In addition, although the flavours may differ, free-market capitalism is today almost universally recognised as the fastest route to prosperity and wealth. Were a group of unfriendly governments to come to power in Eurasia, they would still find it in their interest to maintain trade and financial relations with the United States. No state would benefit from cutting ties with the world's largest market and producer of goods. Economic inter-dependence is, after all, a two-way street; the major trading partners of the United States are all more dependent upon the US market than vice versa.39 As long as capitalism remains the dominant form of economic organisation, and there is little reason to believe that any change is on the horizon, the economic danger presented by even the most hostile of coalitions will remain extremely low. Explaining the pathology If a mismatch between perceptions of threat and reality indeed exists in the United States, how can it be explained? If the connection between power and paranoia is an example of a political pathology, one that compels irrational reactions and behaviour, why is it present? Potential explanations draw from structural features of the international system; those unique to the American experience; and factors of individual psychology. Systemic-level explanations Since great powers have broader interests than do smaller powers, one might expect that the lone hyperpower in a unipolar system would have the broadest interests of all.40 With great power comes both great flexibility to pursue a wide variety of goals and great responsibility to affect the progression of events. 'Most countries are primarily concerned with what happens in their neighborhoods', says Robert Jervis, 'but the world is the unipole's neighborhood'.41 As interests expand, new threats appear which, if states are not careful, can soon take on an inflated importance and inspire unnecessary action. Threats to secondary interests can rapidly be misinterpreted as significant dangers if not kept in perspective by a constant, conscious process of evaluation. The expansion of interests as power grows is natural, but the interpretation of those new interests as vital is not. Vital national interests do not change from decade to decade, much less from administration to administration, but interest inflation is a central aspect of foreign-policy pathology in unipolar systems. Great powers of the past have often proved unable to disconnect vital interests from peripheral ones as expansion occurred. Newly perceived dangers have seemed to require action, which has often taken the form of further expansion, leading to the identification of new threats. There will never be a time when no threats can be generated by the human imagination. States can never be fully safe if all interests are vital and all threats dire. Insecurity has no natural limits, and if not kept in check can easily lead to overexpansion, overspending and decline.42 Historical examples are not difficult to find. Two millennia after its collapse, it is easy to forget that insecurity contributed to the growth of the Roman Empire. Many of its most prominent conquests, from Gaul to Dacia to Iberia, were driven not only by the desire for glory or plunder but also by the sincere belief that the populations along Rome's widening periphery could represent a threat. Cicero observed that many Romans felt that expansion was thrust upon them, as part of a project to rid themselves of 'frightening neighbours'.43 The fact that most of these neighbours were manifestly weaker did not matter. As its power grew, so too did Rome's insecurity. Even Rome's most ardent defenders stop short of claiming that Roman expansion can be fully explained with reference to virtuous, defensive motives. But prestige and financial gain were not the only motivations of Roman strategists. As both Cicero and Virgil argued, Rome never felt safe as long as it had enemies, both real and imagined.44 The most powerful - and in many ways safest - society in the ancient world was unconvinced that its security was assured as long as it had neighbours. Their mere existence constituted a potential threat. Great Britain exhibited a similar level of insecurity as its power grew throughout the eighteenth and nineteenth centuries. As the boundaries of its empire expanded, new dangers constantly appeared just over the horizon. British politicians and strategists felt that turbulence on colonial borders 'pulled them toward expansion', in the words of historian John Galbraith.45 The notion that empire could never be safe until all potential threats were addressed encouraged unnecessary and strength-sapping forays into such places as Afghanistan, Zululand and the Crimea. There is little doubt that the empires of the past did have real enemies that could have been the cause of genuine security concerns. Insecurity is only pathological when elevated to disproportionate, irrational levels. Today the United States faces far fewer existential dangers than did either the Roman or British empires. American dominance is far greater, as is the strength of its pathology. State-level explanations Given that the geographic position of the United States occasionally allows its people the luxury of forgetting about the problems of the world, greaterthan-average shock follows when that seeming isolation is shattered by surprise attack.46 The vast distance separating the United States from any potential foe tends to create the preconditions for overreaction if and when its presumed safety is violated. As a result, surprise attacks have a greater influence on the development of the national-security posture of the United States than any other great power.47 Since the attacks of September 2001 were a major shock, one might expect a US reaction that was out of proportion to extant threats. As New York Times columnist Thomas Friedman put it, '9/11 made us stupid'.48 The liberal tradition encourages a Manichaean worldview The United States might also be peculiarly susceptible to the insecurity pathology because of what political scientist Louis Hartz called the 'liberal tradition' in the United States, at least as compared with those states whose intellectual inheritances are based more squarely in the lessons of realpolitik.49 This liberal political tradition encourages a Manichaean worldview and a simultaneous acceptance of messianic responsibilities. It is unsurprising to American liberals that their country - a major force for good in the world - is the target of a variety of evil-doers. Islamist fundamentalist terrorists, they argue, harbour hatred for the United States not based upon what it has done, but what it is: the world's leading voice for freedom, democracy and modernity.50 Realists are usually somewhat more sanguine about the threats facing a state, and are by nature less prone to exaggeration. Liberalism has been particularly influential in the White House over the past 16 years. The administration of George W. Bush contained a number of people who inhabited the far end of the threat-perception spectrum, and who drove it in a decidedly liberal direction. There is no doubt that the neo-conservatives, who represent a muscular version of the American liberal tradition, tend to perceive more danger in the international system than do many other observers. Indeed, inherent in many of the definitions of neoconservatism is a high perception of threat; it is an essential part of what differentiates a neocon from other analysts.51 The extent to which the United States overestimates the level of danger in the world is at least in part directly related to the influence of neo-conservatives both directly upon policymaking and indirectly in the marketplace of ideas. When neo-conservatives are prominent, as they have been since the Cold War ended, either in administrations or as leading voices of the opposition, the people of the United States are bound to feel more insecure than they actually are. The liberal tradition has helped foster a sense of moral superiority that is a central feature of the American historical narrative. While it is normal for people to take pride in their country or culture, Americans have long been exceptional in their exceptionalism.52 A key component of the US national self-image is moral, driven in part by the comparative strength of religious belief in the United States: America is not only unique and essential, but good. And good cannot exist without evil. The greater the power of good, the greater the threat it represents to evil, which will respond in diabolical ways, employing all of the cunning and deception at its disposal. No amount of security will ever be enough to assure safety in a world beset by the forces of darkness; as US strength grows, so too will that of Satan's minions, even if they are not always detectable. Finally, the United States is served, or held hostage, by a 24-hour news cycle that thrives on conflict and danger. Fear is an essential component of the business model of both CNN and Fox News, a necessary tool to keep fingers away from remote controls during commercial breaks. Voices of reason tend to spoil the fun, and may inspire people to seek excitement elsewhere. News outlets win by presenting stories that are more frightening, angry and simple than those of their competitors, not by supplying historical perspective and reassurance. If no danger exists, it must be created, or at least creatively implied. Truth, as George Kennan noted, is sometimes a poor competitor in the marketplace of ideas. 'The counsels of impatience and hatred can always be supported by the crudest and cheapest symbols', he wrote: For the counsels of moderation, the reasons are often intricate, rather than emotional, and difficult to explain. And so the chauvinists of all times and places go their appointed way: plucking the easy fruits, reaping the little triumphs of the day at the expense of someone else tomorrow, deluging in noise and filth anyone who gets in their way, dancing their reckless dance on the prospects for human progress.53 The noise and filth produced by the American media is louder and thicker than in any other state. Individual explanations At least three mental processes may help account for the overestimation of threat among US policymakers. Firstly, a number of scholars have proposed that the creation of enemies is a natural and inevitable part of human social interaction, for both individuals and groups.54 People need enemies for their own self-image; it is meaningless to be the good guy if there is no corresponding bad guy. Evil will always be found, even if none exists. In the absence of clear enemies foreign policy tends to flounder, as critics accused US foreign policy of doing in the 1990s. The attacks of 2001 merely con-firmed what many already believed: our enemies are massing against us. But the psychological need to have a rival does not make a danger real. Secondly, there seems to be a tendency towards a correlation between power and insecurity, or even paranoia, in individual leaders.55 Time and again, people who have exhibited borderline deranged behaviour have attracted followers, solidified bases, come to power and remained there for extended periods across a wide variety of settings. It could be there are times when paranoia is advantageous for the would-be leader, since broad purges surely kill conspirators alongside innocents. US leaders are not autocrats, of course, but they do enjoy an unprecedented level of power, which is virtually uncheckable by the international system. Perhaps they too, like the dictator or the king, though not to the same degree, are affected by the destabilising effects of great power. Finally, security discourse itself may help explain the high level of threat perception in the United States. That we live in a dangerous world has become something of a truism, a shared belief in the foreign-policy community that is rarely subjected to rational analysis. Official discourse can not only affect popular perceptions but frame potential reactions and shape state behaviour. Constant repetition of the idea that we live in a dangerous world can, over time, easily lead to genuine belief, for leaders and followers alike.56 A more rational examination of threats could therefore be useful in altering the current conventional wisdom in both popular and strategic circles. US leaders have repeatedly decided to raise threat levels to encourage Americans to support otherwise unpopular policy choices. This is not new phenomenon; H.L. Mencken observed that in order to create support for America's entry into the First World War, Woodrow Wilson and other US liberals realised that 'the only way to make the mob fight was to scare it half to death'.57 More recently, the American public showed little enthusiasm for the first Gulf War until President George H.W. Bush began injecting the threat of Iraqi nuclear weapons into his speeches. Likewise, National Security Advisor Condoleezza Rice and Vice President Dick Cheney were fond of arguing that a failure to attack Iraq could well result in a nuclear attack on the United States. When faced with such choices, the American people understandably go along. Manipulation of popular perceptions by individual leaders surely contributes to the national pathology. Stoking such fires not only has effects for the short term, raising support for otherwise unnecessary action, but tends to do long-term damage as well. Once lit, such fires are hard to extinguish. Fear and anxiety persist long after they are useful, and continue to drive decisions. It can prove beyond the power of more rational leaders to control them. President Barack Obama has repeatedly demonstrated an instinct toward restraint and moderation, but time and again has decided that the political situation requires hyperventilation, or at least that overreaction would not be costly. On a range of issues, including the Russian incursion into Georgia, the Iranian nuclear programme and the so-called 'Underpants Bomber', Obama's instincts initially produced measured and calm reactions, but each time, criticism from the right, and comparisons with the perceived weaknesses of the Jimmy Carter administration, convinced him to change his reaction and become much more belligerent. Only in a deeply pathological society is reason a synonym for weakness. It will probably never be possible to determine the precise explanatory power of any of these explanations, none of which are mutually exclusive. But in the final analysis, understanding the cause is not as urgent as recognition, treatment and cure. Policymakers would be wise to take account of Parkinson's Law, the natural tendency to see more threats as power grows. In unipolar systems, the dominant state sees more monsters in need of destruction than do lesser states. Unnecessary ventures follow, accompanied by overextension, overspending and eventual decline. Perhaps this tendency to identify more threats as power increases is one of the natural levelling forces of international politics. Unless US leaders wish to see the unipolar moment end sooner than need be, they must recognise that the threats they perceive are generally less dire than they appear. The pathological, exaggerated sense of threat among many Americans is potentially harmful to the future of the country and the world. Born in irrationality, it inspires equally irrational actions, many of which are costly beyond any possible benefit. With a new administration in power and serious economic uncertainty gripping the nation, one can hope that the American public will be receptive to a more reasonable conception of danger, now that it has seen the results of overreaction. As with alcoholics, sometimes a nation must hit rock bottom before it sees the need to make drastic changes. Iraq should be that rock bottom for America. If the consequences lead the United States to return to its traditional, restrained grand strategy, then perhaps the whole experience will not have been in vain.

#### Russell -- prof at naval scholar -- in the context of US strat stability – overly concerned about Iran

#### Reject their vague assertions for conflict scenarios

**Fettweis 11** [Christopher J. Fettweis - Department of Political Science Tulane University and Professor of National Security Affairs at the US Naval War College, “Free Riding or Restraint Examining European Grand Strategy”, Comparative Strategy; Sep/Oct2011, Vol. 30 Issue 4, p316-332, 17p, Chetan]

**Assertions that without** the combination of **U.S. capabilities, presence and commitments instability would return** to Europe and the Pacific Rim **are usually rendered in rather vague language**. If the United States were to decrease its commitments abroad, argued Robert Art, “**the world will become a more dangerous place** and, sooner or later, that will redound to America’s detriment.”53 **From where would this danger arise? Who** precisely **would do the fighting, and over what issues?** Without the United States, **would Europe really descend into Hobbesian anarchy? Would the Japanese attack** mainland **China again**, to see if they could fare better this time around? Would the Germans and French have another go at it? In other words, **where exactly is hegemony is keeping the peace?** With one exception, **these questions are rarely addressed**. That exception is in the Pacific Rim. Some analysts fear that a de facto surrender of U.S. hegemony would lead to a rise of Chinese influence. Bradley Thayer worries that Chinese would become “the language of diplomacy, trade and commerce, transportation and navigation, the internet, world sport, and global culture,” and that Beijing would come to “dominate science and technology, in all its forms” to the extent that soon theworldwould witness a Chinese astronaut who not only travels to the Moon, but “plants the communist flag on Mars, and perhaps other planets in the future.”54 Indeed Chin a is the only other major power that has increased its military spending since the end of the Cold War, even if it still is only about 2 percent of its GDP. Such levels of effort do not suggest a desire to compete with, much less supplant, the United States. The much-ballyhooed, **decade-long military buildup has brought Chinese spending up to somewhere between one-tenth and one-fifth of the U.S. level. It is hardly clear that a restrained United States would invite Chinese** regional, must less global, political **expansion.** Fortunately one need not ponder for too long the horrible specter of a red flag on Venus, since on the planet Earth, where war is no longer the dominant form of conflict resolution, the threats posed by even a rising China would not be terribly dire. The dangers contained in the terrestrial security environment are less severe than ever before. **Believers in the pacifying power of hegemony ought to keep in mind** a rather basic tenet: When it comes to policymaking, **specific threats are more significant than vague, unnamed dangers**. Without specific risks, it is just as plausible to interpret U.S. presence as redundant, as overseeing a peace that has already arrived. **Strategy should not be based upon vague images emerging from the dark reaches of the neoconservative imagination.**  Overestimating Our Importance One of **the most basic insights of cognitive psychology provides the final reason to doubt the power of hegemonic stability: Rarely are our actions as consequential** upon their behavior **as we perceive them to be.** A great deal of **experimental evidence exists to support the notion that** people (and therefore **states) tend to overrate the degree to which** **their behavior is responsible for the actions of others.** Robert Jervis has argued that two processes account for this overestimation, both ofwhichwould seem to be especially relevant in theU.S. case. 55 First, **believing that we are responsible** **for their actions gratifies our national ego** (which is not small to begin with; the United States is exceptional in its exceptionalism). The hubris of the United States, long appreciated and noted, has only grown with the collapse of the Soviet Union.56 **U.S. policymakers famously have comparatively little knowledge of—or interest in—events that occur outside of their own borders**. **If there is any state vulnerable to the overestimation of its importance due to the fundamental misunderstanding of the motivation of others, it would have to be the United States.** Second, policymakers in the United States are far more familiar with our actions than they are with the decision-making processes of our allies. Try as we might**, it is not possible to** fully **understand the threats, challenges, and opportunities that our allies see from their perspective.** The European great powers have domestic politics as complex as ours, and they also have competent, capable strategists to chart their way forward. **They react to many international forces, of which U.S. behavior is only one**. Therefore, for any actor trying to make sense of the action of others, Jervis notes, “in the absence of strong evidence to the contrary, the most obvious and parsimonious explanation is that he was responsible.”57 **It is natural**, therefore, **for U.S**. policymakers and **strategists to believe that the behavior of our allies (and rivals) is shaped largely by what Washington does**. Presumably Americans are at least as susceptible to the overestimation of their ability as any other people, and perhaps more so. At the very least, political psychologists tell us, **we are probably not as important to them as we think**. **The importance of U.S. hegemony in contributing to international stability is therefore almost certainly overrated**. In the end, one can never be sure why our major allies have not gone to, and do not even plan for, war. Like deterrence, **the hegemonic stability theory rests on faith; it can only be falsified, never proven**. It does not seem likely, however, that hegemony could fully account for twenty years of strategic decisions made in allied capitals if the international system were not already a remarkably peaceful place. **Perhaps these states have no intention of fighting one another to begin with**, and our commitments are redundant. European great powers may well have chosen strategic restraint because they feel that their security is all but assured, **with or without the United States**.

#### Hegemonic decline will not result in great power wars.

**Ikenberry 11** (G. John – Albert G. Milbank Professor of Politics and International Affairs at Princeton University, A World of Our Making, Democracy: A Journal of Ideas, Summer, p. <http://www.democracyjournal.org/21/a-world-of-our-making-1.php?page=all>)

There are four reasons to think that some type of updated and reorganized liberal international order will persist. First, the old and traditional mechanism for overturning international order—great-power war—is no longer likely to occur. Already, the contemporary world has experienced the longest period of great-power peace in the long history of the state system. This absence of great-power war is no doubt due to several factors not present in earlier eras, namely nuclear deterrence and the dominance of liberal democracies. Nuclear weapons—and the deterrence they generate—give great powers some confidence that they will not be dominated or invaded by other major states. They make war among major states less rational and there-fore less likely. This removal of great-power war as a tool of overturning international order tends to reinforce the status quo. The United States was lucky to have emerged as a global power in the nuclear age, because rival great powers are put at a disadvantage if they seek to overturn the American-led system. The cost-benefit calculation of rival would-be hegemonic powers is altered in favor of working for change within the system. But, again, the fact that great-power deterrence also sets limits on the projection of American power presumably makes the existing international order more tolerable. It removes a type of behavior in the system—war, invasion, and conquest between great powers—that historically provided the motive for seeking to overturn order. If the violent over-turning of international order is removed, a bias for continuity is introduced into the system. Second, the character of liberal international order itself—with or without American hegemonic leadership—reinforces continuity. The complex interdependence that is unleashed in an open and loosely rule-based order generates expanding realms of exchange and investment that result in a growing array of firms, interest groups, and other sorts of political stakeholders who seek to preserve the stability and openness of the system. Beyond this, the liberal order is also relatively easy to join. In the post-Cold War decades, countries in different regions of the world have made democratic transitions and connected themselves to various parts of this system. East European countries and states within the old Soviet empire have joined NATO. East Asian countries, including China, have joined the World Trade Organization (WTO). Through its many multilateral institutions, the liberal international order facilitates integration and offers support for states that are making transitions toward liberal democracy. Many countries have also experienced growth and rising incomes within this order. Comparing international orders is tricky, but the current liberal international order, seen in comparative perspective, does appear to have unique characteristics that encourage integration and discourage opposition and resistance. Third, the states that are rising today do not constitute a potential united opposition bloc to the existing order. There are so-called rising states in various regions of the world. China, India, Brazil, and South Africa are perhaps most prominent. Russia is also sometimes included in this grouping of rising states. These states are all capitalist and most are democratic. They all gain from trade and integration within the world capitalist system. They all either are members of the WTO or seek membership in it. But they also have very diverse geopolitical and regional interests and agendas. They do not constitute either an economic bloc or a geopolitical one. Their ideologies and histories are distinct. They share an interest in gaining access to the leading institutions that govern the international system. Sometimes this creates competition among them for influence and access. But it also orients their struggles toward the reform and reorganization of governing institutions, not to a united effort to overturn the underlying order. Fourth, all the great powers have alignments of interests that will continue to bring them together to negotiate and cooperate over the management of the system. All the great powers—old and rising—are status-quo powers. All are beneficiaries of an open world economy and the various services that the liberal international order provides for capitalist trading states. All worry about religious radicalism and failed states. Great powers such as Russia and China do have different geopolitical interests in various key trouble spots, such as Iran and South Asia, and so disagreement and noncooperation over sanctions relating to nonproliferation and other security issues will not disappear. But the opportunities for managing differences with frameworks of great-power cooperation exist and will grow. Overall, the forces for continuity are formidable. Of course, there are many forces operating in the world that can generate upheaval and discontinuity. The collapse of the global financial system and an economic depression that triggers massive protectionism are possibilities. Terrorism and other forms of transnational violence can also trigger political panic and turmoil that would lead governments to shut down borders and reimpose restrictions on the movement of goods and people. But in the face of these seismic events in world politics, there are deep forces that keep the system anchored and stable.

### Preemption

**Iran isn't aggressive and they won't back down from direct confrontation - Israel tension isn't a reason why Iran would aggressively attack them - plus our evidence sites the rational religious ideas going on - Iran won't take overt military action – Savyon**

**And Israel Palestine conflict won't escalate - local doesn't translate into regoinal disasters because there is no reason neighboring states would want to get involved - nothing to prove that now and no statements by regional powers**

#### Israel Palestine conflict won’t escalate or act as a catalyst for other conflicts

Luttwak, 07 - senior adviser at the Centre for Strategic and International Studies (Edward, American Prospect, “The Middle of Nowhere”, May, <http://www.prospect-magazine.co.uk/article_details.php?id=9302>)

Yes, it would be nice if Israelis and Palestinians could settle their differences, but it would do little or nothing to calm the other conflicts in the middle east from Algeria to Iraq, or to stop Muslim-Hindu violence in Kashmir, Muslim-Christian violence in Indonesia and the Philippines, Muslim-Buddhist violence in Thailand, Muslim-animist violence in Sudan, Muslim-Igbo violence in Nigeria, Muslim-Muscovite violence in Chechnya, or the different varieties of inter-Muslim violence between traditionalists and Islamists, and between Sunnis and Shia, nor would it assuage the perfectly understandable hostility of convinced Islamists towards the transgressive west that relentlessly invades their minds, and sometimes their countries.

Arab-Israeli catastrophism is wrong twice over, first because the conflict is contained within rather narrow boundaries, and second because the Levant is just not that important any more.

#### **This makes conflict inevitable – changing US perceptions key**

Chernus 12**,** 1/29—Professor of Religious Studies (Ira, 1/29/12, “New York Times Hypes Israeli Attack On Iran,” <http://www.huffingtonpost.com/ira-chernus/israel-iran-attack_b_1240510.html?ref=media>)

It's an impressive piece of art: the cover of this week's New York Times Magazine. "ISRAEL VS. IRAN," spelled out in charred black lettering, with flame and smoke still rising from "IRAN," as if the great war were already over. Below those large lurid letters is the little subtitle: "When Will It Erupt?" -- not "if," but "when," as if it were inevitable. Though the article itself is titled "Will Israel Attack Iran?", author Ronen Bergman, military analyst for Israel's largest newspaper, leaves no doubt of his answer: "Israel will indeed strike Iran in 2012." Bergman does cite some compelling arguments against an Israeli strike from former heads of Mossad (Israel's CIA). And he makes it clear that no attack can prevent Iran from building nuclear weapons if it wants them. Everyone agrees on that. The argument is only about whether an attack would delay the Iranian program by a few years or just a few months. Nevertheless, his article stacks the deck in favor of supposedly persuasive reasons for Israel to act. It's almost a hymn of praise to what one Jewish Israeli scholar has called Iranophobia, an irrational fear promoted by the Jewish state because "Israel needs an existential threat." Why? To sustain the myth that shapes its national identity: the myth of Israel's insecurity. That myth comes out clearly in Bergman's conclusion: Israel will attack Iran because of a "peculiar Israeli mixture of fear -- rooted in the sense that Israel is dependent on the tacit support of other nations to survive -- and tenacity, the fierce conviction, right or wrong, that only the Israelis can ultimately defend themselves." Fear of what? Defend against whom? It doesn't really matter. Israeli political life has always been built on the premise that Israel's very existence is threatened by some new Hitler bent on destroying the Jewish people. How can Israel prove that Jews can defend themselves if there's no anti-semitic "evil-doer" to fight against? So here is Israel's defense minister, Ehud Barak, talking to Bergman about Iran's "desire to destroy Israel." Proof? Who needs it? It's taken for granted. In fact, in accurate translations of anti-Israel diatribes from Iranian president Mahmoud Ahmadinejad, there's no mention of destroying or even harming Jews, nor any threat of war. There's only a clear call for a one-state solution: replacing a distinctly Jewish state, which privileges its Jewish citizens and imposes military occupation on Palestinians, with a single political entity from the Jordan River to the Mediterranean Sea. Guess who else called for exactly the same resolution to the conflict: the most renowned Jewish thinker of the 20th century, Martin Buber. Plenty of Jews keep Buber's vision alive today, offering cogent (though debatable) arguments that a one-state solution would be in the best interests of Jews as well as Palestinians. Yet Ronen Bergman and the editors of the New York Times Magazine see no need for their readers to encounter these facts. Nor do they see any need to mention the most important fact of all, the one most flagrantly missing from Bergman's long article: No matter what Iran's leaders might desire, it's beyond belief that they would ever launch a single nuke against Israel. They know full well that it would be national suicide. Israel has at least 100 nukes, and 200 or more by many estimates, all ready to be used in a counterattack. Which makes it hard not to laugh when Bergman reports Ehud Barak's other arguments for attacking Iran. Even if Iran doesn't intend to kill all the Jews, "the moment Iran goes nuclear, other countries in the region will feel compelled to do the same." That's the foolish "stop a Middle East nuclear arms race" argument we hear so often coming out of Washington, too -- as if Israel had not already started the Middle East nuclear arms race decades ago. And how can a supposedly serious journalist like Bergman solemnly repeat the latest popular argument of the Iranophobes: A nuclear-armed Iran (in Barak's words) "offers an entirely different kind of protection to its proxies," Hezbollah and Hamas. That "would definitely restrict our range of operations" in any war against those so-called "proxies." As if Iran would even consider committing national suicide to serve the interests of any Lebanese or Palestinian factions. Yet the myth of "poor little Israel, surrounded by fanatic enemies bent on destroying it" is so pervasive here in the U.S., most readers might easily take this Iranophobic article at face value, forgetting the absurd premises underlying all arguments that Israel "must" attack Iran. **What American readers think is key** here. Most Israelis do believe that (as Bergman puts it) Israel needs "the support of other nations to survive." It's a **crucial piece** of their **myth of insecurity**. And the only nation that really supports them any more is the U.S. So Israel won't attack Iran without a green light from Washington. Bergman glibly asserts that there's some "unspoken understanding that America should agree, at least tacitly, to Israeli military actions." For years, though, a torrent of reports from Washington have all agreed that both the White House and the Pentagon, under both the Bush and Obama administrations, would refuse to support an Israeli attack on Iran. The consequences for the U.S. are too drastic to even consider it. Why should that change now?

**Maloney---Middle East war doesn’t escalate**

#### Won’t go nuclear

Dyer 2 (Gwynne, Ph.D. in War Studies – University of London and Board of Governors – Canada’s Royal Military College, The Coming War, Queen’s Quarterly, December, Lexis)

All of this indicates an extremely dangerous situation, with many variables that are impossible to assess fully. But there is one comforting reality here: this will not become World War III. Not long ago, wars in the Middle East always went to the brink very quickly, with the Americans and Soviets deeply involved on opposite sides, bristling their nuclear weapons at one another. And for quite some time we lived on the brink of oblivion. But that is over. World War III has been cancelled, and I don't think we could pump it up again no matter how hard we tried. The connections that once tied Middle Eastern confrontations to a global confrontation involving tens of thousands of nuclear weapons have all been undone. The East-West Cold War is finished. The truly dangerous powers in the world today are the industrialized countries in general. We are the ones with the resources and the technology to churn out weapons of mass destruction like sausages. But the good news is: we are out of the business.

**No escalation**

**Fettweis ‘7**, Asst Prof Poli Sci – Tulane, Asst Prof National Security Affairs – US Naval War College, (Christopher, “On the Consequences of Failure in Iraq,” *Survival*, Vol. 49, Iss. 4, December, p. 83 – 98)

Without the US presence, a second argument goes, nothing would prevent Sunni-Shia violence from sweeping into every country where the religious divide exists. A Sunni bloc with centres in Riyadh and Cairo might face a Shia bloc headquartered in Tehran, both of which would face enormous pressure from their own people to fight proxy wars across the region. In addition to intra-Muslim civil war, cross-border warfare could not be ruled out. Jordan might be the first to send troops into Iraq to secure its own border; once the dam breaks, Iran, Turkey, Syria and Saudi Arabia might follow suit. The Middle East has no shortage of rivalries, any of which might descend into direct conflict after a destabilising US withdrawal. In the worst case, Iran might emerge as the regional hegemon, able to bully and blackmail its neighbours with its new nuclear arsenal. Saudi Arabia and Egypt would soon demand suitable deterrents of their own, and a nuclear arms race would envelop the region. Once again, however, **none of these outcomes is particularly likely.** Wider war No matter what the outcome in Iraq, **the region is not likely to devolve into chaos.** Although it might seem counter-intuitive, by most traditional measures the Middle East is very stable. Continuous, uninterrupted governance is the norm, not the exception; most Middle East regimes have been in power for decades. Its monarchies, from Morocco to Jordan to every Gulf state, have generally been in power since these countries gained independence. In Egypt Hosni Mubarak has ruled for almost three decades, and Muammar Gadhafi in Libya for almost four. The region's autocrats have been more likely to die quiet, natural deaths than meet the hangman or post-coup firing squads. Saddam's rather unpredictable regime, which attacked its neighbours twice, was one of the few exceptions to this pattern of stability, and he met an end unusual for the modern Middle East. Its regimes have survived potentially destabilising shocks before, and they would be likely to do so again. The region actually experiences very little cross-border warfare, and even less since the end of the Cold War. Saddam again provided an exception, as did the Israelis, with their adventures in Lebanon. Israel fought four wars with neighbouring states in the first 25 years of its existence, but none in the 34 years since. Vicious civil wars that once engulfed Lebanon and Algeria have gone quiet, and its ethnic conflicts do not make the region particularly unique. The biggest risk of an American withdrawal is intensified civil war in Iraq rather than regional conflagration. Iraq's **neighbours will likely not prove eager to fight each other** to determine who gets to be the next country to spend itself into penury propping up an unpopular puppet regime next door. As much as the Saudis and Iranians may threaten to intervene on behalf of their co-religionists, they have shown no eagerness to replace the counter-insurgency role that American troops play today. If the United States, with its remarkable military and unlimited resources, could not bring about its desired solutions in Iraq, why would any other country think it could do so?17 Common interest, not the presence of the US military, provides the ultimate foundation for stability. All ruling regimes in the Middle East share a common (and understandable) fear of instability. It is the interest of every actor - the Iraqis, their neighbours and the rest of the world - to see a stable, functioning government emerge in Iraq. If the United States were to withdraw, increased regional cooperation to address that common interest is **far more likely than outright warfare.**

**Empirically denied**

**Yglesisas 7** (Matthew, Associate Editor – Atlantic Monthly, “Containing Iraq”, The Atlantic, 9-12,

http://matthewyglesias.theatlantic.com/archives/2007/09/containing\_iraq.php)

Kevin Drum tries to [throw some water](http://www.washingtonmonthly.com/archives/individual/2007_09/012050.php) on the "Middle East in Flames" theory holding that American withdrawal from Iraq will lead not only to a short-term intensification of fighting in Iraq, but also to some kind of broader regional conflagration. Ivo Daalder and James Lindsay, as usual sensible but several clicks to my right, also [make this point briefly](http://www.democracyjournal.org/article.php?ID=6555) in Democracy: "Talk that Iraq’s troubles will trigger a regional war is overblown; none of the half-dozen civil wars the Middle East has witnessed over the past half-century led to a regional conflagration." Also worth mentioning in this context is the basic point that the Iranian and Syrian militaries just aren't able to conduct meaningful offensive military operations. The Saudi, Kuwait, and Jordanian militaries are even worse. The IDF has plenty of Arabs to fight closer to home. What you're looking at, realistically, is that our allies in Kurdistan might provide safe harbor to PKK guerillas, thus prompting our allies in Turkey to mount some cross-border military strikes against the PKK or possibly retaliatory ones against other Kurdish targets. This is a real problem, but it's obviously not a problem that's mitigated by having the US Army try to act as the Baghdad Police Department or sending US Marines to wander around the desert hunting a [possibly mythical](http://www.washingtonmonthly.com/features/2007/0710.tilghman.html) terrorist organization.

**No escalation – their evidence doesn’t take into account new developments**

**KELLEY 2** (Jack, national security writer for the Post-Gazette and The Blade of Toledo Pittsburgh Post Gazette, April 7)

During the Cold War, there was reason to suppose an Arab-Israeli war could spark a third world war. In those days, Israel was a client of the United States. The radical Arab states were clients of the Soviet Union. If the proxies got into a tiff, the conflict could spread to the principals. The closest we came to this was during the Yom Kippur War of 1973, when Egyptians, in a surprise attack, dealt a severe blow to Israeli defense forces. Only an airlift of M-60 tanks from U.S. bases in Germany kept Israel from being overrun. Once its initial battle losses had been replaced, Israel quickly regained the initiative, routing Egyptian and Syrian forces. Israeli troops were poised to take Cairo and Damascus. The Soviets were willing to permit the United States to restore the status quo ante. But they threatened to intervene to prevent a decisive Israeli victory. So we prevailed upon the Israelis to stop short of humiliating their enemies. The Yom Kippur War was a near thing for the world. Only three times in history have U.S. forces gone to DEFCON 1, the highest war footing. The Yom Kippur War was one of those times. Now the Cold War is over. Russia is a shadow of what we thought the Soviet Union was, and is more or less an ally in the war on terror. Radical Arabs have lost their sponsor. And Egypt has, after a fashion, switched sides. There is no longer good reason to suppose a conflict between Israelis and Palestinians would spread. Another consequence of the Yom Kippur war was the Arab oil embargo. But the oil "weapon" has lost much of its bang. We are more dependent upon foreign oil now than we were then, but less dependent on oil from the Persian Gulf, since new sources elsewhere have been developed. And Arab governments have become so dependent upon oil revenues that the loss of them would harm Arabs more than the loss of their oil would harm us.

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### 1

#### A. Interpretation – debate is a game that requires the aff to have a defense of the USFG increasing statutory and/or judicial restrictions on the war powers authority of the President in one of the topic areas

#### --‘resolved’ means to enact a policy by law.

Words and Phrases 64 (Permanent Edition)

Definition of the word “resolve,” given by Webster is “to express an opinion or determination by resolution or vote; as ‘it was resolved by the legislature;” It is of similar force to the word “enact,” which is defined by Bouvier as meaning “to establish by law”.

#### Statutory restrictions require congressional action

Barron and Lederman 8 (David J. – Professor of Law, Harvard Law School, and Martin S. – Visiting Professor of Law, Georgetown University Law Center, “THE COMMANDER IN CHIEF AT THE LOWEST EBB - FRAMING THE PROBLEM, DOCTRINE, AND ORIGINAL UNDERSTANDING”, January, 121 Harv. L. Rev. 689, lexis)

2. Congress (Almost) Always Wins Under the Separation of Powers Principle. - We must also consider a related argument for congressional supremacy. This claim is based on the doctrinal test that generally governs separation of powers issues arising from clashes between the President and the Congress in the domestic setting. n149 Under this test, the "real question" the Court asks is whether the statute "impedes the President's ability to perform" his constitutionally assigned functions. n150 And even if such a potential for disruption of executive authority is present, the Court employs a balancing test to "determine whether that impact is justified by an overriding need to promote objectives within the constitutional authority of Congress." n151 Thus, under the general separation of powers principle, even a "serious impact ... on the ability of the Executive Branch to accomplish its assigned mission" might not be enough to render a statute invalid. n152 This approach appears to have a pro-congressional tilt; yet it actually does little more than relocate the dilemma it is impressed to avoid. Even under this deferential test, it is well understood that certain statutes can infringe the President's constitutionally assigned authority to exercise discretion; a statutory restriction on the pardoning of a given category of persons is an obvious example. Nothing in the application of the separation of powers test, then, explains why certain core executive powers (including merely discretionary authorities, rather than obligatory duties) cannot be infringed, even though it is generally understood that such inviolable cores might exist. For this reason, the general separation of powers principle does not actually resolve the question that arises in a Youngstown Category Three case. In all [\*739] events, the question remains whether the President possesses an illimitable reserve of wartime authority. Insofar as the separation of powers principle is thought to provide affirmative support for congressional control, it seems objectionable because it, too, fails to require the analyst to explain why the particular wartime power the President is asserting is not one that Congress can countermand. It simply asserts that it is not.

#### judicial restrictions are imposed by courts

Kang 6 (Michael – Assistant Professor, Emory University School of Law, “De-Rigging Elections: Direct Democracy and the Future of Redistricting Reform”, 2006, 84 Wash. U. L. Rev. 667, lexis)

The Court's general reluctance to restrict partisan gerrymandering appeared motivated by a lack of judicial confidence. Judicial restriction of gerrymandering would draw courts, which are putatively nonpartisan and apolitical institutions, n39 into the untenable position of managing what is fundamentally a political exercise. Justice Kennedy emphasized the difficulty for courts of "acting without a legislature's expertise" and the unwelcome task of removing from the democratic process "one of the most significant acts a State can perform to ensure citizen participation in republican self-governance." n40 Indeed, challenges to gerrymanders demand more of courts than simply striking down excessively partisan plans. Today, judicial intervention against gerrymandering almost necessarily brings with it active judicial management of the redistricting process. A court that strikes down a redistricting plan, for whatever reason, n41 invariably is drawn into authorship of a new redistricting plan to replace it, or a close interaction with legislators working to formulate a new plan (or both). n42 Courts "become active players often placed in the uncomfortable role of determining winners and losers in redistricting, and, therefore, elections." n43 When courts have involved themselves in redistricting matters, namely in racial gerrymandering and one person, one vote cases, [\*675] the courts have drawn heavy criticism. n44 Even so, Justice Stevens predicted that "the present "failure of judicial will' will be replaced by stern condemnation of partisan gerrymandering." n45 Greater judicial direction of the redistricting process is a price that Justice Stevens and reformers seem happy to pay. They are more than willing to trade the costs of judicial entanglement for the perceived benefits of judicial oversight in redistricting. I further discuss the costs of this approach in Part III.

#### Restrictions on authority must prohibit actions

William Conner 78, former federal judge for the United States District Court for the Southern District of New York United States District Court, S. D. New York, CORPORACION VENEZOLANA de FOMENTO v. VINTERO SALES, http://www.leagle.com/decision/19781560452FSupp1108\_11379

Plaintiff next contends that Merban was charged with notice of the restrictions on the authority of plaintiff's officers to execute the guarantees. Properly interpreted, the "conditions" that had been imposed by plaintiff's Board of Directors and by the Venezuelan Cabinet were not "restrictions" or "limitations" upon the authority of plaintiff's agents but rather conditions precedent to the granting of authority. Essentially, then, plaintiff's argument is that Merban should have known that plaintiff's officers were not authorized to act except upon the fulfillment of the specified conditions.

#### B. They don’t meet – don’t defend a statutory or judicial restriction and claim advantages based on the domestic prison system

#### C. Reasons to prefer:

#### 1. Predictability – debate games open up dialogue which fosters information processing – they open up infinite frameworks making the game impossible

Haghoj 8 – PhD, affiliated with Danish Research Centre on Education and Advanced Media Materials, asst prof @ the Institute of Education at the University of Bristol (Thorkild, 2008, "PLAYFUL KNOWLEDGE: An Explorative Study of Educational Gaming," PhD dissertation @ Institute of Literature, Media and Cultural Studies, University of Southern Denmark, http://static.sdu.dk/mediafiles/Files/Information\_til/Studerende\_ved\_SDU/Din\_uddannelse/phd\_hum/afhandlinger/2009/ThorkilHanghoej.pdf)

Debate games are often based on pre-designed scenarios that include descriptions of issues to be debated, educational goals, game goals, roles, rules, time frames etc. In this way, debate games differ from textbooks and everyday classroom instruction as debate scenarios allow teachers and students to actively imagine, interact and communicate within a domain-specific game space. However, instead of mystifying debate games as a “magic circle” (Huizinga, 1950), I will try to overcome the epistemological dichotomy between “gaming” and “teaching” that tends to dominate discussions of educational games. In short, educational gaming is a form of teaching. As mentioned, education and games represent two different semiotic domains that both embody the three faces of knowledge: assertions, modes of representation and social forms of organisation (Gee, 2003; Barth, 2002; cf. chapter 2). In order to understand the interplay between these different domains and their interrelated knowledge forms, I will draw attention to a central assumption in Bakhtin’s dialogical philosophy. According to Bakhtin, all forms of communication and culture are subject to centripetal and centrifugal forces (Bakhtin, 1981). A centripetal force is the drive to impose one version of the truth, while a centrifugal force involves a range of possible truths and interpretations. This means that any form of expression involves a duality of centripetal and centrifugal forces: “Every concrete utterance of a speaking subject serves as a point where centrifugal as well as centripetal forces are brought to bear” (Bakhtin, 1981: 272). If we take teaching as an example, it is always affected by centripetal and centrifugal forces in the on-going negotiation of “truths” between teachers and students. In the words of Bakhtin: “Truth is not born nor is it to be found inside the head of an individual person, it is born between people collectively searching for truth, in the process of their dialogic interaction” (Bakhtin, 1984a: 110). Similarly, the dialogical space of debate games also embodies centrifugal and centripetal forces. Thus, the election scenario of The Power Game involves centripetal elements that are mainly determined by the rules and outcomes of the game, i.e. the election is based on a limited time frame and a fixed voting procedure. Similarly, the open-ended goals, roles and resources represent centrifugal elements and create virtually endless possibilities for researching, preparing, 51 presenting, debating and evaluating a variety of key political issues. Consequently, the actual process of enacting a game scenario involves a complex negotiation between these centrifugal/centripetal forces that are inextricably linked with the teachers and students’ game activities. In this way, the enactment of The Power Game is a form of teaching that combines different pedagogical practices (i.e. group work, web quests, student presentations) and learning resources (i.e. websites, handouts, spoken language) within the interpretive frame of the election scenario. Obviously, tensions may arise if there is too much divergence between educational goals and game goals. This means that game facilitation requires a balance between focusing too narrowly on the rules or “facts” of a game (centripetal orientation) and a focusing too broadly on the contingent possibilities and interpretations of the game scenario (centrifugal orientation). For Bakhtin, the duality of centripetal/centrifugal forces often manifests itself as a dynamic between “monological” and “dialogical” forms of discourse. Bakhtin illustrates this point with the monological discourse of the Socrates/Plato dialogues in which the teacher never learns anything new from the students, despite Socrates’ ideological claims to the contrary (Bakhtin, 1984a). Thus, discourse becomes monologised when “someone who knows and possesses the truth instructs someone who is ignorant of it and in error”, where “a thought is either affirmed or repudiated” by the authority of the teacher (Bakhtin, 1984a: 81). In contrast to this, dialogical pedagogy fosters inclusive learning environments that are able to expand upon students’ existing knowledge and collaborative construction of “truths” (Dysthe, 1996). At this point, I should clarify that Bakhtin’s term “dialogic” is both a descriptive term (all utterances are per definition dialogic as they address other utterances as parts of a chain of communication) and a normative term as dialogue is an ideal to be worked for against the forces of “monologism” (Lillis, 2003: 197-8). In this project, I am mainly interested in describing the dialogical space of debate games. At the same time, I agree with Wegerif that “one of the goals of education, perhaps the most important goal, should be dialogue as an end in itself” (Wegerif, 2006: 61).

#### 2. Ground – the resolution exists to create balanced difficulty, creating a topic that is supposed to be moral and controversial – games requires acceptance of rules whose purpose is to forbid the easiest means to a goal – this makes the game meaningful

Hurka 6 – philosopher who serves as the Jackman Distinguished Chair in Philosophical Studies at the University of Toronto (Thomas, 2006, "Games and the Good," Proceedings of the Aristotelian Society, Supplementary Volume 80, http://homes.chass.utoronto.ca/~thurka/docs/pass\_games.pdf)

I take this admiration to rest on the judgement that excellence in games is good in itself, apart from any pleasure it may give the player or other people but just for the properties that make it excellent. The admiration, in other words, rests on the perfectionist judgement that skill in games is worth pursuing for its own sake and can add value to one’s life. This skill is not the only thing we value in this way; we give similar honours to achievements in the arts, science, and business. But one thing we admire, and to a significant degree, is excellence in athletic and nonathletic games. Unless we dismiss this view, one task for philosophy is to explain why such excellence is good. But few philosophers have attempted this, for a well-known reason. A unified explanation of why excellence in games is good requires a unified account of what games are, and many doubt that this is possible. After all, Wittgenstein famously gave the concept of a game as his primary example of one for which necessary and sufficient conditions cannot be given but whose instances are linked only by looser “family resemblances.”2 If Wittgenstein was right about this, 2 there can be no single explanation of why skill in games is good, just a series of distinct explanations of the value of skill in hockey, skill in chess, and so on. But Wittgenstein was not right, as is shown in a little-known book that is nonetheless a classic of twentieth-century philosophy, Bernard Suits’s The Grasshopper: Games, Life and Utopia. Suits gives a perfectly persuasive analysis of playing a game as, to quote his summary statement, “the voluntary attempt to overcome unnecessary obstacles.”3 And in this paper I will use his analysis to explain the value of playing games. More specifically, I will argue that the different elements of Suits’s analysis give game-playing two distinct but related grounds of value, so it instantiates two related intrinsic goods. I will also argue that game-playing is an important intrinsic good, which gives the clearest possible expression of what can be called a modern as against a classical, or more specifically Aristotelian, view of value. But first Suits’s analysis. It says that a game has three main elements, which he calls the prelusory goal, the constitutive rules, and the lusory attitude. To begin with the first, in playing a game one always aims at a goal that can be described independently of the game. In golf, this is that a ball enter a hole in the ground; in mountain-climbing, that one stand on top of a mountain; in Olympic sprinting, that one cross a line on the track before one’s competitors. Suits calls this goal “prelusory” because it can be understood and achieved apart from the game, and he argues that every game has such a goal. Of course, in playing a game one also aims at a goal internal to it, such as winning the race, climbing the mountain, or breaking par on the golf course. But on Suits’s view this “lusory” goal is derivative, since achieving it involves achieving the prior prelusory goal in a specified way. This way is identified by the second element, the game’s constitutive rules. According to 3 Suits, the function of these rules is to forbid the most efficient means to the prelusory goal. Thus, in golf one may not carry the ball down the fairway and drop it in the hole by hand; one must advance it using clubs, play it where it lies, and so on. In mountain-climbing one may not ride a gondola to the top of the mountain or charter a helicopter; in 200-metre sprinting, one may not cut across the infield. Once these rules are in place, success in the game typically requires achieving the prelusory goal as efficiently as they allow, such as getting the ball into the hole in the fewest possible strokes or choosing the best way up the mountain. But this is efficiency within the rules, whose larger function is to forbid the easiest means to the game’s initial goal. These first two elements involve pursuing a goal by less than the most efficient means, but they are not sufficient for playing a game. This is because someone can be forced to use these means by circumstances he regrets and wishes were different. If this is the case – if, for example, a farmer harvests his field by hand because he cannot afford the mechanical harvester he would much rather use – he is not playing a game. Hence the need for the third element in Suits’s analysis, the lusory attitude, which involves a person’s willingly accepting the constitutive rules, or accepting them because they make the game possible. Thus, a golfer accepts that he may not carry the ball by hand or improve his lie because he wants to play golf, and obeying those rules is necessary for him to do so; the mountaineer accepts that he may not take a helicopter to the summit because he wants to climb. The restrictions the rules impose are adhered to not reluctantly but willingly, because they are essential to the game. Adding this third element gives Suits’s full definition: “To play a game is to attempt to achieve a specific state of affairs [prelusory goal], using only means permitted by the rules ..., where the rules prohibit the use of more efficient in favour of less efficient means [constitutive rules], and where the rules are 4 accepted just because they make possible such activity [lusory attitude].” Or, in the summary statement quoted above, “playing a game is the voluntary attempt to overcome unnecessary obstacles.”4 This analysis will doubtless meet with objections, in the form of attempted counterexamples. But Suits considers a whole series of these in his book, showing repeatedly that his analysis handles them correctly, and not by some ad hoc addition but once its elements are properly understood. Nor would it matter terribly if there were a few counterexamples. Some minor lack of fit between his analysis and the English use of “game” would not be important if the analysis picks out a phenomenon that is unified, close to what is meant by “game,” and philosophically interesting. But the analysis is interesting if, as I will now argue, it allows a persuasive explanation of the value of excellence in games. Suits himself addresses this issue of value. In fact, a central aim of his book is to give a defence of the grasshopper in Aesop’s fable, who played all summer, against the ant, who worked. But in doing so he argues for the strong thesis that playing games is not just an intrinsic good but the supreme such good, since in the ideal conditions of utopia, where all instrumental goods are provided, it would be everyone’s primary pursuit. The grasshopper’s game-playing, therefore, while it had the unfortunate effect of leaving him without food for the winter, involved him in the intrinsically finest actvity. Now, I do not accept Suits’s strong thesis that gameplaying is the supreme good – I think many other states and activities have comparable value – and I do not find his arguments for it persuasive. But I will connect the weaker thesis that playing games is one intrinsic good to the details of his analysis more explicitly than he ever does.

#### 3. Education – debate as a competitive political game is the best framework to solve dogmatism and human brutality

Carter 8 – prof @ The Colorado College, research support from the Rockefeller Foundation and the staff of the Villa Serbelloni, Bellagio, Italy, the Institute of Governmental Studies at the University of California, Berkeley, and the Benezet Foundation at The Colorado College (Lief H, 2008, "LAW AND POLITICS AS PLAY," Chicago-Kent Law Review, 83(3), http://www.cklawreview.com/wp-content/uploads/vol83no3/Carter.pdf)

Vico asked his audience at the University of Naples in 1708 to debate two competing ways of knowing: Cartesian rationality versus the poetic world of the ancients. Vico, the “pre-law advisor” of his day, saw law as a rhetorical game. That is, he understood the civic (ethical) value of competi-tion itself.12 He understood that Cartesian rationality, like religious and ideological fundamentalism, generates a kind of certainty that shuts down robust debate. Vico’s comprehensive vision suggests, in effect, that people should practice law and politics not as the search for the most rational or logically correct outcomes but rather as passionate and embodied yet peaceful competitive play. Vico inspires this vision of law and politics as play because he sees that all things in the human mind, including law and politics, are at one with the human body. As Vico put it as he concluded his 1708 address, “[T]he soul should be drawn to love by means of bodily images; for once it loves it is easily taught to believe; and when it believes and loves it should be inflamed so that it wills things by means of its normal intemperance.”13 Vico had no hope that such abstract moral principles as liberty, equality, justice, and tolerance could effectively offset the “crude and rough” nature of men.14 The Holy Bible and the Qur’an contain normative principles of love, tolerance, equal respect, and peace, but these commands have not forestalled ancient and modern religious warfare. This essay proposes that humans learn how to keep the peace not by obeying the norms, rules, and principles of civil conduct but by learning how to play, and thereby reintegrating the mind and the body. People do law, politics, and economic life well when they do them in the same ways and by the same standards that structure and govern good competitive sports and games. The word “sport” derives from “port” and “portal” and relates to the words “disport” and “transport.” The word at least hints that the primitive and universal joy of play carries those who join the game across space to a better, and ideally safer, place—a harbor that Vico him-self imagined. This essay’s bold proposition honors Vico in many ways. Its “grand theory” matches the scope of Vico’s comprehensive and integrated vision of the human condition. It plausibly confirms Vico’s hope for a “concep-tion of a natural law for all of humanity” that is rooted in human historical practice.15 Seeing these core social processes as play helps us to escape from arid academic habits and to “learn to think like children,” just as Vico urged.16 Imagining law and politics as play honors Vico above all because, if we attain Ruskin’s epigraphic ideal,17 we will see that the peace-tending qualities of sports and games already operate under our noses. Seeing law and politics as play enables us “to reach out past our inclination to make experience familiar through the power of the concept and to engage the power of the image. We must reconstruct the human world not through concepts and criteria but as something we can practically see.”18 If at its end readers realize that they could have seen, under their noses, the world as this essay sees it without ever having read it, this essay will successfully honor Vico. As Vico would have predicted, formal academic theory has played at best a marginal role in the construction of competitive games. Ordinary people have created cricket and football, and common law and electoral politics and fair market games, more from the experience of doing them than from formal theories of competitive games. When they play interna-tional football today, ordinary people in virtually every culture in the world recreate the experience of competitive games. Playing competitive games unites people across cultures in a common normative world.19 Within Vico’s social anthropological and proto-scientific framework, the claim that competitive play can generate peaceful civic life is purely empirical: law and politics in progressively peaceful political systems already are nothing more or less than competitive games. All empirical description operates within some, though too often ob-scured, normative frame. This essay’s normative frame is clear. It holds, with Shaw’s epigraph, above: Human brutalities waged against other hu-mans—suicide bombings, genocides, tribal and religious wars that provoke the indiscriminate rape, murder, torture, and enslavement of men, women, and children, often because they are labeled “evil”—are the worst things that we humans do. We should learn not to do them. In Vico’s anti-Cartesian, non-foundational world, no method exists to demonstrate that this essay’s normative core is “correct,” or even “better than,” say, the core norm holding that the worst thing humans do is dishonor God. Readers who reject Shaw’s and this essay’s normative frame may have every reason to reject the essay’s entire argument. However, this essay does describe empirically how those whose core norm requires honoring any absolute, including God, above all else regu-larly brutalize other human beings, and why those who live by the norms of good competitive play do not. People brutalize people, as Shaw’s Caesar observed, in the name of right and honor and peace. Evaluated by the norm that human brutality is the worst thing humans do, the essay shows why and how the human invention of competitive play short circuits the psy-chology of a righteousness-humiliation-brutality cycle. We cannot help but see and experience on fields of contested play testosterone-charged males striving mightily to defeat one another. Yet at the end of play, losers and winners routinely shake hands and often hug; adult competitors may dine and raise a glass together.20 Whether collectively invented as a species-wide survival adaptation or not, institutionalized competitive play under-cuts the brutality cycle by displacing religious and other forms of funda-mentalist righteousness with something contingent, amoral, and thus less lethal. Play thereby helps humans become Shaw’s “race that can under-stand.”

#### Simulated national security law debates preserve agency, enables activism, enhances decision-making, and avoids cooption – only legal deliberative action solves

Donohue 13 (Laura K. Donohue, Associate Professor of Law, Georgetown Law, 4/11, “National Security Law Pedagogy and the Role of Simulations”, http://jnslp.com/wp-content/uploads/2013/04/National-Security-Law-Pedagogy-and-the-Role-of-Simulations.pdf)

The concept of simulations as an aspect of higher education, or in the law school environment, is not new.164 Moot court, after all, is a form of simulation and one of the oldest teaching devices in the law. What is new, however, is the idea of designing a civilian national security course that takes advantage of the doctrinal and experiential components of law school education and integrates the experience through a multi-day simulation. In 2009, I taught the first module based on this design at Stanford Law, which I developed the following year into a full course at Georgetown Law. It has since gone through multiple iterations. The initial concept followed on the federal full-scale Top Official (“TopOff”) exercises, used to train government officials to respond to domestic crises.165 It adapted a Tabletop Exercise, designed with the help of exercise officials at DHS and FEMA, to the law school environment. The Tabletop used one storyline to push on specific legal questions, as students, assigned roles in the discussion, sat around a table and for six hours engaged with the material. The problem with the Tabletop Exercise was that it was too static, and the rigidity of the format left little room, or time, for student agency. Unlike the government’s TopOff exercises, which gave officials the opportunity to fully engage with the many different concerns that arise in the course of a national security crisis as well as the chance to deal with externalities, the Tabletop focused on specific legal issues, even as it controlled for external chaos. The opportunity to provide a more full experience for the students came with the creation of first a one-day, and then a multi-day simulation. The course design and simulation continues to evolve. It offers a model for achieving the pedagogical goals outlined above, in the process developing a rigorous training ground for the next generation of national security lawyers.166 A. Course Design The central idea in structuring the NSL Sim 2.0 course was to bridge the gap between theory and practice by conveying doctrinal material and creating an alternative reality in which students would be forced to act upon legal concerns.167 The exercise itself is a form of problem-based learning, wherein students are given both agency and responsibility for the results. Towards this end, the structure must be at once bounded (directed and focused on certain areas of the law and legal education) and flexible (responsive to student input and decisionmaking). Perhaps the most significant weakness in the use of any constructed universe is the problem of authenticity. Efforts to replicate reality will inevitably fall short. There is simply too much uncertainty, randomness, and complexity in the real world. One way to address this shortcoming, however, is through design and agency. The scenarios with which students grapple and the structural design of the simulation must reflect the national security realm, even as students themselves must make choices that carry consequences. Indeed, to some extent, student decisions themselves must drive the evolution of events within the simulation.168 Additionally, while authenticity matters, it is worth noting that at some level the fact that the incident does not take place in a real-world setting can be a great advantage. That is, the simulation creates an environment where students can make mistakes and learn from these mistakes – without what might otherwise be devastating consequences. It also allows instructors to develop multiple points of feedback to enrich student learning in a way that would be much more difficult to do in a regular practice setting. NSL Sim 2.0 takes as its starting point the national security pedagogical goals discussed above. It works backwards to then engineer a classroom, cyber, and physical/simulation experience to delve into each of these areas. As a substantive matter, the course focuses on the constitutional, statutory, and regulatory authorities in national security law, placing particular focus on the interstices between black letter law and areas where the field is either unsettled or in flux. A key aspect of the course design is that it retains both the doctrinal and experiential components of legal education. Divorcing simulations from the doctrinal environment risks falling short on the first and third national security pedagogical goals: (1) analytical skills and substantive knowledge, and (3) critical thought. A certain amount of both can be learned in the course of a simulation; however, the national security crisis environment is not well-suited to the more thoughtful and careful analytical discussion. What I am thus proposing is a course design in which doctrine is paired with the type of experiential learning more common in a clinical realm. The former precedes the latter, giving students the opportunity to develop depth and breadth prior to the exercise. In order to capture problems related to adaptation and evolution, addressing goal [1(d)], the simulation itself takes place over a multi-day period. Because of the intensity involved in national security matters (and conflicting demands on student time), the model makes use of a multi-user virtual environment. The use of such technology is critical to creating more powerful, immersive simulations.169 It also allows for continual interaction between the players. Multi-user virtual environments have the further advantage of helping to transform the traditional teaching culture, predominantly concerned with manipulating textual and symbolic knowledge, into a culture where students learn and can then be assessed on the basis of their participation in changing practices.170 I thus worked with the Information Technology group at Georgetown Law to build the cyber portal used for NSL Sim 2.0. The twin goals of adaptation and evolution require that students be given a significant amount of agency and responsibility for decisions taken in the course of the simulation. To further this aim, I constituted a Control Team, with six professors, four attorneys from practice, a media expert, six to eight former simulation students, and a number of technology experts. Four of the professors specialize in different areas of national security law and assume roles in the course of the exercise, with the aim of pushing students towards a deeper doctrinal understanding of shifting national security law authorities. One professor plays the role of President of the United States. The sixth professor focuses on questions of professional responsibility. The attorneys from practice help to build the simulation and then, along with all the professors, assume active roles during the simulation itself. Returning students assist in the execution of the play, further developing their understanding of national security law. Throughout the simulation, the Control Team is constantly reacting to student choices. When unexpected decisions are made, professors may choose to pursue the evolution of the story to accomplish the pedagogical aims, or they may choose to cut off play in that area (there are various devices for doing so, such as denying requests, sending materials to labs to be analyzed, drawing the players back into the main storylines, and leaking information to the media). A total immersion simulation involves a number of scenarios, as well as systemic noise, to give students experience in dealing with the second pedagogical goal: factual chaos and information overload. The driving aim here is to teach students how to manage information more effectively. Five to six storylines are thus developed, each with its own arc and evolution. To this are added multiple alterations of the situation, relating to background noise. Thus, unlike hypotheticals, doctrinal problems, single-experience exercises, or even Tabletop exercises, the goal is not to eliminate external conditions, but to embrace them as part of the challenge facing national security lawyers. The simulation itself is problem-based, giving players agency in driving the evolution of the experience – thus addressing goal [2(c)]. This requires a realtime response from the professor(s) overseeing the simulation, pairing bounded storylines with flexibility to emphasize different areas of the law and the students’ practical skills. Indeed, each storyline is based on a problem facing the government, to which players must then respond, generating in turn a set of new issues that must be addressed. The written and oral components of the simulation conform to the fourth pedagogical goal – the types of situations in which national security lawyers will find themselves. Particular emphasis is placed on nontraditional modes of communication, such as legal documents in advance of the crisis itself, meetings in the midst of breaking national security concerns, multiple informal interactions, media exchanges, telephone calls, Congressional testimony, and formal briefings to senior level officials in the course of the simulation as well as during the last class session. These oral components are paired with the preparation of formal legal instruments, such as applications to the Foreign Intelligence Surveillance Court, legal memos, applications for search warrants under Title III, and administrative subpoenas for NSLs. In addition, students are required to prepare a paper outlining their legal authorities prior to the simulation – and to deliver a 90 second oral briefing after the session. To replicate the high-stakes political environment at issue in goals (1) and (5), students are divided into political and legal roles and assigned to different (and competing) institutions: the White House, DoD, DHS, HHS, DOJ, DOS, Congress, state offices, nongovernmental organizations, and the media. This requires students to acknowledge and work within the broader Washington context, even as they are cognizant of the policy implications of their decisions. They must get used to working with policymakers and to representing one of many different considerations that decisionmakers take into account in the national security domain. Scenarios are selected with high consequence events in mind, to ensure that students recognize both the domestic and international dimensions of national security law. Further alterations to the simulation provide for the broader political context – for instance, whether it is an election year, which parties control different branches, and state and local issues in related but distinct areas. The media is given a particularly prominent role. One member of the Control Team runs an AP wire service, while two student players represent print and broadcast media, respectively. The Virtual News Network (“VNN”), which performs in the second capacity, runs continuously during the exercise, in the course of which players may at times be required to appear before the camera. This media component helps to emphasize the broader political context within which national security law is practiced. Both anticipated and unanticipated decisions give rise to ethical questions and matters related to the fifth goal: professional responsibility. The way in which such issues arise stems from simulation design as well as spontaneous interjections from both the Control Team and the participants in the simulation itself. As aforementioned, professors on the Control Team, and practicing attorneys who have previously gone through a simulation, focus on raising decision points that encourage students to consider ethical and professional considerations. Throughout the simulation good judgment and leadership play a key role, determining the players’ effectiveness, with the exercise itself hitting the aim of the integration of the various pedagogical goals. Finally, there are multiple layers of feedback that players receive prior to, during, and following the simulation to help them to gauge their effectiveness. The Socratic method in the course of doctrinal studies provides immediate assessment of the students’ grasp of the law. Written assignments focused on the contours of individual players’ authorities give professors an opportunity to assess students’ level of understanding prior to the simulation. And the simulation itself provides real-time feedback from both peers and professors. The Control Team provides data points for player reflection – for instance, the Control Team member playing President may make decisions based on player input, giving students an immediate impression of their level of persuasiveness, while another Control Team member may reject a FISC application as insufficient. The simulation goes beyond this, however, focusing on teaching students how to develop (6) opportunities for learning in the future. Student meetings with mentors in the field, which take place before the simulation, allow students to work out the institutional and political relationships and the manner in which law operates in practice, even as they learn how to develop mentoring relationships. (Prior to these meetings we have a class discussion about mentoring, professionalism, and feedback). Students, assigned to simulation teams about one quarter of the way through the course, receive peer feedback in the lead-up to the simulation and during the exercise itself. Following the simulation the Control Team and observers provide comments. Judges, who are senior members of the bar in the field of national security law, observe player interactions and provide additional debriefing. The simulation, moreover, is recorded through both the cyber portal and through VNN, allowing students to go back to assess their performance. Individual meetings with the professors teaching the course similarly follow the event. Finally, students end the course with a paper reflecting on their performance and the issues that arose in the course of the simulation, develop frameworks for analyzing uncertainty, tension with colleagues, mistakes, and successes in the future. B. Substantive Areas: Interstices and Threats As a substantive matter, NSL Sim 2.0 is designed to take account of areas of the law central to national security. It focuses on specific authorities that may be brought to bear in the course of a crisis. The decision of which areas to explore is made well in advance of the course. It is particularly helpful here to think about national security authorities on a continuum, as a way to impress upon students that there are shifting standards depending upon the type of threat faced. One course, for instance, might center on the interstices between crime, drugs, terrorism and war. Another might address the intersection of pandemic disease and biological weapons. A third could examine cybercrime and cyberterrorism. This is the most important determination, because the substance of the doctrinal portion of the course and the simulation follows from this decision. For a course focused on the interstices between pandemic disease and biological weapons, for instance, preliminary inquiry would lay out which authorities apply, where the courts have weighed in on the question, and what matters are unsettled. Relevant areas might include public health law, biological weapons provisions, federal quarantine and isolation authorities, habeas corpus and due process, military enforcement and posse comitatus, eminent domain and appropriation of land/property, takings, contact tracing, thermal imaging and surveillance, electronic tagging, vaccination, and intelligence-gathering. The critical areas can then be divided according to the dominant constitutional authority, statutory authorities, regulations, key cases, general rules, and constitutional questions. This, then, becomes a guide for the doctrinal part of the course, as well as the grounds on which the specific scenarios developed for the simulation are based. The authorities, simultaneously, are included in an electronic resource library and embedded in the cyber portal (the Digital Archives) to act as a closed universe of the legal authorities needed by the students in the course of the simulation. Professional responsibility in the national security realm and the institutional relationships of those tasked with responding to biological weapons and pandemic disease also come within the doctrinal part of the course. The simulation itself is based on five to six storylines reflecting the interstices between different areas of the law. The storylines are used to present a coherent, non-linear scenario that can adapt to student responses. Each scenario is mapped out in a three to seven page document, which is then checked with scientists, government officials, and area experts for consistency with how the scenario would likely unfold in real life. For the biological weapons and pandemic disease emphasis, for example, one narrative might relate to the presentation of a patient suspected of carrying yersinia pestis at a hospital in the United States. The document would map out a daily progression of the disease consistent with epidemiological patterns and the central actors in the story: perhaps a U.S. citizen, potential connections to an international terrorist organization, intelligence on the individual’s actions overseas, etc. The scenario would be designed specifically to stress the intersection of public health and counterterrorism/biological weapons threats, and the associated (shifting) authorities, thus requiring the disease initially to look like an innocent presentation (for example, by someone who has traveled from overseas), but then for the storyline to move into the second realm (awareness that this was in fact a concerted attack). A second storyline might relate to a different disease outbreak in another part of the country, with the aim of introducing the Stafford Act/Insurrection Act line and raising federalism concerns. The role of the military here and Title 10/Title 32 questions would similarly arise – with the storyline designed to raise these questions. A third storyline might simply be well developed noise in the system: reports of suspicious activity potentially linked to radioactive material, with the actors linked to nuclear material. A fourth storyline would focus perhaps on container security concerns overseas, progressing through newspaper reports, about containers showing up in local police precincts. State politics would constitute the fifth storyline, raising question of the political pressures on the state officials in the exercise. Here, ethnic concerns, student issues, economic conditions, and community policing concerns might become the focus. The sixth storyline could be further noise in the system – loosely based on current events at the time. In addition to the storylines, a certain amount of noise is injected into the system through press releases, weather updates, private communications, and the like. The five to six storylines, prepared by the Control Team in consultation with experts, become the basis for the preparation of scenario “injects:” i.e., newspaper articles, VNN broadcasts, reports from NGOs, private communications between officials, classified information, government leaks, etc., which, when put together, constitute a linear progression. These are all written and/or filmed prior to the exercise. The progression is then mapped in an hourly chart for the unfolding events over a multi-day period. All six scenarios are placed on the same chart, in six columns, giving the Control Team a birds-eye view of the progression. C. How It Works As for the nuts and bolts of the simulation itself, it traditionally begins outside of class, in the evening, on the grounds that national security crises often occur at inconvenient times and may well involve limited sleep and competing demands.171 Typically, a phone call from a Control Team member posing in a role integral to one of the main storylines, initiates play. Students at this point have been assigned dedicated simulation email addresses and provided access to the cyber portal. The portal itself gives each team the opportunity to converse in a “classified” domain with other team members, as well as access to a public AP wire and broadcast channel, carrying the latest news and on which press releases or (for the media roles) news stories can be posted. The complete universe of legal authorities required for the simulation is located on the cyber portal in the Digital Archives, as are forms required for some of the legal instruments (saving students the time of developing these from scratch in the course of play). Additional “classified” material – both general and SCI – has been provided to the relevant student teams. The Control Team has access to the complete site. For the next two (or three) days, outside of student initiatives (which, at their prompting, may include face-to-face meetings between the players), the entire simulation takes place through the cyber portal. The Control Team, immediately active, begins responding to player decisions as they become public (and occasionally, through monitoring the “classified” communications, before they are released). This time period provides a ramp-up to the third (or fourth) day of play, allowing for the adjustment of any substantive, student, or technology concerns, while setting the stage for the breaking crisis. The third (or fourth) day of play takes place entirely at Georgetown Law. A special room is constructed for meetings between the President and principals, in the form of either the National Security Council or the Homeland Security Council, with breakout rooms assigned to each of the agencies involved in the NSC process. Congress is provided with its own physical space, in which meetings, committee hearings and legislative drafting can take place. State government officials are allotted their own area, separate from the federal domain, with the Media placed between the three major interests. The Control Team is sequestered in a different area, to which students are not admitted. At each of the major areas, the cyber portal is publicly displayed on large flat panel screens, allowing for the streaming of video updates from the media, AP wire injects, articles from the students assigned to represent leading newspapers, and press releases. Students use their own laptop computers for team decisions and communication. As the storylines unfold, the Control Team takes on a variety of roles, such as that of the President, Vice President, President’s chief of staff, governor of a state, public health officials, and foreign dignitaries. Some of the roles are adopted on the fly, depending upon player responses and queries as the storylines progress. Judges, given full access to each player domain, determine how effectively the students accomplish the national security goals. The judges are themselves well-experienced in the practice of national security law, as well as in legal education. They thus can offer a unique perspective on the scenarios confronted by the students, the manner in which the simulation unfolded, and how the students performed in their various capacities. At the end of the day, the exercise terminates and an immediate hotwash is held, in which players are first debriefed on what occurred during the simulation. Because of the players’ divergent experiences and the different roles assigned to them, the students at this point are often unaware of the complete picture. The judges and formal observers then offer reflections on the simulation and determine which teams performed most effectively. Over the next few classes, more details about the simulation emerge, as students discuss it in more depth and consider limitations created by their knowledge or institutional position, questions that arose in regard to their grasp of the law, the types of decision-making processes that occurred, and the effectiveness of their – and other students’ – performances. Reflection papers, paired with oral briefings, focus on the substantive issues raised by the simulation and introduce the opportunity for students to reflect on how to create opportunities for learning in the future. The course then formally ends.172 Learning, however, continues beyond the temporal confines of the semester. Students who perform well and who would like to continue to participate in the simulations are invited back as members of the control team, giving them a chance to deepen their understanding of national security law. Following graduation, a few students who go in to the field are then invited to continue their affiliation as National Security Law fellows, becoming increasingly involved in the evolution of the exercise itself. This system of vertical integration helps to build a mentoring environment for the students while they are enrolled in law school and to create opportunities for learning and mentorship post-graduation. It helps to keep the exercise current and reflective of emerging national security concerns. And it builds a strong community of individuals with common interests. CONCLUSION The legal academy has, of late, been swept up in concern about the economic conditions that affect the placement of law school graduates. The image being conveyed, however, does not resonate in every legal field. It is particularly inapposite to the burgeoning opportunities presented to students in national security. That the conversation about legal education is taking place now should come as little surprise. Quite apart from economic concern is the traditional introspection that follows American military engagement. It makes sense: law overlaps substantially with political power, being at once both the expression of government authority and the effort to limit the same. The one-size fits all approach currently dominating the conversation in legal education, however, appears ill-suited to address the concerns raised in the current conversation. Instead of looking at law across the board, greater insight can be gleaned by looking at the specific demands of the different fields themselves. This does not mean that the goals identified will be exclusive to, for instance, national security law, but it does suggest there will be greater nuance in the discussion of the adequacy of the current pedagogical approach. With this approach in mind, I have here suggested six pedagogical goals for national security. For following graduation, students must be able to perform in each of the areas identified – (1) understanding the law as applied, (2) dealing with factual chaos and uncertainty, (3) obtaining critical distance, (4) developing nontraditional written and oral communication skills, (5) exhibiting leadership, integrity, and good judgment in a high-stakes, highly-charged environment, and (6) creating continued opportunities for self-learning. They also must learn how to integrate these different skills into one experience, to ensure that they will be most effective when they enter the field. The problem with the current structures in legal education is that they fall short, in important ways, from helping students to meet these goals. Doctrinal courses may incorporate a range of experiential learning components, such as hypotheticals, doctrinal problems, single exercises, extended or continuing exercises, and tabletop exercises. These are important classroom devices. The amount of time required for each varies, as does the object of the exercise itself. But where they fall short is in providing a more holistic approach to national security law which will allow for the maximum conveyance of required skills. Total immersion simulations, which have not yet been addressed in the secondary literature for civilian education in national security law, may provide an important way forward. Such simulations also cure shortcomings in other areas of experiential education, such as clinics and moot court. It is in an effort to address these concerns that I developed the simulation model above. NSL Sim 2.0 certainly is not the only solution, but it does provide a starting point for moving forward. The approach draws on the strengths of doctrinal courses and embeds a total immersion simulation within a course. It makes use of technology and physical space to engage students in a multi-day exercise, in which they are given agency and responsibility for their decision making, resulting in a steep learning curve. While further adaptation of this model is undoubtedly necessary, it suggests one potential direction for the years to come.

#### 4. Decision-making – debate gaming through dramatic rehearsal strengthens decision-making – only maintained by a confined educational space

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Joas’ re-interpretation of Dewey’s pragmatism as a “theory of situated creativity” raises a critique of humans as purely rational agents that navigate instrumentally through meansendsschemes (Joas, 1996: 133f). This critique is particularly important when trying to understand how games are enacted and validated within the realm of educational institutions that by definition are inscribed in the great modernistic narrative of “progress” where nation states, teachers and parents expect students to acquire specific skills and competencies (Popkewitz, 1998; cf. chapter 3). However, as Dewey argues, the actual doings of educational gaming cannot be reduced to rational means-ends schemes. Instead, the situated interaction between teachers, students, and learning resources are played out as contingent re-distributions of means, ends and ends in view, which often make classroom contexts seem “messy” from an outsider’s perspective (Barab & Squire, 2004). 4.2.3. Dramatic rehearsal The two preceding sections discussed how Dewey views play as an imaginative activity of educational value, and how his assumptions on creativity and playful actions represent a critique of rational means-end schemes. For now, I will turn to Dewey’s concept of dramatic rehearsal, which assumes that social actors deliberate by projecting and choosing between various scenarios for future action. Dewey uses the concept dramatic rehearsal several times in his work but presents the most extensive elaboration in Human Nature and Conduct: Deliberation is a dramatic rehearsal (in imagination) of various competing possible lines of action… [It] is an experiment in finding out what the various lines of possible action are really like (...) Thought runs ahead and foresees outcomes, and thereby avoids having to await the instruction of actual failure and disaster. An act overtly tried out is irrevocable, its consequences cannot be blotted out. An act tried out in imagination is not final or fatal. It is retrievable (Dewey, 1922: 132-3). 86 This excerpt illustrates how Dewey views the process of decision making (deliberation) through the lens of an imaginative drama metaphor. Thus, decisions are made through the imaginative projection of outcomes, where the “possible competing lines of action” are resolved through a thought experiment. Moreover, Dewey’s compelling use of the drama metaphor also implies that decisions cannot be reduced to utilitarian, rational or mechanical exercises, but that they have emotional, creative and personal qualities as well. Interestingly, there are relatively few discussions within the vast research literature on Dewey of his concept of dramatic rehearsal. A notable exception is the phenomenologist Alfred Schütz, who praises Dewey’s concept as a “fortunate image” for understanding everyday rationality (Schütz, 1943: 140). Other attempts are primarily related to overall discussions on moral or ethical deliberation (Caspary, 1991, 2000, 2006; Fesmire, 1995, 2003; Rönssön, 2003; McVea, 2006). As Fesmire points out, dramatic rehearsal is intended to describe an important phase of deliberation that does not characterise the whole process of making moral decisions, which includes “duties and contractual obligations, short and long-term consequences, traits of character to be affected, and rights” (Fesmire, 2003: 70). Instead, dramatic rehearsal should be seen as the process of “crystallizing possibilities and transforming them into directive hypotheses” (Fesmire, 2003: 70). Thus, deliberation can in no way guarantee that the response of a “thought experiment” will be successful. But what it can do is make the process of choosing more intelligent than would be the case with “blind” trial-and-error (Biesta, 2006: 8). The notion of dramatic rehearsal provides a valuable perspective for understanding educational gaming as a simultaneously real and imagined inquiry into domain-specific scenarios. Dewey defines dramatic rehearsal as the capacity to stage and evaluate “acts”, which implies an “irrevocable” difference between acts that are “tried out in imagination” and acts that are “overtly tried out” with real-life consequences (Dewey, 1922: 132-3). This description shares obvious similarities with games as they require participants to inquire into and resolve scenario-specific problems (cf. chapter 2). On the other hand, there is also a striking difference between moral deliberation and educational game activities in terms of the actual consequences that follow particular actions. Thus, when it comes to educational games, acts are both imagined and tried out, but without all the real-life consequences of the practices, knowledge forms and outcomes that are being simulated in the game world. Simply put, there is a difference in realism between the dramatic rehearsals of everyday life and in games, which only “play at” or simulate the stakes and 87 risks that characterise the “serious” nature of moral deliberation, i.e. a real-life politician trying to win a parliamentary election experiences more personal and emotional risk than students trying to win the election scenario of The Power Game. At the same time, the lack of real-life consequences in educational games makes it possible to design a relatively safe learning environment, where teachers can stage particular game scenarios to be enacted and validated for educational purposes. In this sense, educational games are able to provide a safe but meaningful way of letting teachers and students make mistakes (e.g. by giving a poor political presentation) and dramatically rehearse particular “competing possible lines of action” that are relevant to particular educational goals (Dewey, 1922: 132). Seen from this pragmatist perspective, the educational value of games is not so much a question of learning facts or giving the “right” answers, but more a question of exploring the contingent outcomes and domain-specific processes of problem-based scenarios.

#### ----Effective decision-making outweighs – it’s the lynchpin of solving all existential global problems – being relevantly informed is key

Lundberg 10 (Christian O. Lundberg 10 Professor of Communications @ University of North Carolina, Chapel Hill, “Tradition of Debate in North Carolina” in Navigating Opportunity: Policy Debate in the 21st Century By Allan D. Louden, p311)

The second major problem with the critique that identifies a naivety in articulating debate and democracy is that it presumes that the primary pedagogical outcome of debate is speech capacities. But the democratic capacities built by debate are not limited to speech—as indicated earlier, **debate builds capacity for** critical thinking, analysis of public claims, informed decision making, and better public judgment. If the picture of modem political life that underwrites this critique of debate is a pessimistic view of increasingly labyrinthine and bureaucratic administrative politics, rapid scientific and technological change outpacing the capacities of the citizenry to comprehend them, and ever-expanding insular special-interest- and money-driven politics, it is a puzzling solution, at best, to argue that these conditions warrant giving up on debate. If democracy is open to rearticulation, it is open to rearticulation precisely because **as the challenges of modern political life proliferate, the citizenry's capacities can change**, which is one of the primary reasons that theorists of democracy such as Ocwey in The Public awl Its Problems place such a high premium on education (Dewey 1988,63, 154). Debate provides an indispensible form of education in the modem articulation of democracy because it **builds precisely the skills that allow the citizenry** to research and be informed about policy decisions that impact them, to son rhroueh and evaluate the evidence for and relative merits of arguments for and against a policy in an increasingly infonnation-rich environment, and to prioritize their time and political energies toward policies that matter the most to them. The merits of debate as a tool for building democratic capacity-building take on a special significance in the context of information literacy. John Larkin (2005, HO) argues that one of the primary failings of modern colleges and universities is that they have not changed curriculum to match with the challenges of a new information environment. This is a problem for the course of academic study in our current context, but perhaps more important, argues Larkin, for the future of a citizenry that will need to make evaluative choices against an increasingly complex and multimediatcd information environment (ibid-). Larkin's study tested the benefits of debate participation on information-literacy skills and concluded that in-class debate participants reported significantly higher self-efficacy ratings of their ability to navigate academic search databases and to effectively search and use other Web resources: To analyze the self-report ratings of the instructional and control group students, we first conducted a multivariate analysis of variance on all of the ratings, looking jointly at the effect of instmction/no instruction and debate topic . . . that it did not matter which topic students had been assigned . . . students in the Instnictional [debate) group were significantly more confident in their ability to access information and less likely to feel that they needed help to do so----These findings clearly indicate greater self-efficacy for online searching among students who participated in (debate).... These results constitute strong support for the effectiveness of the project on students' self-efficacy for online searching in the academic databases. There was an unintended effect, however: After doing ... the project, instructional group students also felt more confident than the other students in their ability to get good information from Yahoo and Google. It may be that the library research experience increased self-efficacy for any searching, not just in academic databases. (Larkin 2005, 144) Larkin's study substantiates Thomas Worthcn and Gaylcn Pack's (1992, 3) claim that debate in the college classroom plays a critical role in fostering the kind of problem-solving skills demanded by the increasingly rich media and information environment of modernity. Though their essay was written in 1992 on the cusp of the eventual explosion of the Internet as a medium, Worthcn and Pack's framing of the issue was prescient: the primary question facing today's student has changed from how to best research a topic to the crucial question of learning how to best evaluate which arguments to cite and rely upon from an easily accessible and veritable cornucopia of materials. There are, without a doubt, a number of important criticisms of employing debate as a model for democratic deliberation. But cumulatively, the evidence presented here warrants strong support for expanding debate practice in the classroom as a technology **for enhancing democratic deliberative capacities**. The unique combination of critical thinking skills, research and information processing skills, oral communication skills, and capacities for listening and thoughtful, open engagement with hotly contested issues argues for debate as a **crucial component of a rich and vital democratic life**. In-class debate practice both aids students in achieving the best goals of college and university education, and serves as an unmatched practice for creating thoughtful, engaged, open-minded and self-critical students who are open to the possibilities of **meaningful political engagement** and **new articulations of democratic life.** Expanding this practice is crucial, if only because the more we produce citizens that can actively and effectively engage the political process, the more likely we are to **produce revisions of democratic life** that are **necessary if democracy is not only to survive, but to thrive**. Democracy faces a myriad of challenges, including: domestic and international **issues of class, gender, and racial justice**; wholesale **environmental destruction** and the potential for **rapid climate change**; emerging **threats to international stability** in the form of terrorism, intervention and new possibilities for great power conflict; and increasing **challenges of rapid globalization** including an increasingly volatile global economic structure. More than any specific policy or proposal, an **informed and active citizenry that** deliberates with greater skil**l** and sensitivity provides one of the best hopes for responsive and effective democratic governance, and by extension, one of the last best hopes for dealing with the **existential challenges** to democracy [in an] increasingly complex world.

### 2

#### Plan causes a compensatory shift to drone strikes – that’s worse and causes drone prolif

RT, 13 (5/3, “US targeted drone killings used as alternative to Guantanamo Bay - Bush lawyer.” http://rt.com/usa/obama-using-drones-avoid-gitmo-747/)

A lawyer who was influential in the United States’ adoption of unmanned aircraft has spoken out against the Obama administration for what he perceives as using drones as an alternative to capturing suspects and sending them to Guantanamo Bay prison camp. John Bellinger, the Bush administration attorney who drafted the initial legal specifications regarding drone killings after the September 11, 2001 terrorist attacks, said that Bush’s successor has abused the framework, skirting international law for political points. “This government has decided that instead of detaining members of Al-Qaeda [at Guantanamo Bay prison camp in Cuba] they are going to kill them,” Bellinger told a conference at the Bipartisan Policy Center, as quoted by The Guardian. Earlier this week Obama promised to reignite efforts to close Guantanamo Bay, where prisoners have gone on a hunger strike to protest human rights violations and wrongful incarcerations. They were his first in-depth remarks on the subject since 2009, when Obama had just recently been elected to office after campaigning on a promise to close the facility. But international law is equally suspect of drone strikes. Almost 5,000 people are thought to have been killed by roughly 300 US attacks in four countries, according to The Guardian. Bellinger maintained that the government has justified strikes throughout Pakistan and Yemen by using the 'War on Terror' as an excuse. “We are about the only country in the world that thinks we are in an armed conflict with Al-Qaeda,” he said. “We really need to get on top of this and explain to our allies why it is legal and why it is permissible under international law." “These drone strikes are causing us great damage in the world, but on the other hand if you are the president and you do nothing to stop another 9/11 then you also have a problem,” he added. Of the 166 detainees at Guantanamo Bay, 86 have been cleared for release by a commission made up of officials from the Department of Homeland Security, Joint Chiefs of Staff and other influential government divisions. White House officials have justified the use of unmanned aircraft by saying the US is at war with Al-Qaeda and that those targeted in drone attacks were planning attacks on America. In the future, experts say, future countries could use the same rationale to explain their own attacks. “Countries under attack are the ones that get to decide whether or not they are at war,” said Philip Zelikow, a member of the White House Intelligence Advisory Board. While the conversation around drones is certainly a sign of things to come, Hina Shamsi of the American Civil Liberties Union encouraged Americans to think about the human rights issues posed by the new technology. It could be another long process, if the Guantanamo Bay handling is any indication. “The use of this technology is spreading and we have to think about what we would say if other countries used drones for targeted killing programs,” Shamsi said. “Few things are more likely to undermine our legitimacy than the perception that we are not abiding by the rule of law or are indifferent to civilian casualties.”

#### Drone prolif escalates and destroys deterrence without strong norms—multiple scenarios for conflict

Michael J. Boyle 13, Assistant Professor, Political Science – La Salle, International Affairs 89: 1 (2013) 1–29

An important, but overlooked, strategic consequence of the Obama administration’s embrace of drones is that it has generated a new and dangerous arms race for this technology. At present, the use of lethal drones is seen as acceptable to US policy-makers because no other state possesses the ability to make highly sophisticated drones with the range, surveillance capability and lethality of those currently manufactured by the United States. Yet the rest of the world is not far behind. At least 76 countries have acquired UAV technology, including Russia, China, Pakistan and India.120 China is reported to have at least 25 separate drone systems currently in development.121 At present, there are 680 drone programmes in the world, an increase of over 400 since 2005.122 Many states and non-state actors hostile to the United States have begun to dabble in drone technology. Iran has created its own drone, dubbed the ‘Ambassador of Death’, which has a range of up to 600 miles.123 Iran has also allegedly supplied the Assad regime in Syria with drone technology.124 Hezbollah launched an Iranian-made drone into Israeli territory, where it was shot down by the Israeli air force in October 2012.125 A global arms race for drone technology is already under way. According to one estimate, global spending on drones is likely to be more than US$94 billion by 2021.126 One factor that is facilitating the spread of drones (particularly non-lethal drones) is their cost relative to other military purchases. The top-of-the line Predator or Reaper model costs approximately US$10.5 million each, compared to the US$150 million price tag of a single F-22 fighter jet.127 At that price, drone technology is already within the reach of most developed militaries, many of which will seek to buy drones from the US or another supplier. With demand growing, a number of states, including China and Israel, have begun the aggressive selling of drones, including attack drones, and Russia may also be moving into this market.128 Because of concerns that export restrictions are harming US competitiveness in the drones market, the Pentagon has granted approval for drone exports to 66 governments and is currently being lobbied to authorize sales to even more.129 The Obama administration has already authorized the sale of drones to the UK and Italy, but Pakistan, the UAE and Saudi Arabia have been refused drone technology by congressional restrictions.130 It is only a matter of time before another supplier steps in to offer the drone technology to countries prohibited by export controls from buying US drones. According to a study by the Teal Group, the US will account for 62 per cent of research and development spending and 55 per cent of procurement spending on drones by 2022.131 As the market expands, with new buyers and sellers, America’s ability to control the sale of drone technology will be diminished. It is likely that the US will retain a substantial qualitative advantage in drone technology for some time, but even that will fade as more suppliers offer drones that can match US capabilities. The emergence of this arms race for drones raises at least five long-term strategic consequences, not all of which are favourable to the United States over the long term. First, it is now obvious that other states will use drones in ways that are inconsistent with US interests. One reason why the US has been so keen to use drone technology in Pakistan and Yemen is that at present it retains a substantial advantage in high-quality attack drones. Many of the other states now capable of employing drones of near-equivalent technology—for example, the UK and Israel—are considered allies. But this situation is quickly changing as other leading geopolitical players, such as Russia and China, are beginning rapidly to develop and deploy drones for their own purposes. While its own technology still lags behind that of the US, Russia has spent huge sums on purchasing drones and has recently sought to buy the Israeli-made Eitan drone capable of surveillance and firing air-to-surface missiles.132 China has begun to develop UAVs for reconnaissance and combat and has several new drones capable of long-range surveillance and attack under development.133 China is also planning to use unmanned surveillance drones to allow it to monitor the disputed East China Sea Islands, which are currently under dispute with Japan and Taiwan.134 Both Russia and China will pursue this technology and develop their own drone suppliers which will sell to the highest bidder, presumably with fewer export controls than those imposed by the US Congress. Once both governments have equivalent or near-equivalent levels of drone technology to the United States, they will be similarly tempted to use it for surveillance or attack in the way the US has done. Thus, through its own over-reliance on drones in places such as Pakistan and Yemen, the US may be hastening the arrival of a world where its qualitative advantages in drone technology are eclipsed and where this technology will be used and sold by rival Great Powers whose interests do not mirror its own. A second consequence of the spread of drones is that many of the traditional concepts which have underwritten stability in the international system will be radically reshaped by drone technology. For example, much of the stability among the Great Powers in the international system is driven by deterrence, specifically nuclear deterrence.135 Deterrence operates with informal rules of the game and tacit bargains that govern what states, particularly those holding nuclear weapons, may and may not do to one another.136 While it is widely understood that nuclear-capable states will conduct aerial surveillance and spy on one another, overt military confrontations between nuclear powers are rare because they are assumed to be costly and prone to escalation. One open question is whether these states will exercise the same level of restraint with drone surveillance, which is unmanned, low cost, and possibly deniable. States may be more willing to engage in drone overflights which test the resolve of their rivals, or engage in ‘salami tactics’ to see what kind of drone-led incursion, if any, will motivate a response.137 This may have been Hezbollah’s logic in sending a drone into Israeli airspace in October 2012, possibly to relay information on Israel’s nuclear capabilities.138 After the incursion, both Hezbollah and Iran boasted that the drone incident demonstrated their military capabilities.139 One could imagine two rival states—for example, India and Pakistan—deploying drones to test each other’s capability and resolve, with untold consequences if such a probe were misinterpreted by the other as an attack. As drones get physically smaller and more precise, and as they develop a greater flying range, the temptation to use them to spy on a rival’s nuclear programme or military installations might prove too strong to resist. If this were to happen, drones might gradually erode the deterrent relationships that exist between nuclear powers, thus magnifying the risks of a spiral of conflict between them. Another dimension of this problem has to do with the risk of accident. Drones are prone to accidents and crashes. By July 2010, the US Air Force had identified approximately 79 drone accidents.140 Recently released documents have revealed that there have been a number of drone accidents and crashes in the Seychelles and Djibouti, some of which happened in close proximity to civilian airports.141 The rapid proliferation of drones worldwide will involve a risk of accident to civilian aircraft, possibly producing an international incident if such an accident were to involve an aircraft affiliated to a state hostile to the owner of the drone. Most of the drone accidents may be innocuous, but some will carry strategic risks. In December 2011, a CIA drone designed for nuclear surveillance crashed in Iran, revealing the existence of the spying programme and leaving sensitive technology in the hands of the Iranian government.142 The expansion of drone technology raises the possibility that some of these surveillance drones will be interpreted as attack drones, or that an accident or crash will spiral out of control and lead to an armed confrontation.143 An accident would be even more dangerous if the US were to pursue its plans for nuclear-powered drones, which can spread radioactive material like a dirty bomb if they crash.144 Third, lethal drones create the possibility that the norms on the use of force will erode, creating a much more dangerous world and pushing the international system back towards the rule of the jungle. To some extent, this world is already being ushered in by the United States, which has set a dangerous precedent that a state may simply kill foreign citizens considered a threat without a declaration of war. Even John Brennan has recognized that the US is ‘establishing a precedent that other nations may follow’.145 Given this precedent, there is nothing to stop other states from following the American lead and using drone strikes to eliminate potential threats. Those ‘threats’ need not be terrorists, but could be others— dissidents, spies, even journalists—whose behaviour threatens a government. One danger is that drone use might undermine the normative prohibition on the assassination of leaders and government officials that most (but not all) states currently respect. A greater danger, however, is that the US will have normalized murder as a tool of statecraft and created a world where states can increasingly take vengeance on individuals outside their borders without the niceties of extradition, due process or trial.146 As some of its critics have noted, the Obama administration may have created a world where states will find it easier to kill terrorists rather than capture them and deal with all of the legal and evidentiary difficulties associated with giving them a fair trial.147 Fourth, there is a distinct danger that the world will divide into two camps: developed states in possession of drone technology, and weak states and rebel movements that lack them. States with recurring separatist or insurgent problems may begin to police their restive territories through drone strikes, essentially containing the problem in a fixed geographical region and engaging in a largely punitive policy against them. One could easily imagine that China, for example, might resort to drone strikes in Uighur provinces in order to keep potential threats from emerging, or that Russia could use drones to strike at separatist movements in Chechnya or elsewhere. Such behaviour would not necessarily be confined to authoritarian governments; it is equally possible that Israel might use drones to police Gaza and the West Bank, thus reducing the vulnerability of Israeli soldiers to Palestinian attacks on the ground. The extent to which Israel might be willing to use drones in combat and surveillance was revealed in its November 2012 attack on Gaza. Israel allegedly used a drone to assassinate the Hamas leader Ahmed Jabari and employed a number of armed drones for strikes in a way that was described as ‘unprecedented’ by senior Israeli officials.148 It is not hard to imagine Israel concluding that drones over Gaza were the best way to deal with the problem of Hamas, even if their use left the Palestinian population subject to constant, unnerving surveillance. All of the consequences of such a sharp division between the haves and have-nots with drone technology is hard to assess, but one possibility is that governments with secessionist movements might be less willing to negotiate and grant concessions if drones allowed them to police their internal enemies with ruthless efficiency and ‘manage’ the problem at low cost. The result might be a situation where such conflicts are contained but not resolved, while citizens in developed states grow increasingly indifferent to the suffering of those making secessionist or even national liberation claims, including just ones, upon them. Finally, drones have the capacity to strengthen the surveillance capacity of both democracies and authoritarian regimes, with significant consequences for civil liberties. In the UK, BAE Systems is adapting military-designed drones for a range of civilian policing tasks including ‘monitoring antisocial motorists, protesters, agricultural thieves and fly-tippers’.149 Such drones are also envisioned as monitoring Britain’s shores for illegal immigration and drug smuggling. In the United States, the Federal Aviation Administration (FAA) issued 61 permits for domestic drone use between November 2006 and June 2011, mainly to local and state police, but also to federal agencies and even universities.150 According to one FAA estimate, the US will have 30,000 drones patrolling the skies by 2022.151 Similarly, the European Commission will spend US$260 million on Eurosur, a new programme that will use drones to patrol the Mediterranean coast.152 The risk that drones will turn democracies into ‘surveillance states’ is well known, but the risks for authoritarian regimes may be even more severe. Authoritarian states, particularly those that face serious internal opposition, may tap into drone technology now available to monitor and ruthlessly punish their opponents. In semi-authoritarian Russia, for example, drones have already been employed to monitor pro-democracy protesters.153 One could only imagine what a truly murderous authoritarian regime—such as Bashar al-Assad’s Syria—would do with its own fleet of drones. The expansion of drone technology may make the strong even stronger, thus tilting the balance of power in authoritarian regimes even more decisively towards those who wield the coercive instruments of power and against those who dare to challenge them.

#### Aff causes human rights pressure

**Bransten 7** – Jeremy, Radio Free Europe [1/11, <http://www.rferl.org/content/article/1073948.html>]

The United States -- according to Human Rights Watch -- used to lead the world in promoting global human rights. But the group argues that because of the antiterrorism policies of U.S. President George W. Bush, U.S. credibility on rights has been "utterly undermined." For Human Rights Watch, America's Guantanamo Bay detention facility in Cuba, where foreigners identified as "enemy combatants" have been detained indefinitely without trial, symbolizes Washington's abdication of moral leadership. So does the use of what Bush has called "alternative" interrogation procedures. Among the most controversial is holding detainees' heads under water for prolonged periods of time -- which Human Rights Watch calls a "classic torture technique." "The reason Human Rights Watch selected the fifth anniversary of Guantanamo to launch our annual report is because it really highlights the leadership crisis that is facing the human rights movement these days at the governmental level," HRW Executive Director Kenneth Roth told RFE/RL. "Traditionally, we're used to looking toward the United States to take the lead, on at least many human rights issues. But because of Guantanamo, because of the Bush administration's policy of using torture and detention without trial as a way of combating terrorism, U.S. credibility on human rights is simply shot in many parts of the world. It is dramatically undermined. And so there's an urgent need for someone else to come in and fill that leadership void."

#### Human rights pressure tanks Chinese relations

**Peerenboom 5** – Randall, law professor at La Trobe University and an associate fellow of the Oxford University Center for Socio-Legal Studies [Assessing Human Rights in China: Why the Double Standard, 38 Cornell Int'l L.J. 71, Lexis]

China is often singled out as one of the worst human rights violators in the world today. Since 1990, there have been eleven attempts to censure China before the U.N. Commission on Human rights in Geneva, although each has failed. n1 Human rights groups regularly issue scathing reports condemning China for widespread human rights violations. n2 Every year, the U.S. State Department claims serious abuses, frequently describing the situation as deteriorating. n3 U.N. bodies and officials, including the special rapporteurs on the rights to education and religious freedom, have also issued critical reports. n4 On the other hand, the Chinese government regularly issues reports chock-full of statistics showing considerable progress on a wide variety of fronts, and proudly claims that Chinese citizens enjoy more rights than ever before. n5 While not denying that much remains to be done, the government maintains its critics are biased, human rights are being misused for [\*73] political purposes, and China is being subjected to a double standard. n6 Many Chinese citizens feel the same way. They too see the human rights policies of Western countries, particularly the U.S., as hypocritical and hegemonic power politics. n7 Chinese citizens are particularly sensitive about infringements on China's national sovereignty in part because of decades of bullying by foreign imperial powers. n8 But many also feel that China today is being held to a different standard than are other countries. The U.S. and other Western powers sit idly by while gross violations of human rights occur in Burundi, Colombia, Nigeria, Uganda, India, Saudi Arabia, and countless other countries, and yet are quick to criticize China even though most Chinese enjoy more extensive freedoms and a better standard of living than ever before. Behind the double standard, they suspect, lies the desire of the U.S. and other developed countries to contain China and prevent it from emerging as a rival superpower. The very fact that government leaders and Chinese citizens feel China is being held to a double standard, whether or not it is true, has several negative consequences for human rights. The steady stream of criticism leveled at Beijing has led to testy relations between China and U.N. rights bodies, the U.S. and other countries, and international human rights NGOs. The government is often quick to assume a defensive posture, stonewalling or defending its record at length in the face of criticism rather than exploring constructive ways to improve the current situation. n9 Beijing has also been reluctant to allow visits by inspectors from the U.N. or other countries, and has imposed restrictions on those visits it does authorize. n10 At times, the reaction has been even more hostile and antithetical to progress on rights issues. In response to the annual U.S. State Department report, which the State Council has denounced as "an amateurish collection of distortions and rumors" driven by "anti-China forces who don't want to see the existence of an increasingly wealthy and developed socialist state," n11 China now issues its own critical report on the rights situation in [\*74] the United States. n12 In addition, China has cancelled bilateral dialogues on human rights as well as programs on rule of law in response to the attempts to censure it in Geneva. Apart from the negative government reaction, the public's support for international reform efforts has also been weakened. Many citizens are suspicious about the motives of NGOs. Even reform-minded academics often find that NGOs lack an adequate understanding of the situation in China, and that their proposals for reform are out of touch with the existing norms or simply infeasible given China's current conditions. Public opinion about America, seen as the leader of Western critics, has undergone a dramatic shift in the last twenty years, from wildly supportive to highly critical. n13 Sometime in this century China will emerge as a major economic, political, and ultimately military power capable of challenging U.S. hegemony. Instilling a feeling of resentment and hostility in Chinese citizens who believe China is being treated unfairly diminishes the likelihood of a peaceful and cooperative relationship between the superpowers. The feeling that China is being subjected to a double standard has led to a growing nationalism. n14 While nationalism may take the form of pride in one's culture and country, in China nationalism is often based on a more negative feeling of resentment. The resentment stems from a general sense that China, this once great civilization, is being denied its rightful place in the world. Ironically, applying a double standard to China feeds a trend to emphasize the distinctiveness of China, and of Asian countries more generally, as evidenced in the debate over Asian values. The growing desire for Asian countries to affirm their unique identities and stake out their own turf within the normative universe of human rights challenges the fundamental pretense of universalism on which the human rights regime is founded. n15

#### Relations are key to prevent nuclear war

**Kissinger 12** – Henry A., former U.S. Secretary of State and National Security Adviser [Foreign Affairs. 91.2 (March-April 2012): p44]

What this situation calls for is not an abandonment of American values but a distinction between the realizable and the absolute. The U.S.-Chinese relationship should not be considered as a zero-sum game, nor can the emergence of a prosperous and powerful China be assumed in itself to be an American strategic defeat. A cooperative approach challenges preconceptions on both sides. The United States has few precedents in its national experience of relating to a country of comparable size, self-confidence, economic achievement, and international scope and yet with such a different culture and political system. Nor does history supply China with precedents for how to relate to a fellow great power with a permanent presence in Asia, a vision of universal ideals not geared toward Chinese conceptions, and alliances with several of China's neighbors. Prior to the United States, all countries establishing such a position did so as a prelude to an attempt to dominate China. The simplest approach to strategy is to insist on overwhelming potential adversaries with superior resources and materiel. But in the contemporary world, this is only rarely feasible. China and the United States will inevitably continue as enduring realities for each other. Neither can entrust its security to the other--no great power does, for long--and each will continue to pursue its own interests, sometimes at the relative expense of the other. But both have the responsibility to take into account the other's nightmares, and both would do well to recognize that their rhetoric, as much as their actual policies, can feed into the other's suspicions. China's greatest strategic fear is that an outside power or powers will establish military deployments around China's periphery capable of encroaching on China's territory or meddling in its domestic institutions. When China deemed that it faced such a threat in the past, it went to war rather than risk the outcome of what it saw as gathering trends--in Korea in 1950, against India in 1962, along the northern border with the Soviet Union in 1969, and against Vietnam in 1979. The United States' fear, sometimes only indirectly expressed, is of being pushed out of Asia by an exclusionary bloc. The United States fought a world war against Germany and Japan to prevent such an outcome and exercised some of its most forceful Cold War diplomacy under administrations of both political parties to this end against the Soviet Union. In both enterprises, it is worth noting, substantial joint U.S.-Chinese efforts were directed against the perceived threat of hegemony. Other Asian countries will insist on their prerogatives to develop their capacities for their own national reasons, not as part of a contest between outside powers. They will not willingly consign themselves to a revived tributary order. Nor do they regard themselves as elements in an American containment policy or an American project to alter China's domestic institutions. They aspire to good relations with both China and the United States and will resist any pressure to choose between the two. Can the fear of hegemony and the nightmare of military encirclement be reconciled? Is it possible to find a space in which both sides can achieve their ultimate objectives without militarizing their strategies? For great nations with global capabilities and divergent, even partly conflicting aspirations, what is the margin between conflict and abdication? That China will have a major influence in the regions surrounding it is inherent in its geography, values, and history. The limits of that influence, however, will be shaped by circumstance and policy decisions. These will determine whether an inevitable quest for influence turns into a drive to negate or exclude other independent sources of power. For nearly two generations, American strategy relied on local regional defense by American ground forces--largely to avoid the catastrophic consequences of a general nuclear war. In recent decades, congressional and public opinion have impelled an end to such commitments in Vietnam, Iraq, and Afghanistan. Now, fiscal considerations further limit the range of such an approach. American strategy has been redirected from defending territory to threatening unacceptable punishment against potential aggressors. This requires forces capable of rapid intervention and global reach, but not bases ringing China's frontiers. What Washington must not do is combine a defense policy based on budgetary restraints with a diplomacy based on unlimited ideological aims. Just as Chinese influence in surrounding countries may spur fears of dominance, so efforts to pursue traditional American national interests can be perceived as a form of military encirclement. Both sides must understand the nuances by which apparently traditional and apparently reasonable courses can evoke the deepest worries of the other. They should seek together to define the sphere in which their peaceful competition is circumscribed. If that is managed wisely, both military confrontation and domination can be avoided; if not, escalating tension is inevitable. It is the task of diplomacy to discover this space, to expand it if possible, and to prevent the relationship from being overwhelmed by tactical and domestic imperatives.

### 3

#### Obama’s war powers maintain his presidential power

Rozell 12

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And yet, as Jack Goldsmith accurately details in his latest book, President Barack Obama not only has not altered the course of controversial Bush-era practices, he has continued and expanded upon many of them. On initiating war, as a candidate for the presidency in 2007, Obama said that “the president doesn’t have the power under the Constitution to unilaterally authorize a military attack,” yet that is exactly what he did in exercising the war power in Libya. He has also said that he will exercise the power to act on his own to initiate military action in Syria if it’s leader ever crosses the “red line” (i.e., use of chemical weapons). He has issued a number of signing statements that directly violate congressional intent. He has vastly expanded, far beyond Bush’s actions, the use of unconfirmed and unaccountable executive branch czars to coordinate policies and to make regulatory and spending decisions. The president has made expanded use of executive privilege in circumstances where there is no legal merit to making such a claim and he has abused the principle of the state secrets privilege. His use of the recess appointment power on many occasions has been nothing more than a blatant effort to make an end-run around the Senate confirmation process. He has continued, and expanded upon, the practice of militarily detaining persons without trial or pressing charges (on the condition that the detention is not “indefinite”). In a complete reversal of his past campaign rhetoric, the president on a number of occasions has declared his intention to act unilaterally on a variety of fronts, and to avoid having to go to Congress whenever he can do so. There are varied explanations for the president’s total reversals. The hard-core cynics of course simply resort to the “they all lie” explanation. Politicians of all stripes say things to get elected but don’t mean much of it. Recently I saw a political bumper sticker announcing “BUSH 2.0” with a picture of Obama. Many who enthusiastically supported Obama are profoundly disappointed with his full-on embrace of Bush-like unilateralism and this administration’s continuation of many of his predecessor’s policies. Goldsmith, a law professor who led the Department of Justice’s (DOJ) Office of Legal Counsel from October 2003 to June 2004, during George W. Bush’s first term, says that there were powerful forces at work in the U.S. governmental system that ensured that the president would continue many of the policies and practices of his predecessor. The president reads the daily terrorism threat reports, which has forced him to understand that things really do look differently from the inside. From this standpoint, Obama likely determined that many of Bush’s policies actually were correct and needed to be continued. “The personal responsibility of the president for national security, combined with the continuing reality of a frightening and difficult-to-detect threat, unsurprisingly led Obama, like Bush, to use the full arsenal of presidential tools,” writes Goldsmith. He further argues that Obama lacked leeway to change course in part because many of Bush’s policies “were irreversibly woven into the fabric of the national security architecture.” For example, former president Bush’s decision to use the Guantanamo detention facility created an issue for Obama that he otherwise never would have confronted. And the use of coercion on suspects made it too complicated to then employ civilian courts to try them. In perhaps the most telling example of the limits of effecting change, Obama could not end what Bush had started, even though the president issued an executive order (never carried out) to close the detention center. Here Goldsmith somewhat overstates his case. Obama was not necessarily consigned to following Bush’s policies and practices, although undoubtedly his options may have been constrained by past decisions. But consider the decision whether the government should have investigated and then taken action against illegal and unconstitutional acts by officials in the Bush Administration, particularly in the DOJ, NSA, and CIA. President Obama said it was time to look forward, not backward, thus sweeping all under the rug. Nothing “irreversibly woven” there, but rather the new president made a choice that he absolutely did not have to make. Finally, Goldsmith adds that Obama, like most of his predecessors, assumed the executive branch’s institutional perspective once he became president. If it is true about Washington that where you stand on executive powers depends on where you sit, then should it be any surprise that President Obama’s understanding differs fundamentally from Senator Obama’s? Honestly, I find that quite sad. Do the Constitution and principles of separation of powers and checks & balances mean so little that we excuse such a fundamental shift in thinking as entirely justified by switching offices? Goldsmith’s analysis becomes especially controversial when he turns to his argument that, contrary to the critiques of presidential power run amok, the contemporary chief executive is more hampered in his ability to act in the national interest than ever before. In 2002, Vice President Richard Cheney expressed the view that in his more than three decades of service in both the executive and legislative branches, he had witnessed a withering of presidential powers and prerogatives at the hands of an overly intrusive and aggressive Congress. At a time when most observers had declared a continuing shift toward presidential unilateralism and legislative fecklessness, Cheney said that something quite opposite had been taking place. Goldsmith is far more in the Cheney camp on this issue than of the critics of modern exercises of presidential powers. Goldsmith goes beyond the usual emphasis on formal institutional constraints on presidential powers to claim that a variety of additional forces also are weighing down and hampering the ability of the chief executive to act. As he explains, “the other two branches of government, aided by the press and civil society, pushed back against the Chief Executive like never before in our nation’s history”. Defenders of former president Bush decry what they now perceive as a double standard: critics who lambasted his over expansive exercises of powers don’t seem so critical of President Obama doing the same. Goldsmith makes the persuasive case that in part the answer is that Bush was rarely mindful of the need to explain his actions as necessities rather than allow critics to fuel suspicions that he acted opportunistically in crisis situations to aggrandize power, whereas Obama has given similar actions a “prettier wrapping”. Further, Obama, to be fair, on several fronts early in his first term “developed a reputation for restraint and commitment to the rule of law”, thus giving him some political leeway later on. A substantial portion of Goldsmith’s book presents in detail his case that various forces outside of government, and some within, are responsible for hamstringing the president in unprecedented fashion: Aggressive, often intrusive, journalism, that at times endangers national security; human rights and other advocacy groups, some domestic and other cross-national, teamed with big resources and talented, aggressive lawyers, using every legal category and technicality possible to complicate executive action; courts thrust into the mix, having to decide critical national security law controversies, even when the judges themselves have little direct knowledge or expertise on the topics brought before them; attorneys within the executive branch itself advising against actions based on often narrow legal interpretations and with little understanding of the broader implications of tying down the president with legalisms. Just as he describes how a seemingly once idealistic candidate for president as Barack Obama could see things differently from inside government, so too was Goldsmith at one time on the inside, and thus perhaps it is no surprise that he would perceive more strongly than other academic observers the forces that he believes are constantly hamstringing the executive. But he is no apologist for unfettered executive power and he takes to task those in the Bush years who boldly extolled theories of the unitary executive and thereby gave credibility to critics of the former president who said that his objective was not merely to protect the country from attack, but to empower himself and the executive branch. Goldsmith praises institutional and outside-of-government constraints on the executive as necessary and beneficial to the Republic. In the end, he sees the balance shifting in a different direction than many leading scholars of separation of powers. And unlike a good many presidency scholars and observers, he is not a cheerleader for a vastly powerful chief executive. Goldsmith’s work too is one of careful and fair-minded research and analysis. He gives substantial due to those who present a counter-view to his own, and who devote their skills and resources to battling what they perceive as abuses of executive power. Whereas they see dangers to an unfettered executive, Goldsmith wants us to feel safe that there are procedural safeguards against presidential overreaching, although he also wants us to be uncomfortable with what he believes now are intrusive constraints on the chief executive’s ability to protect the country. Goldsmith may be correct that there are more actors than ever involved in trying to trip up the president’s plans, but that does not mean that our chief executives are losing power and control due to these forces. Whether it is war and anti-terrorism powers, czars, recess appointments, state secrets privilege, executive privilege, signing statements, or any of a number of other vehicles of presidential power, our chief executives are using more and more means of overriding institutional and external checks on their powers. And by any measure, they are succeeding much more than the countervailing forces are limiting them.

#### Usurpation of detention authority hurts presidential power

Yoo 13

[Law Professor at University of California, Berkeley and Visiting Scholar at the American Enterprise Institute Deputy Assistant U.S. Attorney General in the Office of Legal Counsel, Department of Justice (OLC), during the George W. Bush administration, The presidency redefined, 3/11/13, <http://www.aei.org/files/2013/02/26/-the-presidency-redefined_095507160389.pdf>]

Choosing enemy targets and selecting weapons systems thus fall squarely in the executive's docket. Presidents have generally followed the laws of war, which require that militaries discriminate between civilians and combatants and use proportional force to achieve their missions. But now the administration has said, in a Justice Department white paper, that, for the first time in American history, White House advisers are choosing targets in war using criteria developed in the criminal-justice context: whether the enemy's due-process rights allow the use of force, whether capture is feasible, and whether an attack on the United States is imminent. Civil libertarians of the Left and the Right might find comfort in the fact that Obama and his advisers worry about terrorists' rights before they authorize a drone strike. But they should concede that none of it -- despite appearing in a Justice Department paper -- is required by the law. Under the traditional laws of war, members of the enemy forces are legitimate targets at any time, unless they have surrendered or can no longer fight owing to injury. It does not matter whether they are generals or privates, or whether they are continually planning attacks or pose an "imminent" threat to the United States, as required by the Obama administration. In World War II, for example, the U.S. bombed military targets in Germany and Japan far behind the front lines; the only legal question was whether the U.S. could also bomb civilian targets to stop war production or weaken the enemy's will to carry on. It does not even matter whether the enemy is American. In past wars -- especially the Civil War, during which President Abraham Lincoln believed all Confederates remained U.S. citizens -- some Americans have joined the enemy and have received the same treatment as their brothers-in-arms. By introducing law-enforcement concerns such as imminence, capture, and due process into military decisions, President Obama weakens his office. These criminal-justice notions not only slow down the military decision-making process, but also invite the judicialization of war. Obama's drone policy resembles the abortive September 10 terrorism policies he announced at the start of his first term. Soon after taking office, he ordered Guantanamo Bay shut down and terrorists transferred to a mainland prison. He halted military trials of terrorists and announced that al-Qaeda leaders such as Khalid Sheikh Mohammed, the mastermind of the 9/11 attacks, would be tried in federal courts in downtown New York City. His Justice Department read Miranda warnings to captured al-Qaeda operatives, such as Umar Abdulmutallab, who tried to blow up a Northwest airliner over Detroit on Christmas Day 2009. -- Transferring detainees to the courts effectively gives the judiciary the final say over terrorism policy -- just as judges set the rules for police conduct. Congressional opposition, and the intrusion of the reality of the security threat, led President Obama to back away from this approach and retain much of the framework that had been established by President George W. Bush (in whose administration I served). But the president's support of legislation that would involve the courts in the question of drone strikes marks a new turn toward the mistaken idea that terrorism is just another law-enforcement matter.

#### That’s k2 solve warming

PCAP 08 (Presidential Climate Action Project, Nonpartisan Project at the University of Colorado Denver, “Climate Action Brief: The Use of Presidential Power”, 2008 is the last date cited,<http://www.climateactionproject.com/docs/briefs/Climate_Brief_Presidential_Power.pdf>)  
  
This legacy could lead the Congress, the courts and the voters to push the presidential power pendulum to the opposite extreme, handcuffing the executive branch even in areas where its powers are clear. Yet the 44th President will need all the tools he or she commands to deal with the serious problems the next administration will have to tackle, including **global climate change**. To address this issue, the Presidential Climate Action Project commissioned the Center for Energy and Environmental Security at the University of Colorado School of Law to analyze presidential powers. The result is a 200-page analysis based on a review of 140 legal cases and numerous scholarly articles. Ii In its analysis, the Center notes that America’s past presidents have interpreted their authority differently. President William Taft believed the president could not do anything without specific permission from Congress. Theodore Roosevelt was more willing to be assertive under the “stewardship theory” – the idea that presidents have an affirmative duty to pursue the common good unless prevented by a direct constitutional or legislative prohibition. Franklin D. Roosevelt’s philosophy was the most expansive. “In the event that the Congress should fail to act, and act adequately, I shall accept the responsibility and I will act,” he told Congress in his Labor Day address of 1942. As it turned out, FDR did not need to engage in a power struggle with the legislative branch. He was a popular president in a time of crisis. He asked Congress to delegate to him the new authority he felt he needed to deal with the Depression, and Congress did so. As a result, FDR became a strong and enabled leader with the full consent of the legislative branch at a time when strong leadership was critical. That is the precedent the next President should follow in dealing with energy, the climate and the economy. The President will have many traditional tools at his or her disposal, including executive orders, directives, proclamations, signing statements, national security directives, executive communications with Congress, the ability to call Congress into special session, the veto, the execution of treaties and the creation of executive agreements, a type of international agreement that falls short of a formal treaty and does not require Senate ratification. And, of course, the President has the bully pulpit. In regard to climate change, the next administration’s authority includes the power to: •Regulate greenhouse gas emissions under the Clean Air Act; •Institute a carbon cap-and-trade regime as EPA did for SO2 and NOx in 1995; •Propose and champion national goals for energy efficiency, renewable energy use, greenhouse gas reductions and other critical objectives; •Enter into executive agreements to collaborate with other nations on research and policies that will reduce energy vulnerability and greenhouse gas emissions; •Restore the federal government’s capacity for climate action by appointing highly qualified experts in climate science and policy to key government leadership positions; •Rescind Executive Order 13422, in which President Bush established political oversight of federal science; •Restore specific greenhouse gas reduction goals for federal agencies, which were eliminated in another executive order issued by President Bush. **But like FDR, the next President may need new powers to deal with climate change and the other urgent issues.** As the Center for Energy and Environmental Security notes, “One of the key actions to be taken by a future president to address climate change policy would be to work with Congress for the appropriate and necessary delegations of authority that will give him or her the power to act with flexibility, without delay and with certainty within the framework of the Constitution.” As in FDR’s era, the 44th President will be most able to lead boldly on climate change when there is a clear mandate from the voters that the time has come for strong national action. As University of Chicago Professor William Howell has noted, “Not once in the modern era have the courts overturned a president who enjoys broad-based support from Congress, interest groups and the public.” Creating that mandate for strong but legitimate use of**presidential power is** one of the **key** responsibilities facing the presidential candidates in this election season – and one of the key challenges for the many organizations working **to build grassroots support for climate action**.

#### Risks human extinction

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Citing Feng Hsu, PhdD NASA Scientist @ the Goddard Space Flight Center, Don Flournoy, PhD and MA from UT, former Dean of the University College @ Ohio University, former Associate Dean at SUNY and Case Institute of Technology, Former Manager for Unviersity/Industry Experiments for the NASA ACTS Satellite, currently Professor of Telecommunications @ Scripps College of Communications, Ohio University, “Solar Power Satellites,” January 2012, Springer Briefs in Space Development, p. 10-11

In the Online Journal of Space Communication , Dr. Feng Hsu, a  NASA scientist at Goddard Space Flight Center, a research center in the forefront of science of space and Earth, writes, “The evidence of global warming is alarming,” noting the potential for a catastrophic planetary climate change is real and troubling (Hsu 2010 ) . Hsu and his NASA colleagues were engaged in monitoring and analyzing climate changes on a global scale, through which they received first-hand scientific information and data relating to global warming issues, including the dynamics of polar ice cap melting. After discussing this research with colleaxgues who were world experts on the subject, he wrote: I now have no doubt global temperatures are rising, and that global warming is a serious problem confronting all of humanity. No matter whether these trends are due to human interference or to the cosmic cycling of our solar system, there are two basic facts that are crystal clear: (a) there is overwhelming scientific evidence showing positive correlations between the level of CO2 concentrations in Earth’s atmosphere with respect to the historical fluctuations of global temperature changes; and (b) the overwhelming majority of the world’s scientific community is in agreement about the risks of a potential catastrophic global climate change. That is, if we humans continue to ignore this problem and do nothing, if we continue dumping huge quantities of greenhouse gases into Earth’s biosphere, humanity will be at dire risk (Hsu 2010 ) . As a technology risk assessment expert, Hsu says he can show with some confidence that the planet will face more risk doing nothing to curb its fossil-based energy addictions than it will in making a fundamental shift in its energy supply. “This,” he writes, “is because the risks of a catastrophic anthropogenic climate change can be potentially the extinction of human species, a risk that is simply too high for us to take any chances” (Hsu 2010 )

### Case

#### Extinction outweighs

Bok 88

(Sissela, Professor of Philosophy at Brandeis, Applied Ethics and Ethical Theory, Rosenthal and Shehadi, Ed.)

The same argument can be made for Kant’s other formulations of the Categorical Imperative: “So act as to use humanity, both in your own person and in the person of every other, always at the same time as an end, never simply as a means”; and “So act as if you were always through your actions a law-making member in a universal Kingdom of Ends.” No one with a concern for humanity could consistently will to risk eliminating humanity in the person of himself and every other or to risk the death of all members in a universal Kingdom of Ends for the sake of justice. To risk their collective death for the sake of following one’s conscience would be, as Rawls said, “irrational, crazy.” And to say that one did not intend such a catastrophe, but that one merely failed to stop other persons from bringing it about would be beside the point when the end of the world was at stake. For although it is true that we cannot be held responsible for most of the wrongs that others commit, the Latin maxim presents a case where we would have to take such responsibility seriously – perhaps to the point of deceiving, bribing, even killing an innocent person, in order that the world not perish. To avoid self-contradiction, the Categorical Imperative would, therefore, have to rule against the Latin maxim on account of its cavalier attitude toward the survival of mankind. But the ruling would then produce a rift in the application of the Categorical Imperative. Most often the Imperative would ask us to disregard all unintended but foreseeable consequences, such as the death of innocent persons, whenever concern for such consequences conflicts with concern for acting according to duty. But, in the extreme case, we might have to go against even the strictest moral duty precisely because of the consequences. Acknowledging such a rift would post a strong challenge to the unity and simplicity of Kant’s moral theory.

#### -- Evaluate consequences – allowing violence for the sake of moral purity is evil

Isaac 2 (Jeffrey C., Professor of Political Science – Indiana-Bloomington, Director – Center for the Study of Democracy and Public Life, Ph.D. – Yale, Dissent Magazine, 49(2), “Ends, Means, and Politics”, Spring, Proquest)

As writers such as Niccolo Machiavelli, Max Weber, Reinhold Niebuhr, and Hannah Arendt have taught, an unyielding concern with moral goodness undercuts political responsibility. The concern may be morally laudable, reflecting a kind of personal integrity, but it suffers from three fatal flaws: (1) It fails to see that the purity of one’s intention does not ensure the achievement of what one intends. Abjuring violence or refusing to make common cause with morally compromised parties may seem like the right thing; but if such tactics entail impotence, then it is hard to view them as serving any moral good beyond the **clean conscience** of their supporters; (2) it fails to see that in a world of real violence and injustice, moral purity is not simply a form of powerlessness; it is often a form of complicity in injustice. This is why, from the standpoint of politics--as opposed to religion--pacifism is always a potentially immoral stand. In categorically repudiating violence, it refuses in principle to oppose certain violent injustices with any effect; and (3) it fails to see that politics is as much about **unintended consequences** as it is about intentions; it is the effects of action, rather than the motives of action, that is most significant. Just as the alignment with “good” may engender impotence, it is often the pursuit of “good” that generates evil. This is the lesson of communism in the twentieth century: it is not enough that one’s goals be sincere or idealistic; it is equally important, always, to ask about the effects of pursuing these goals and to judge these effects in pragmatic and historically contextualized ways. Moral absolutism inhibits this judgment. It alienates those who are not true believers. It promotes arrogance. And it undermines political effectiveness.

#### ---------Pugliese says we need to overwhelm secrecy around detention – they collapse the state secrets doctrine and tank EU relations

Blazey 10 (Elizabeth – J.D. Candidate, Class of 2011, University at Buffalo School of Law, “Controlling Government Secrecy: A Judicial Solution to the Internal and External Conflicts Surrounding the State Secrets Privilege”, December, Buffalo Law Review, 58 Buffalo L. Rev. 1187, lexis)

In response to this argument, the court held that the above mentioned facts were not those central to the case. n202 Instead, these facts were just "the general terms in which El-Masri has related his story to the press." n203 For El-Masri to proceed with his claim, the court would have to determine the personal liability of each defendant. n204 Such a determination would include, for instance, "evidence that exposes how the CIA organizes, staffs, and supervises its most sensitive intelligence operations . . . how the head of the CIA participates in such operations, and how information concerning their progress is relayed to him . . . and the existence and details of CIA espionage contracts . . . ." n205 Furthermore, El-Masri would have to rely on witnesses to make these showings "whose identities . . . [\*1231] must remain confidential in the interest of national security." n206 Lastly, even if El-Masri could make out a prima facie case without state secrets, the court held that the defendants could not present a defense "without using privileged evidence." n207 The court then discussed several scenarios whereby any defense would require privileged information. Next, the court summarized several cases where claims had been dismissed pursuant to a government claim that the disclosure of CIA methods of operations, the malfunctioning of military weapons, classified operating locations of the Air Force, and sensitive CIA personnel decisions would have been required. n208 El-Masri also claimed that the district court should have reviewed the documents in camera because of their constitutional duty to review claims of egregious misconduct by the executive. n209 In response, the court first quoted the holding in Reynolds that "when 'the occasion for the privilege is appropriate, . . . the court should not jeopardize the security which the privilege is meant to protect by insisting upon an examination of the evidence, even by the judge alone, in chambers.'" n210 Also, the court countered El-Masri's assertion that this decision represents a "surrender of judicial control" by reasoning that "the court, not the Executive . . . determines whether the state secrets privilege has been properly invoked." n211 The court ultimately upheld the dismissal of El-Masri's claim based on the United States government's insertion of itself as a defendant and assertion of the state secrets privilege. n212 El-Masri highlights the difference between types of wrongdoing and methods of wrongdoing. In El-Masri, the plaintiff sought justice from wrongs inflicted by a program, the existence of which is widely publicized and acknowledged. However, the privilege was not invoked to [\*1232] protect from disclosure the facts of whether these wrongs occurred. Instead, the privilege was used to protect the identities of persons inside and outside the government who allegedly perpetrated the wrongs, the roles of those persons and organizations, and the agreements made between the government and outside organizations. Indeed, the plaintiff defined the essential facts of his case differently than the court. El-Masri focused in his claim on the consequences of alleged wrongful acts. The court, however, focused on the decision-making methods, government agreements and clandestine communications that would be required for such acts to take place. Even in relatively benign circumstances, these types of internal processes are often exempted from disclosure. For instance, under the Freedom of Information Act ("FOIA"), government agencies must disclose all requested agency records to any interested persons. n213 However, agencies can refuse to disclose records for national security reasons, as well as for reasons "related solely to the internal personnel rules and practices of an agency[,]" n214 and "inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency." n215 These exceptions allow agencies within the executive branch to freely communicate with one another, and carefully deliberate decisions without fear that materials related to their decision-making processes will become public and politicized. Additionally, under the Administrative Procedures Act ("APA") rulemaking requirements, n216 agencies are exempted from going through a public notice and comment process when they make rules that are related to military and foreign affairs functions n217 or to agency management or personnel. n218 These exceptions are in place to enable the President to perform core executive branch functions. These core [\*1233] functions involve, among other things, the enforcement of laws, the carrying out of military and foreign affairs, and the negotiation of international agreements. If the executive branch could not control information related to these core functions, it arguably could not perform the functions efficiently or effectively. Indeed, the underlying national security fear in disclosing the type of information sought by El-Masri lies in the potential for such disclosure to undermine the effectiveness of executive branch operations, the safety of government personnel and United States citizens, and the ability of the government to maintain relationships with foreign governments and other organizations. Furthermore, other countries have strong self interest in United States disclosure policies. In an article posted on the CIA's public website, Rutgers professor Warren F. Kimball explains that: "It could jeopardize lives if agents or contacts were revealed; it could jeopardize continued access to important information if special relationships with foreign agencies were acknowledged." n219 For instance, Kimball hypothesizes, "if the United States had a 'liaison' relationship with the government intelligence agency in a nation that had a strong anti-American political element . . . and the United States acknowledged that it received information from the intelligence agency in [that country,]" the government of that country "could fall." n220 The El-Masri case relies on a similar fear. The plaintiff alleged, for example, that he was first detained by the Macedonian government and then transferred to the custody of CIA operatives. n221 This suggests that the United States and Macedonia may have engaged in some sort of agreement either to detain the plaintiff or to hand him over to the United States or both. Macedonia, which is formerly part of Yugoslavia, has been trying to gain acceptance into the European Union since 2004, hindered, in part, by a disagreement with Greece over the right to use the name [\*1234] "Macedonia." n222 Macedonia is, however, a member of the Council of Europe, the well-respected European organization that stands separately from the European Union, and which deals with human rights and democratic principles. n223 The Council of Europe recently published a scathing review of the United States' extraordinary rendition program, stating, in part, that El-Masri's claims were highly credible. n224 If the United States were to announce formally any cooperation that Macedonia gave in such detentions, it could hinder Macedonia's political relationships within the Council of Europe, and give the European Union additional material to use in a decision to exclude Macedonia from membership. Therefore, Macedonia is a stakeholder in the decision to disclose or keep secret some of the information required in the El-Masri case. Furthermore, if someone within Macedonia cooperated without the formal consent of the Macedonian government, then details about the cooperation could expose that person or group to Macedonian legal consequences. If we "out" those who cooperate with us, we may dry up the flow of future cooperators and alienate those persons with whom we have already built or are cultivating relationships. El-Masri's claims also implicated cooperation between the United States government and Afghanistan and Albania, as well as cooperation between the United States government and [\*1235] private businesses who chartered the flights used to transport El-Masri. n225 Individual judges cannot be expected to have expertise on the intricacies of foreign policy relationships, so they are not in the best position to make decisions about whether certain information should be kept secret. Rather, the executive branch alone has the competency to make decisions about foreign relationships and decide when certain information must remain secret. Since judges make decisions based on what is furnished by the executive branch, mandatory judicial review does not, necessarily, effectively check abuse. It does, however, increase the risk of inappropriate dissemination of information and jeopardize the future cooperation of foreign governments, agents, and private businesses.

#### Solves WMD conflict and every other impact

Stivachtis 10 – Director of International Studies Program @ Virginia Polytechnic Institute [Dr. Yannis. A. Stivachtis (Professor of Poli Sci @ Virginia Polytechnic Institute & Ph.D. in Politics & International Relations from Lancaster University), THE IMPERATIVE FOR TRANSATLANTIC COOPERATION,” The Research Institute for European and American Studies, 2010, pg. <http://www.rieas.gr/research-areas/global-issues/transatlantic-studies/78.html>]

There is no doubt that US-European relations are in a period of transition, and that the stresses and strains of globalization are increasing both the number and the seriousness of the challenges that confront transatlantic relations. The events of 9/11 and the Iraq War have added significantly to these stresses and strains. At the same time, international terrorism, the nuclearization of North Korea and especially Iran, the proliferation of weapons of mass destruction (WMD), the transformation of Russia into a stable and cooperative member of the international community, the growing power of China, the political and economic transformation and integration of the Caucasian and Central Asian states, the integration andstabilization of the Balkan countries, the promotion of peace and stability in the Middle East, poverty, climate change, AIDS and other emergent problems and situations require further cooperation among countries at the regional, global and institutional levels. Therefore, cooperation between the U.S. and Europe is more imperative than ever to deal effectively with these problems. It is fair to say that the challenges of crafting a new relationship between the U.S. and the EU as well as between the U.S. and NATO are more regional than global, but the implications of success or failure will be global. The transatlantic relationship is still in crisis, despite efforts to improve it since the Iraq War. This is not to say that differences between the two sides of the Atlantic did not exist before the war. Actually, post-1945 relations between Europe and the U.S. were fraught with disagreements and never free of crisis since the Suez crisis of 1956. Moreover, despite trans-Atlantic proclamations of solidarity in the aftermath of 9/11, the U.S. and Europe parted ways on issues from global warming and biotechnology to peacekeeping and national missile defense. Questions such as, the future role of NATO and its relationship to the common European Security and Defense policy (ESDP), or what constitutes terrorism and what the rights of captured suspected terrorists are, have been added to the list of US-European disagreements. There are two reasons for concern regarding the transatlantic rift. First, if European leaders conclude that Europe must become counterweight to the U.S., rather than a partner, it will be difficult to engage in the kind of open search for a common ground than an elective partnership requires. Second, there is a risk that public opinion in both the U.S. and Europe will make it difficult even for leaders who want to forge a new relationship to make the necessary accommodations. If both sides would actively work to heal the breach, a new opportunity could be created. A vibrant transatlantic partnership remains a real possibility, but only if both sides make the necessary political commitment. There are strong reasons to believe that the security challenges facing the U.S. and Europe are more shared than divergent. The most dramatic case is terrorism. Closely related is the common interest in halting the spread of weapons of mass destruction and the nuclearization of Iran and North Korea. This commonality of threats is clearly perceived by publics on both sides of the Atlantic.

Actually, Americans and Europeans see eye to eye on more issues than one would expect from reading newspapers and magazines. But while elites on both sides of the Atlantic bemoan a largely illusory gap over the use of military force, biotechnology, and global warming, surveys of American and European public opinion highlight sharp differences over global leadership, defense spending, and the Middle East that threaten the future of the last century’s most successful alliance. There are other important, shared interests as well. The transformation of Russia into a stable cooperative member of the international community is a priority both for the U.S. and Europe. They also have an interest in promoting a stable regime inUkraine. It is necessary for the U.S. and EU to form a united front to meet these challenges because first, there is a risk that dangerous materials related to WMD will fall into the wrong hands; and second, the spread of conflict along those countries’ periphery could destabilize neighboring countries and provide safe havens for terrorists and other international criminal organizations. Likewise, in the Caucasus and Central Asia both sides share a stake in promoting political and economic transformation and integrating these states into larger communities such as the OSCE. This would also minimize the risk of instability spreading and prevent those countries of becoming havens for international terrorists and criminals. Similarly, there is a common interest in integrating the Balkans politically and economically. Dealing with Iran, Iraq, Lebanon, and the Israeli-Palestinian conflict as well as other political issues in the Middle East are also of a great concern for both sides although the U.S. plays a dominant role in the region. Finally, US-European cooperation will be more effective in dealing with the rising power of China through engagement but also containment. The post Iraq War realities have shown that it is no longer simply a question of adapting transatlantic institutions to new realities. The changing structure of relations between the U.S. and Europe implies that a new basis for the relationship must be found if transatlantic cooperation and partnership is to continue. The future course of relations will be determined above all by U.S. policy towards Europe and the Atlantic Alliance. Wise policy can help forge a new, more enduring strategic partnership, through which the two sides of the Atlantic cooperate in meeting the many major challenges and opportunities of the evolving world together. But a policy that takes Europe for granted and routinely ignores or even belittles European concerns, may force Europe to conclude that the costs of continued alliance outweigh its benefits. There is no doubt that the U.S. and Europe have considerable potential to pursue common security interests. Several key steps must be taken to make this potential a reality. First, it is critical to avoid the trap of ‘division of labor’ in the security realm, which could be devastating for the prospects of future cooperation. Second, and closely related to avoiding division of labor as a matter of policy, is the crucial necessity for Europe to develop at least some ‘high-end’ military capabilities to allow European forces to operate effectively with the U.S. Third, is the need for both the U.S. and Europe to enhance their ability to contribute to peacekeeping and post-conflict stabilization and reconstruction. Fourth, is the importance of preserving consensus at the heart of alliance decision-making. Some have argued that with the expansion of NATO, the time has come to reconsider the consensus role. One way to increase efficiency without destroying consensus would be to strengthen the role of the Secretary General in managing the internal and administrative affairs of the alliance, while reserving policy for the member states. Fifth is the need to make further progress on linking and de-conflicting NATO and EU capabilities. Sixth is the need for enhanced transatlantic defense industrial cooperation. Seventh, one future pillar for transatlantic cooperation is to strengthen US-European coordination in building the infrastructure of global governance through strengthening institutions such as the UN and its specialized agencies, the World Bank, the IFM, G-8, OECD and regional development banks. Finally, cooperation can also be achieved in strengthening the global economic infrastructure, sustaining the global ecosystem, and combating terrorism and international crime. To translate the potential of the transatlantic relationship into a more positive reality will require two kinds of development. First, the EU itself must take further steps to institutionalize its own capacity to act in these areas. Foreign policy and especially defense policy remain the areas where the future of a ‘European’ voice is most uncertain. Second, the U.S. and Europe need to establish more formal, effective mechanisms for consultation and even decision-making. The restoration of transatlantic relations requires policies and actions that governments on both sides of the Atlantic should simultaneously adopt and not only a unilateral change of course. Developing a new, sustainable transatlantic relationship requires a series of deliberate decisions from both the U.S. and EU if a partnership of choice and not necessity is to be established. For the U.S., this means avoiding the temptation, offered by unprecedented strength, to go it alone in pursuit of narrowly defined national interests. For the EU, the new partnership requires a willingness to accept that the EU plays a uniquely valuable role as a leader in a world where power still matters, and that a commitment to a rule-based international order does not obviate the need to act decisively against those who do not share that vision.

#### Detention restrictions increases rendition and drone strikes—comparatively worse

**Goldsmith, 12** (Law Prof-Harvard, 6/29, Proxy Detention in Somalia, and the Detention-Drone Tradeoff, www.lawfareblog.com/2012/06/proxy-detention-in-somalia-and-the-detention-drone-tradeoff/

There has been speculation about the effect of the Obama administration’s pinched detention policy – i.e. no new detainees brought to GTMO, and no new detainees to Parwan (Afghanistan) from outside Afghanistan – on its other counterterrorism policies. I have long believed there must be some tradeoff between narrowing U.S. detention capabilities and other counterterrorism options, at least implicitly, and not necessarily for the better. As I wrote three years ago, in response to news reports that the Obama administration’s cutback on USG detentions resulted in more USG drone strikes and more outsourcing of rendition, detention, and interrogation: There are at least two problems with this general approach to incapacitating terrorists. First, it is not ideal for security. Sometimes it would be more useful for the United States to capture and interrogate a terrorist (if possible) than to kill him with a Predator drone. Often the United States could get better information if it, rather than another country, detained and interrogated a terrorist suspect. Detentions at Guantanamo are more secure than detentions in Bagram or in third countries. The second problem is that terrorist suspects often end up in less favorable places. Detainees in Bagram have fewer rights than prisoners at Guantanamo, and many in Middle East and South Asian prisons have fewer yet. Likewise, most detainees would rather be in one of these detention facilities than be killed by a Predator drone. We congratulate ourselves when we raise legal standards for detainees, but in many respects all we are really doing is driving the terrorist incapacitation problem out of sight, to a place where terrorist suspects are treated worse. The main response to this argument – especially as it applies to the detention-drone tradeoff – has been to deny any such tradeoff on the ground that there are no terrorists outside of Afghanistan (a) whom the United States is in a position to capture on the ground (as opposed to kill from the sky), and (b) whom the USG would like to detain and interrogate. Dan Klaidman’s book provides some counter-evidence, but I will save my analysis of that for a review I am writing. Here I would like to point to an important story by Eli Lake that reveals that the “United States soldiers have been hunting down al Qaeda affiliates in Somalia”; that U.S. military and CIA advisers work closely with the Puntland Security Force in Somalia, in part to redress piracy threats but mainly to redress threats from al-Shabab; that the Americans have since 2009 captured and brought to the Bosaso Central Prison sixteen people (unclear how many are pirates and how many are al-Shabab); and that American interrogators are involved in questioning al-Shabab suspects. The thrust of Lake’s story is that the conditions of detention at the Bosaso Central Prison are atrocious. But the story is also important for showing that that the United States is involved outside of Afghanistan in capturing members of terrorists organizations that threaten the United States, and does have a national security need to incapacitate and interrogate them. It does not follow, of course, that the USG can or should be in the business of detaining every al-Shabab suspect currently detained in the Bosaso Central Prison. But the Lake story does show that the alternatives to U.S. detention are invariably worse from a human rights perspective. It portends (along with last month’s WPR Report and related DOD press release) that our creeping involvement on the ground in places like Somalia and Yemen mean that the USG will in fact be in a position to capture higher-level terrorists in al Qaeda affiliates. And that in turn suggests that the factual premise underlying the denial of a detention-drone tradeoff will become harder and harder to defend.

#### The aff results in shipping enemy combatants overseas

Umansky, 5 – senior editor at ProPublica (Eric, 6/17. “Closing Guantanamo prison may not be the best option.” http://onlineathens.com/stories/061805/opi\_20050618001.shtml)

Closing the U.S. prison at Guantanamo Bay has suddenly become a hot topic. Since Sen. Joseph R. Biden Jr., D-Del., broached the idea, the notion has been gaining steam. Last weekend, Sen. Mel Martinez, R-Fla., added the first Republican voice to the chorus, and there were Senate hearings Wednesday on detainee issues. Even President Bush seems to be hinting that he's game. Asked during a television interview whether Gitmo should be shut, the president said, "We're exploring all alternatives as to how best to do the main objective, which is to protect America." Gitmo has come to represent the lack of accountability and the extralegal aspects of the war on terrorism. Shuttering it would be a grand gesture. The symbolism would be important and could help improve the U.S. image. But if that is all that is done, a closure risks obscuring a more important issue and could even be counterproductive: If the U.S. is to really regain its standing as a defender of human rights, it needs to do more than mothball a single jail; it needs to change its policies. If the prison were to close, what would happen to the detainees? Most of them were judged by former commanders at Guantanamo to be merely Taliban foot soldiers. Some, presumably, would simply be released. Others might face military tribunals, and some would most likely be shipped off, to be held by other countries. The last two possibilities are not a welcome scenario from either a moral or public relations perspective. Consider the tribunals. Heavily stacked against defendants, they've been condemned by such groups as the American Bar Association and military defense lawyers, who actually sued the government over the lack of prisoners' rights. Shipping terror suspects to other countries, even their own countries, could be worse. The U.S. has been practicing a form of this: "extraordinary rendition," in which prisoners are picked up in one locale - "snatched" in CIA parlance - and find themselves incarcerated elsewhere, in countries such as Syria or Uzbekistan. A United States military boat patrols in front of Camp Delta in this 2002 file photo, in Guantanamo Bay, Cuba. The legal process in such cases isn't just flawed, it doesn't exist. Detainees get no trials or hearings before a judge. The U.S. gets pro forma promises that prisoners won't be tortured, but there is no known monitoring. And Uzbekistan, for instance, has gained some renown for reports of political prisoners being boiled alive. Rendition hasn't generated the headlines or the level of outrage as Guantanamo Bay. But stories from rendered detainees have made it out, and they do little for the U.S. image. One Australian citizen who was rendered to Egypt was reportedly hung from a wall and given electric shock. In something of a reprieve, he was transferred to Guantanamo Bay. He arrived without most of his fingernails. There's also a perverse possibility intrinsic in **closing Gitmo**: It **could end up making the U.S. less accountable. With the visible symbol of unfair treatment swept away, pressure for wider change might dissipate**. It's important to remember that Gitmo is only one of a group of U.S. prisons around the globe set up to hold "enemy combatants" captured in the war on terrorism. Far less is known about the other jails, which are reportedly run by the CIA. There's one at Bagram Air Base in Afghanistan, called the Salt Pits. As The New York Times reported, two detainees have been killed at Bagram. More obscure is the reported facility at a base in Diego Garcia in the Indian Ocean. Unlike at Guantanamo Bay, no reporters have been allowed to visit these jails.

#### That tanks any global benefits to ending detention

NYT, 13 (The New York Times, Charlie Savage, 12/5. “Two Guantánamo Detainees Are Involuntarily Repatriated to Algeria.” http://www.nytimes.com/2013/12/06/us/politics/two-guantanamo-detainees-are-involuntarily-repatriated-to-algeria.html?\_r=0)

The involuntary transfers to Algeria showed that the steps to close the prison may be criticized by liberals on humanitarian grounds as well as by conservatives for national security reasons. Lawyers for the two former detainees, who are now said to be held by the Algerian government as part of a 12-day evaluation period, denounced the move. “I think that these guys are numbers on a spreadsheet for the State Department,” said Wells Dixon, a lawyer with the Center for Constitutional Rights, a human rights firm that represents one of the men, Djamel Ameziane. “I think the State Department doesn’t care if it ruins their lives.” Ian Moss, a spokesman at the State Department for Guantánamo transfer issues, defended the decision to repatriate the two men against their will. He said the United States had previously repatriated 14 other Algerians and was “satisfied that the Algerian government would continue to abide by lawful procedures and uphold its obligations under domestic and international law in managing the return of former Guantánamo detainees.” “We understand that from time to time we will receive criticism,” Mr. Moss said, “but we are absolutely committed to moving forward with closing Guantánamo, and doing so in a responsible manner, consistent with the law, our national security interests and our longstanding humane treatment policies.” Mr. Ameziane was arrested in Pakistan in late 2001, and the other Algerian, Belkacem Bensayah, was arrested in Bosnia in 2001. Both were taken to Guantánamo in early 2002. The two men were approved for transfer, if security conditions could be met, by a 2009 Obama administration task force. “Mr. Bensayah was adamant that he would rather stay at Guantánamo than return to Algeria,” said Mark Fleming, a lawyer for Mr. Bensayah, “not only because he wanted to be reunited with his family in Bosnia after 12 years apart, which now seems increasingly difficult — if not impossible — but he also feared he would be a target for actual extremists in Algeria.” Mr. Fleming said Mr. Bensayah’s legal team had unsuccessfully sought to persuade Bosnia, which had revoked his citizenship, to take in his client because his wife and daughters live there. He said the United States should have tried harder to get another European country to take him. In a news release, the Center for Constitutional Rights called Mr. Ameziane’s involuntary transfer “as unnecessary as it is bitterly cruel,” and said he should have been sent instead to Canada — he once lived in Montreal — or to Luxembourg, which the center contended offered in 2010 to take him in.

#### Security creates value to life.

Booth 5 [Ken, visiting researcher - US Naval War College, Critical Security Studies and World Politics, p. 22]

The best starting point for conceptualizing security lies in the real conditions of insecurity suffered by people and collectivities. Look around. What is immediately striking is that some degree of insecurity, as a life-determining condition, is universal. To the extent an individual or group is insecure, to the extent their life choices and changes are taken away; this is because of the resources and energy they need to invest in seeking safety from domineering threats – whether these are the lack of food for one’s children, or organizing to resist a foreign aggressor. The corollary of the relationship between insecurity and a determined life is that a degree of security creates life possibilities. Security might therefore be conceived as synonymous with opening up space in people’s lives. This allows for individual and collective human becoming – the capacity to have some choice about living differently – consistent with the same but different search by others. Two interrelated conclusion follow from this. First, security can be understood as an instrumental value; it frees its possessors to a greater or lesser extent from life-determining constraints and so allows different life possibilities to be explored. Second, security is not synonymous simply with survival. One can survive without being secure (the experience of refugees in long-term camps in war-torn parts of the world, for example). Security is therefore more than mere animal survival (basic animal existence). It is survival-plus, the plus being the possibility to explore human becoming. As an instrumental value, security is sought because it free people(s) to some degree to do other than deal with threats to their human being. The achievement of a level of security–and security is always relative –gives to individuals and groups some time, energy, and scope to choose to be or become, other than merely surviving as human biological organisms. Security is an important dimension of the process by which the human species can reinvent itself beyond the merely biological.

#### No impact to state of exception

**Dickinson 4** (Dr. Edward Ross, Professor of History – University of Cincinnati, “Biopolitics, Fascism, Democracy: Some Reflections on Our Discourse About ‘Modernity’”, Central European History, 37(1), p. 18-19)

In an important programmatic statement of 1996 Geoff Eley celebrated the fact that Foucault’s ideas have “fundamentally directed attention away from institutionally centered conceptions of government and the state . . . and toward a dispersed and decentered notion of power and its ‘microphysics.’”48 The “broader, deeper, and less visible ideological consensus” on “technocratic reason and the ethical unboundedness of science” was the focus of his interest.49 But the “power-producing effects in Foucault’s ‘microphysical’ sense” (Eley) of the construction of social bureaucracies and social knowledge, of “an entire institutional apparatus and system of practice” ( Jean Quataert), simply do not explain Nazi policy.50 The destructive dynamic of Nazism was a product not so much of a particular modern set of ideas as of a particular modern political structure, one that could realize the disastrous potential of those ideas. What was critical was not the expansion of the instruments and disciplines of biopolitics, which occurred everywhere in Europe. Instead, it was the principles that guided how those instruments and disciplines were organized and used, and the external constraints on them. In National Socialism, biopolitics was shaped by a totalitarian conception of social management focused on the power and ubiquity of the völkisch state. In democratic societies, biopolitics has historically been **constrained** by a rights-based strategy of social management. This is a point to which I will return shortly. For now, the point is that what was decisive was actually politics at the level of the state. A comparative framework can help us to clarify this point. Other states passed compulsory sterilization laws in the 1930s — indeed, individual states in the United States had already begun doing so in 1907. Yet they **did not proceed** tothe next steps adopted by National Socialism — mass sterilization, mass “eugenic” abortion and murder of the “defective.” Individual figures in, for example, the U.S. did make such suggestions. But **neither** the **political structures** of democratic states **nor** their **legal and political principles** **permitted** such policies actually being enacted. Nor did the scale of forcible sterilization in other countries match that of the Nazi program. I do not mean to suggest that such programs were not horrible; but in a **democratic** political **context** they did not develop the dynamic of constant radicalization and escalation that characterized Nazi policies.

#### Value to life can’t be calculated

Schwartz 2 (Lisa, M.D., Associate Professor of Medicine – Dartmouth College Medical School, et al., Medical Ethics: A Case Based Approach, www.fleshandbones.com/readingroom/pdf/399.pdf)

The first criterion that springs to mind regarding the value of life is usually the quality of the life or lives in question: The quality of life ethic puts the emphasis on the type of life being lived, not upon the fact of life. Lives are not all of one kind; some lives are of great value to the person himself and to others while others are not. What the life means to someone is what is important. Keeping this in mind it is not inappropriate to say that some lives are of greater value than others, that the condition or meaning of life does have much to do with the justification for terminating that life.1 Those who choose to reason on this basis hope that if the quality of a life can be measured then the answer to whether that life has value to the individual can be determined easily. This raises special problems, however, because the idea of quality involves a value judgment, and value judgments are, by their essence, subject to indeterminate relative factors such as preferences and dislikes. Hence, quality of life is difficult to measure and will vary according to individual tastes, preferences and aspirations. As a result, no general rules or principles can be asserted that would simplify decisions about the value of a life based on its quality.

#### Representations don’t influence reality

Kocher 00 (Robert L., Author of “The American Mind in Denial” and Philosopher, “Discourse on Reality and Sanity”, http://freedom.orlingrabbe.com/lfetimes/reality\_sanity1.htm)

While it is not possible to establish many proofs in the verbal world, and it is simultaneously possible to make many uninhibited assertions or word equations in the verbal world, it should be considered that reality is more rigid and does not abide by the artificial flexibility and latitude of the verbal world. The world of words and the world of human experience are very imperfectly correlated. That is, saying something doesn't make it true. A verbal statement in the world of words doesn't mean it will occur as such in the world of consistent human experience I call reality. In the event verbal statements or assertions disagree with consistent human experience, what proof is there that the concoctions created in the world of words should take precedence or be assumed a greater truth than the world of human physical experience that I define as reality? In the event following a verbal assertion in the verbal world produces pain or catastrophe in the world of human physical reality or experience, which of the two can and should be changed? Is it wiser to live with the pain and catastrophe, or to change the arbitrary collection of words whose direction produced that pain and catastrophe? Which do you want to live with? What proven reason is there to assume that when doubtfulness that can be constructed in verbal equations conflicts with human physical experience, human physical experience should be considered doubtful? It becomes a matter of choice and pride in intellectual argument. My personal advice is that when verbal contortions lead to chronic confusion and difficulty, better you should stop the verbal contortions rather than continuing to expect the difficulty to change. Again, it's a matter of choice. Does the outcome of the philosophical question of whether reality or proof exists decide whether we should plant crops or wear clothes in cold weather to protect us from freezing? Har! Are you crazy? How many committed deconstructionist philosophers walk about naked in subzero temperatures or don't eat? Try creating and living in an alternative subjective reality where food is not needed and where you can sit naked on icebergs, and find out what happens. I emphatically encourage people to try it with the stipulation that they don't do it around me, that they don't force me to do it with them, or that they don't come to me complaining about the consequences and demanding to conscript me into paying for the cost of treating frostbite or other consequences. (sounds like there is a parallel to irresponsibility and socialism somewhere in here, doesn't it?). I encourage people to live subjective reality. I also ask them to go off far away from me to try it, where I won't be bothered by them or the consequences. For those who haven't guessed, this encouragement is a clever attempt to bait them into going off to some distant place where they will kill themselves off through the process of social Darwinism — because, let's face it, a society of deconstructionists and counterculturalists filled with people debating what, if any, reality exists would have the productive functionality of a field of diseased rutabagas and would never survive the first frost. The attempt to convince people to create and move to such a society never works, however, because they are not as committed or sincere as they claim to be. Consequently, they stay here to work for left wing causes and promote left wing political candidates where there are people who live productive reality who can be fed upon while they continue their arguments. They ain't going to practice what they profess, and they are smart enough not to leave the availability of people to victimize and steal from while they profess what they pretend to believe in.

## 2NC – DA, Case

## Off

### 2NC War Powers Link – General

#### War powers are the lynchpin of presidential power

Marshall 08

[William, Kenan Professor of Law, University of North Carolina, Eleven Reasons Presidential Power Inevitably Expands and Why It Matters, 2008, <http://www.bu.edu/law/central/jd/organizations/journals/bulr/documents/MARSHALL.pdf>]

The President’s power is also enhanced by the vast military and intelligence capabilities under his command. In his roles as Commander-in-Chief and head of the Executive Branch, the President directly controls the most powerful military in the world and directs clandestine agencies such as the Central Intelligence Agency and National Security Agency.75 That control provides the President with immensely effective, non-transparent capabilities to further his political agenda and/or diminish the political abilities of his opponents. 76 Whether a President would cynically use such power solely for his political advantage has, of course, been the subject of political thrillers and the occasional political attack. President Clinton, for one, was accused of ordering the bombing of terrorist bases in Afghanistan to distract the nation from the Lewinsky scandal,77 and President Nixon purportedly used the Federal Bureau of Investigation to investigate his political enemies.78 But regardless whether such abuses actually occurred, there is no doubt that control of covert agencies provides ample opportunity for political mischief, particularly since the inherently secretive nature of these agencies means their actions often are hidden from public view. And as the capabilities of these agencies increase through technological advances in surveillance and other methods of investigation, so does the power of the President. Presidential power also has increased because of the exigencies of decision making in the modern world. At the time of the founding, it would take weeks, if not months, for a foreign government to attack American soil. In the twentyfirst century, the weapons of war take only seconds to arrive. The increased speed of warfare necessarily vests power in the institution that is able to respond the fastest – the presidency, not the Congress.79 Consequently, the President has unparalleled ability to direct the nation’s political agenda.80 The power that comes with being the first to act, moreover, does not end when the immediate emergency is over. Decisions made in times of emergency are not easily reversed; this is particularly true in the context of armed conflict. The President’s commitment of troops inevitably creates a “rally round the flag” reaction that reinforces the initial decision.81 As Vietnam and now Iraq have shown, Congress is likely to be very slow in second guessing a President’s decision that places soldiers’ lives in harm’s way. That Congress would use its powers (as opposed to its rhetoric) to directly confront the President by cutting off military appropriations seems fanciful.

### 2NC Precedence Key

#### Presidential power is shaped by historical precedent – it will expand absent limitations

Bradley and Morrison 13

[Curtis Bradley- \* William Van Alstyne Professor of Law, Duke Law School. Trevor Morrison- Liviu Librescu Professor of Law, Columbia Law School, PRESIDENTIAL POWER, HISTORICAL PRACTICE, AND LEGAL CONSTRAINT, COLUMBIA LAW REVIEW, May 1, 2013 Vol. 113:1097]

Presidential power in the United States is determined in part by historical practice. Especially **when the text of the Constitution is unclear** or does not specifically address a particular question, the way in which the government has operated over time can provide what Justice Frankfurter famously called a constitutional “gloss” on presidential power.1 This gloss often develops without significant judicial review. A variety of justiciability limitations—including the general disallowance of legislative standing, ripeness considerations, and the political question doctrine—are regularly invoked by courts as a basis for declining to resolve issues of presidential power, especially when individual rights are not directly implicated.2 This has been particularly true in the area of foreign affairs, concerning issues such as the initiation of war, the use of “executive agreements,” and the termination of international commitments.3 Even when courts do get involved, they often defer to longstanding practice when discerning the President’s constitutional (and statutory) authority.4 The customary nature of much of the law governing presidential power, together with the typically limited role of the courts, might inspire doubts about whether the apparent norms in this area truly are legal norms capable of constraining the President. Without either a clear text or an authoritative adjudicator, the argument might run, **the President’s authority is simply the product of the push and pull of the political process**. To the extent that there appear to be stable arrangements with respect to this authority, they might simply be “nonnormative equilibria” with no authoritative status. If so, any apparent consistency between presidential behavior and purported legal norms might simply be the result of political and policy considerations, not any constraint imposed by law. In recent years, a number of influential legal scholars have made claims of precisely this sort.5 Other leading scholars, meanwhile, take the proposition that the President is constrained by law as irrefutably correct.6 Yet specifying precisely how the President might be constrained by law is anything but straightforward,7 and it becomes all the more difficult once one appreciates the practice-based nature of much of the law of presidential power.

### 2NC Warming

#### Presidential powers solve warming

PCAP 08 (Presidential Climate Action Project, Nonpartisan Project at the University of Colorado Denver, “Climate Action Brief: The Use of Presidential Power”, 2008 is the last date cited,<http://www.climateactionproject.com/docs/briefs/Climate_Brief_Presidential_Power.pdf>)  
  
This legacy could lead the Congress, the courts and the voters to push the presidential power pendulum to the opposite extreme, handcuffing the executive branch even in areas where its powers are clear. Yet the 44th President will need all the tools he or she commands to deal with the serious problems the next administration will have to tackle, including **global climate change**. To address this issue, the Presidential Climate Action Project commissioned the Center for Energy and Environmental Security at the University of Colorado School of Law to analyze presidential powers. The result is a 200-page analysis based on a review of 140 legal cases and numerous scholarly articles. Ii In its analysis, the Center notes that America’s past presidents have interpreted their authority differently. President William Taft believed the president could not do anything without specific permission from Congress. Theodore Roosevelt was more willing to be assertive under the “stewardship theory” – the idea that presidents have an affirmative duty to pursue the common good unless prevented by a direct constitutional or legislative prohibition. Franklin D. Roosevelt’s philosophy was the most expansive. “In the event that the Congress should fail to act, and act adequately, I shall accept the responsibility and I will act,” he told Congress in his Labor Day address of 1942. As it turned out, FDR did not need to engage in a power struggle with the legislative branch. He was a popular president in a time of crisis. He asked Congress to delegate to him the new authority he felt he needed to deal with the Depression, and Congress did so. As a result, FDR became a strong and enabled leader with the full consent of the legislative branch at a time when strong leadership was critical. That is the precedent the next President should follow in dealing with energy, the climate and the economy. The President will have many traditional tools at his or her disposal, including executive orders, directives, proclamations, signing statements, national security directives, executive communications with Congress, the ability to call Congress into special session, the veto, the execution of treaties and the creation of executive agreements, a type of international agreement that falls short of a formal treaty and does not require Senate ratification. And, of course, the President has the bully pulpit. In regard to climate change, the next administration’s authority includes the power to: •Regulate greenhouse gas emissions under the Clean Air Act; •Institute a carbon cap-and-trade regime as EPA did for SO2 and NOx in 1995; •Propose and champion national goals for energy efficiency, renewable energy use, greenhouse gas reductions and other critical objectives; •Enter into executive agreements to collaborate with other nations on research and policies that will reduce energy vulnerability and greenhouse gas emissions; •Restore the federal government’s capacity for climate action by appointing highly qualified experts in climate science and policy to key government leadership positions; •Rescind Executive Order 13422, in which President Bush established political oversight of federal science; •Restore specific greenhouse gas reduction goals for federal agencies, which were eliminated in another executive order issued by President Bush. **But like FDR, the next President may need new powers to deal with climate change and the other urgent issues.** As the Center for Energy and Environmental Security notes, “One of the key actions to be taken by a future president to address climate change policy would be to work with Congress for the appropriate and necessary delegations of authority that will give him or her the power to act with flexibility, without delay and with certainty within the framework of the Constitution.” As in FDR’s era, the 44th President will be most able to lead boldly on climate change when there is a clear mandate from the voters that the time has come for strong national action. As University of Chicago Professor William Howell has noted, “Not once in the modern era have the courts overturned a president who enjoys broad-based support from Congress, interest groups and the public.” Creating that mandate for strong but legitimate use of**presidential power is** one of the **key** responsibilities facing the presidential candidates in this election season – and one of the key challenges for the many organizations working **to build grassroots support for climate action**.

#### Solves warming

Wold 12

[Chris, Professor of Law & Director, Internationai Environmental Law Project (IELP), Lewis & Clark Law School, CLIMATE CHANGE, PRESIDENTIAL POWER, AND LEADERSHIP: "WE CAN'T WAIT", CASE WESTERN RESERVE JOURNAL OF INTERNATIONAL LAW • VOL. 45 • 2012, 359]

For the first time since the United States became one of the first ratifiers of the UNFCCC in 1992, the United States has a climate change policy focused on reducing CO2 and other GHGs. Most of this policy has been generated by the Obama Administration through executive action, primarily within the EPA but also within other agencies.^'' Unfortunately, this is not enough. To put the United States on a path closer to meeting its pledge to reduce GHG emissions by 17% by 2020 and 83% by 2050, President Obama or any subsequent president must do more. In the short term, it is clear that the action must come from the executive branch as **Congress has shown no signs of addressing climate change**. As described in Section IV, there is much more the president can do with his treaty-making authority and other powers granted to the executive. Many of these actions can bring significant climate benefits with known technologies, such as eliminating 99% of black carbon emissions on existing trucks by requiring the use of filters. Directly regulating methane from existing and new oil and gas production and transmission operations would reduce emissions of methane, a GHG much more potent that GO2. September 16, 2012, we learned that Arctic sea ice once again hit an all-time low for ice cover.^^\* The six lowest ice extents in .the satellite record have now occurred in the last six years (2007 to 2012).'1' New research shows that Greenland and Antarctica are losing three times as much ice as twenty years ago and contributing significantly to sea level rise.'^" In this political climate. President Obama must use the presidency to act. When Lyndon Johnson was counseled not to try and resuscitate a civil rights bill that seemed as doomed as many previous civil rights bills, he famously responded, "Well, what the hell's the presidency for?"^^' This is the question that President Obama must ask. He staked his first term on achieving something many other presidents, including Lyndon Johnson, had failed to do: adopting national health legislation. He must stake his second term on passage of meaningful climate change legislation. With the Senate " unwilling to lead, the president must grab the leadership reins and move the United States as close as it can to achieving its pledges. We can't wait.

### Romm

#### Catastrophic warming reps are good—it’s the only way to motivate response—their empirics are attributable to climate denialism

Romm 12(Joe Romm is a Fellow at American Progress and is the editor of Climate Progress, which New York Times columnist Tom Friedman called "the indispensable blog" and Time magazine named one of the 25 “Best Blogs of 2010.″ In 2009, Rolling Stone put Romm #88 on its list of 100 “people who are reinventing America.” Time named him a “Hero of the Environment″ and “The Web’s most influential climate-change blogger.” Romm was acting assistant secretary of energy for energy efficiency and renewable energy in 1997, where he oversaw $1 billion in R&D, demonstration, and deployment of low-carbon technology. He is a Senior Fellow at American Progress and holds a Ph.D. in physics from MIT., 2/26/2012, “Apocalypse Not: The Oscars, The Media And The Myth of ‘Constant Repetition of Doomsday Messages’ on Climate”, http://thinkprogress.org/romm/2012/02/26/432546/apocalypse-not-oscars-media-myth-of-repetition-of-doomsday-messages-on-climate/#more-432546)

The two greatest myths about global warming communications are 1) constant repetition of doomsday messages has been a major, ongoing strategy and 2) that strategy doesn’t work and indeed is actually counterproductive! These myths are so deeply ingrained in the environmental and progressive political community that when we finally had a serious shot at a climate bill, the powers that be decided not to focus on the threat posed by climate change in any serious fashion in their $200 million communications effort (see my 6/10 post “Can you solve global warming without talking about global warming?“). These myths are so deeply ingrained in the mainstream media that such messaging, when it is tried, is routinely attacked and denounced — and the flimsiest studies are interpreted exactly backwards to drive the erroneous message home (see “Dire straits: Media blows the story of UC Berkeley study on climate messaging“) The only time anything approximating this kind of messaging — not “doomsday” but what I’d call blunt, science-based messaging that also makes clear the problem is solvable — was in 2006 and 2007 with the release of An Inconvenient Truth (and the 4 assessment reports of the Intergovernmental Panel on Climate Change and media coverage like the April 2006 cover of Time). The data suggest that strategy measurably moved the public to become more concerned about the threat posed by global warming (see recent study here). You’d think it would be pretty obvious that the public is not going to be concerned about an issue unless one explains why they should be concerned about an issue. And the social science literature, including the vast literature on advertising and marketing, could not be clearer **that only repeated messages have any chance of sinking in and moving the needle**. Because I doubt any serious movement of public opinion or mobilization of political action could possibly occur until these myths are shattered, I’ll do a multipart series on this subject, featuring public opinion analysis, quotes by leading experts, and the latest social science research. Since this is Oscar night, though, it seems appropriate to start by looking at what messages the public are exposed to in popular culture and the media. It ain’t doomsday. Quite the reverse, climate change has been mostly an invisible issue for several years and the message of conspicuous consumption and business-as-usual reigns supreme. The motivation for this post actually came up because I received an e-mail from a journalist commenting that the “constant repetition of doomsday messages” doesn’t work as a messaging strategy. I had to demur, for the reasons noted above. But it did get me thinking about what messages the public are exposed to, especially as I’ve been rushing to see the movies nominated for Best Picture this year. I am a huge movie buff, but as parents of 5-year-olds know, it isn’t easy to stay up with the latest movies. That said, good luck finding a popular movie in recent years that even touches on climate change, let alone one a popular one that would pass for doomsday messaging. Best Picture nominee The Tree of Life has been billed as an environmental movie — and even shown at environmental film festivals — but while it is certainly depressing, climate-related it ain’t. In fact, if that is truly someone’s idea of environmental movie, count me out. The closest to a genuine popular climate movie was the dreadfully unscientific The Day After Tomorrow, which is from 2004 (and arguably set back the messaging effort by putting the absurd “global cooling” notion in people’s heads! Even Avatar, the most successful movie of all time and “the most epic piece of environmental advocacy ever captured on celluloid,” as one producer put it, omits the climate doomsday message. One of my favorite eco-movies, “Wall-E, is an eco-dystopian gem and an anti-consumption movie,” but it isn’t a climate movie. I will be interested to see The Hunger Games, but I’ve read all 3 of the bestselling post-apocalyptic young adult novels — hey, that’s my job! — and they don’t qualify as climate change doomsday messaging (more on that later). So, no, the movies certainly don’t expose the public to constant doomsday messages on climate. Here are the key points about what repeated messages the American public is exposed to: The broad American public is exposed to virtually **no doomsday messages**, let alone constant ones, on climate change in popular culture (TV and the movies and even online). There is not one single TV show on any network devoted to this subject, which is, arguably, more consequential than any other preventable issue we face. The same goes for the news media, whose coverage of climate change has collapsed (see “Network News Coverage of Climate Change Collapsed in 2011“). When the media do cover climate change in recent years, the overwhelming majority of coverage is devoid of any doomsday messages — and many outlets still feature hard-core deniers. Just imagine what the public’s view of climate would be if it got the same coverage as, say, unemployment, the housing crisis or even the deficit? When was the last time you saw an “employment denier” quoted on TV or in a newspaper? The public is exposed to constant messages promoting business as usual and indeed idolizing conspicuous consumption. See, for instance, “Breaking: The earth is breaking … but how about that Royal Wedding? Our political elite and intelligentsia, including MSM pundits and the supposedly “liberal media” like, say, MSNBC, hardly even talk about climate change and when they do, it isn’t doomsday. Indeed, there isn’t even a single national columnist for a major media outlet who writes primarily on climate. Most “liberal” columnists rarely mention it. At least a quarter of the public chooses media that devote a vast amount of time to the notion that global warming is a hoax and that environmentalists are extremists and that clean energy is a joke. In the MSM, conservative pundits routinely trash climate science and mock clean energy. Just listen to, say, Joe Scarborough on MSNBC’s Morning Joe mock clean energy sometime. The major energy companies bombard the airwaves with millions and millions of dollars of repetitious pro-fossil-fuel ads. The environmentalists spend far, far less money. As noted above, the one time they did run a major campaign to push a climate bill, they and their political allies including the president explicitly did NOT talk much about climate change, particularly doomsday messaging Environmentalists when they do appear in popular culture, especially TV, are routinely mocked. There is very little mass communication of doomsday messages online. Check out the most popular websites. General silence on the subject, and again, what coverage there is ain’t doomsday messaging. Go to the front page of the (moderately trafficked) environmental websites. Where is the doomsday? If you want to find anything approximating even modest, blunt, science-based messaging built around the scientific literature, interviews with actual climate scientists and a clear statement that we can solve this problem — well, you’ve all found it, of course, but the only people who see it are those who go looking for it. Of course, this blog is not even aimed at the general public. Probably 99% of Americans haven’t even seen one of my headlines and 99.7% haven’t read one of my climate science posts. And Climate Progress is probably the most widely read, quoted, and reposted climate science blog in the world. Anyone dropping into America from another country or another planet who started following popular culture and the news the way the overwhelming majority of Americans do would get the distinct impression that **nobody who matters is terribly worried about climate change**. And, of course, they’d be right — see “The failed presidency of Barack Obama, Part 2.” It is total BS that somehow the American public **has been scared and overwhelmed by repeated doomsday messaging into some sort of climate fatigue**. If the public’s concern has dropped — and public opinion analysis suggests it has dropped several percent (though is bouncing back a tad) — that is **primarily due to the conservative media’s disinformation** **campaign** impact on Tea Party conservatives and to the treatment of this as a nonissue by most of the rest of the media, intelligentsia and popular culture.

### Uniq – Strikes Decreasing Now

#### Restrained drone policy being implemented now – solves the impact to overreliance

**Bellinger 13** (John B., Adjunct Senior Fellow for International and National Security Law at CFR (“Obama's Mixed Counterterror Message,” 5/28/13, CFR, http://www.cfr.org/counterterrorism/obamas-mixed-counterterror-message/p30786)

The part of the speech that broke the most new ground was the announcement that President Obama had signed new Presidential Policy Guidance for use of force against terrorists. The guidance is classified but has been shared with Congress. In conjunction with the speech, the White House released a Fact Sheet that provides more detail on targeting standards. And the day before the speech, Attorney General Eric Holder sent a letter to Congress acknowledging the killing of Anwar al-Awlaki and three other Americans and specifying new legal standards for targeted killings. Together, these documents reflect laudable efforts by administration national security lawyers and counterterrorism officials to **achieve more transparency and clearer standards** for the use of drones, although these efforts have been overshadowed by the more political statements of the speech. **Substantively, the new standards appear to set a higher bar for the use of drones**, especially "outside areas of active hostilities." For example, the same standard would be applied for strikes against Americans and non-Americans, i.e., that the individual must pose a "continuing and imminent threat" of violence to U.S. persons. And the threat must be to U.S. persons, not U.S. allies or other U.S. interests. Moreover, **drone strikes will not be used where it would be feasible to capture the target**, and there must be a near certainty that a drone strike must not cause death or injury to non-civilians. Together, these public and stricter standards should address some of the concerns of both domestic and international critics of drone strikes. Indeed, some Republican members of Congress have criticized the Obama administration for placing too many restrictions on drone strikes. The standards will also help to close the Pandora's Box the Obama administration has opened by its heavy reliance on drones; the new standards **set a high bar** for other countries to meet if they want to cite U.S. standards as a precedent.

#### Shift to drone restraint now – use of detention authority is key

**Corn 13** (David, “Obama's Counterterrorism Speech: A Pivot Point on Drones and More?” Mother Jones, 5/23/13, http://www.motherjones.com/mojo/2013/05/obama-speech-drones-civil-liberties)

So Obama's speech Thursday on counterterrorism policies—which follows his administration's acknowledgment yesterday that it had killed four Americans (including Anwar al-Awlaki, an Al Qaeda leader in Yemen)—is a big deal, for with this address, Obama is **self-restricting his use of drones** and shifting control of them from the CIA to the military. And the president has approved making public the rules governing drone strikes. The New York Times received the customary pre-speech leak and reported: A new classified policy guidance signed by Mr. Obama **will sharply curtail the instances when unmanned aircraft can be used** to attack in places that are not overt war zones, countries like Pakistan, Yemen and Somalia. The rules will impose the same standard for strikes on foreign enemies now used only for American citizens deemed to be terrorists. Lethal force will be used **only against targets who** pose "a continuing, imminent threat to Americans" and **cannot feasibly be captured**, Attorney General Eric H. Holder Jr. said in a letter to Congress, suggesting that threats to a partner like Afghanistan or Yemen alone would not be enough to justify being targeted. These moves may not satisfy civil-liberties-minded critics on the right and the left. Obama is not declaring an end to indefinite detention or announcing the closing of Gitmo—though he is echoing his State of the Union vow to revive efforts to shut down that prison. Still, these moves would be unimaginable in the Bush years. Bush and Cheney essentially believed the commander in chief had unchallenged power during wartime, and the United States, as they saw it, remained at war against terrorism. Yet here is Obama subjecting the drone program to a more restrictive set of rules—and doing so publicly. This is very un-Cheney-like. (How soon before the ex-veep arises from his undisclosed location to accuse Obama of placing the nation at risk yet again?) Despite Obama's embrace of certain Bush-Cheney practices and his robust use of drones, the president has tried since taking office to shift US foreign policy from a fixation on terrorism. During his first days in office, he shied away from using the "war on terrorism" phrase. And his national security advisers have long talked of Obama's desire to reorient US foreign policy toward challenges in the Pacific region. By handing responsibility for drone strikes to the military, Obama is helping CIA chief John Brennan, who would like to see his agency move out of the paramilitary business and devote more resources to its traditional tasks of intelligence gathering and analysis. With this speech, Obama is not renouncing his administration's claim that it possesses the authority to kill an American overseas without full due process. The target, as Holder noted in that letter to Congress, must be a senior operational leader of Al Qaeda or an associated group who poses an "imminent threat of violent attack against the United States" and who cannot be captured, and Holder stated that foreign suspects now can only be targeted if they pose "a continuing, imminent threat to Americans." (Certainly, there will be debates over the meaning of "imminent," especially given that the Obama administration has previously used an elastic definition of imminence.) And **Obama is not declaring an end to the dicey practice of indefinite detention or a conclusion to the fight against terrorism.** But the speech may well mark a pivot point. Not shockingly, Obama is **attempting to find middle ground**, where there is more oversight and more restraint regarding activities that pose serious civil liberties and policy challenges. The McCainiacs of the world are likely to howl about any effort to place the effort to counter terrorism into a more balanced perspective. The civil libertarians will scoff at half measures. But Obama, at the least, is showing that he does ponder these difficult issues in a deliberative manner and is still attempting to steer the nation into a post-9/11 period. That journey, though, may be a long one.

#### Drone strikes slowing – but the brink of future decisions is now

Crowley 13 (“So, Who Can We Kill?,” April 1, 2013, Michael Crowley, Time Magazine, http://www.time.com/time/printout/0,8816,2139176,00.html)

It may also be notable--and surprising--that **the pace of drone strikes has slowed.** The 48 strikes in Pakistan last year were less than half the 2010 total, which, according to the New America Foundation, was 122. There have been no strikes in Yemen since Feb. 1 of this year. Whether that's a breather or a strategic shift remains to be seen. It probably also depends on how successful African forces are at fighting al-Qaeda when French troops withdraw from Mali in April. Northern Africa could be an inflection point for Obama to choose between a renewed killing campaign--one that might require new legal authority--or a less kinetic effort that relies on a combination of indigenous forces, foreign aid and **arrests instead of guided missiles.**

#### Tangible reduction in drone use now

**Welsh 13** (Jennifer, “Fewer drones, less Guantanamo: Obama starts to heed his critics,” The Globe and Mail, 5/27/13, http://www.theglobeandmail.com/commentary/fewer-drones-less-guantanamo-obama-starts-to-heed-his-critics/article12090729)

More significantly, the President will seek to establish greater transparency and oversight concerning the administration’s controversial targeted killing program. Yesterday, Mr. Obama’s attorney-general began this process by openly admitting, for the first time, that the U.S. government has approved the killing of at least four U.S. citizens in countries “outside of areas of active hostilities” (i.e., Pakistan and Yemen), for the purposes of countering alleged terrorist threats. In his letter to Congress, Eric Holder named Anwar al-Awlaki, along with three others, as victims of U.S. drone strikes. He also strongly defended the targeted killing of Mr. al-Alwaki, drawing on criteria already set out in the leaked Justice Department white paper of February, 2013. Mr. al-Awlaki, he insisted, was a senior al-Qaeda operative – its “chief of external operations” – who posed “a continuing, imminent threat to Americans,” and who could not feasibly be captured. Moreover, according to Mr. Holder, the U.S. strikes had been conducted in accordance with the laws of war – most notably the principles of necessity, distinction (i.e, non-combatant immunity), and proportionality. The imminent threat to American lives was evident, the attorney-general alleged, in Mr. al-Alwaki’s involvement in planning the bombing of a Detroit-bound airliner in 2009, and his key role in the October 2010 plot to blow up cargo planes bound for the United States. These admissions will likely not satisfy many critics of the administration’s targeted killing policy – a policy that the president will reiterate is an important tool in the U.S. counter-terrorism’s arsenal (at least for now). Legitimate questions will be raised about how ‘imminence’ is being defined, and how seriously the U.S. pursues capture. But there are certain ‘facts’ that cannot be so easily countered, and which constitute **promising steps in a better direction.** First, **the number of drone strikes has been declining** (from its high in the 2009-2012) **period.** Secondly, it is reported that the administration will curtail its use of so-called “signature strikes” – controversial attacks on groups of suspected terrorists, rather than the specific killing of individual “high value” targets. Third, the president will announce that relevant congressional committees will be notified and briefed on a detailed (classified) document that institutionalizes the government’s “exacting standards and processes” for approving instances of targeted killing. This doesn’t mean, of course, that these processes and standards aren’t still controversial – but they will be reviewed and debated by the country’s lawmakers. Finally, and perhaps most importantly, Mr. Obama will likely confirm what has already been reported: that he will shift control of the drone program from the Central Intelligence Agency (which operates with very little oversight) to the Defense Department, where there have been, historically, procedures and rules with respect to the use of lethal force. More generally, John Brennan, the new CIA chief, has claimed that his priority is to return the CIA to its more traditional tasks (intelligence gathering and analysis), thereby curtailing the highly controversial paramilitary role it has assumed over the last decade as part of its counterterrorism agenda. (For a fascinating account of how the CIA got into this business, see Mark Mazetti’s new book, The Way of the Knife.) We shouldn’t jump to the conclusion that the U.S. is declaring that the ‘war on terror’ is over. Nevertheless, reports suggest that Mr. Obama’s speech will hint at a date when this epic struggle might come to an end. It is difficult to imagine his predecessor taking this step. In addition, it appears the administration may be starting to re-orient its understanding of counterterrorism, by downplaying the ‘war paradigm’ (except in relation to operations in countries such as Afghanistan) and adopting more of a ‘peacetime’ or ‘law enforcement’ paradigm. In this latter framework, targeted killing is not strictly prohibited (see, for example, See Basic Principles on the Use of Force and Firearms by Law Enforcement Officials), but the use of lethal force in self-defence is extremely rare and highly circumscribed. And so it should be.

### Links – Detention Restrictions = Shift

**Reduced detention powers causes a shift to increased drone use**

**Waxman 11** ( Matthew C., Adjunct Senior Fellow for Law and Foreign Policy at CFR (“9/11 Lessons: Terrorist Detention Policy,” CFR, 8/26/11, http://www.cfr.org/911-impact/911-lessons-terrorist-detention-policy/p2566)

The best approach lies between those views, and despite many differences in implementation and rhetoric, both the Obama administration--and the Bush administration preceding it--have headed haltingly in that direction. Criminal prosecution of terrorism suspects is often appropriate and neither signals weakness to nor legitimates terrorists, as some critics charge. But limited use of detention powers **beyond** those of **criminal law**, **and including detention based on the law of war, is also legally and strategically appropriate** for some leaders or operatives fighting for al-Qaeda abroad, especially when Congress provides a strong legislative basis and detentions are regulated with robust procedural protections and opportunities to rebut the government's allegations. An important lesson since the 9/11 attacks is that detention decisions and practices have legal, political, diplomatic, operational, and other **ripple effects across many aspects of counterterrorism policy**, and across U.S. foreign policy more broadly. Those concerned that the United States is too aggressive in its detention policy should beware that **constraining this tool adds pressure to rely on other tools**, **including lethal drone strikes** or proxy detention by other governments. Those concerned that the United States is not aggressive enough should beware that dogged resistance to criminal prosecution and failure to seriously address opponents' domestic and international legal concerns threatens the long-term stability of terrorist detention programs. It also undermines critically important counterterrorism partnerships with allies abroad, with whom legal disagreements can inhibit exchanges of information, prisoner transfers, and other cooperation.

### Impacts – Turns State of Exception

#### Drone strikes turn the state of exception

Bowsher 13 (Josh, Phd Candidate in Critical Theory at the University of Nottingham. Research on Transitional Justice, Human Rights and Sacrificial Violence, "Denaturalising Terror Suspects in the Age of Drone Strikes: British Sovereignty and Homo Sacer in the “War on Terror”, http://webcache.googleusercontent.com/search?q=cache:1lqeCS\_Q7vsJ:blogs.nottingham.ac.uk/criticalmoment/2013/03/20/denaturalising-terror-suspects-in-the-age-of-drone-strikes-british-sovereignty-and-homo-sacer-in-the-war-on-terror/+&cd=9&hl=en&ct=clnk&gl=us)

Today’s situation reiterates and makes use of this kind geographic otherness to ensure that this exceptional killing is seen as part of a “needs must” approach to international relations, and, as such, exists in a separate space of sovereign contingency. In this sense, while the stripping of citizenship reduces the British citizen purely to their role as the Islamic terror suspect (bare life), it is only the combination of the Othered terror suspect in an Other place (Northern Pakistan) that enables the bypassing of the transcendental nature of the law, as the undoing – and absolute visibility – of the contradiction between the sovereign rights of man, and their necessary bequeathing by a state; the removal of both “blood” (citizenship) and soil (geographic location within the boundaries of the state). This is, indeed, despite the territory in question coming under the remit of international law, to which Britain has signed up, and which it should therefore operate under. In short, we are brought back to the sovereignty of the British government declared in its ambivalence to international law and abandonment of the absolute and sovereign rights of man.¶ But while the exception can only operate in an acceptably “other” locale, this geographic space is not precisely a camp – it is, perhaps, something else. In the first instance, and obviously enough, we are dealing with a large less rigidly defined space (Northern Pakistan), which cannot be the space which nominates a “zone of bare life”, where the ‘state of exception… become[s] the rule.’ (Agamben, 1998, pp. 168-169) Bare life (man) and political life (citizen) no doubt permeate the borders of such a large geographic space. In other words, life is not automatically bare once it enters this zone. Nor is it a space where bare life can be so tightly contained: the British terror suspect is seemingly free to move from locale to locale (just not our locale – although the absence of a British passport does limit the freedom of their movement somewhat). Instead, perhaps what we are dealing with is more like a bare life that, by operating in this space, is able to be killed and not sacrificed. Or more precisely the suturing of the individual to the space in a different and dynamic way.¶ It is this problem that makes the drone the mechanism for terminating the figure of Homo Sacer in this particular situation, par excellence. Able to kill in cold, automated anonymity, the drone strike terminates the British terror suspect with the absence of a humanity that could contaminate death with a tendency to ritual, ceremony, sacrifice. It becomes a robotic act of pure unmediated killing/death. But importantly, it is also able to deal with the particular dynamic relationship between the individual and the space by striking at particular sections of this geographic location. The drone does not murder with reckless abandon, but kills with particular and targeted calculation. Even if it is not quite perfected, we can already begin to see the general trajectory.

#### Drone strikes turn the state of exception

Rothstein 13 (Adam, insurgent archivist and researcher, who writes about media, technology, and politics, "future strikes," http://webcache.googleusercontent.com/search?q=cache:GdFynEXPqJEJ:www.thestate.ae/future-strikes/+&cd=3&hl=en&ct=clnk&gl=us)

The “state of exception” is a political science concept first identified by Carl Schmitt, and more fully theorized by Giorgio Agamben. It is the idea that the modern constitutional nation-state is built with the implicit or explicit understanding that interrupting the constitutionally protected freedoms of that nation-state is justifiable for the purpose defending the existence of the nation-state. These “exceptions” to the constitution take place more and more frequently, the more threatened the nation-state argues itself to be. These “threats” can take the form of disruptions of the peace, threats to the day-to-day functioning of government, a state of war, or threats to the citizenry. The “immanent threat” described in a recently leaked congressional memo provides the exception legally justifying the United States’ current drone strikes–but who can say what the extent of exceptions will be in the future?

## On

### \*\*\*Util

#### -- Extreme examples don’t apply – utility promotes equality and maximum good

Harsanyi 82 (John, Professor of Economics – University of California, Berkeley, Utilitarianism and Beyond, Ed. Sen and Williams, p. 26-27)

Some further notes on this suggestion will be in place here. First, it is sometimes alleged that justice has to be at odds with utility. But if we ask how we are to be just between the competing interests of different people, it seems hard to give any other answer than it is by giving equal weight, impartially to the interests of everybody. And this is precisely what yields the utility principle. It does not necessarily yield equality in the resulting distribution. There are certainly very good utilitarian reasons for seeking equality in distribution too; but justice is something distinct. The utilitarian is sometimes said to be indifferent between equal and unequal distributions provided that total utility is equal. This is so; but it conceals two important utilitarian grounds for a fairly high degree of actual goods (tempered, of course, as in most systems including Rawls’s by various advantages that are secured by moderate inequalities). The second is that inequalities tend to produce, at any rate in educated societies, envy hatred and malice whose disutility needs no emphasizing. I am convinced that when these two factors are taken into account, utilitarians have no need to fear the accusation that they could favor extreme inequalities of distribution in actual modern societies. Fantastic hypothetical cases can no doubt be invented in which they would have to favor them; but as, as we shall see, this is an illegitimate form of argument.

#### -- Utility maximizes value to life and precludes zeroing anyone out

Dworkin 77 (Ronald, Professor of Law and Philosophy – New York University, Taking Rights Seriously, p. 274-275)

Utilitarian arguments of policy, however, would seem secure from that objection. They do not suppose that any form of life is inherently more valuable than any other, but instead base their claim, that constraints on liberty are necessary to advance some collective goal of the community, just on the fact that that goal happens to be desired more widely or more deeply than any other. Utilitarian arguments of policy, therefore, seem not to oppose but on the contrary to embody the fundamental right of equal concern and respect, because they treat the wishes of each member of the community on a par with the wishes of any other, with no bonus or discount reflecting the view that the member is more or less worthy of concern, or his views more or less worthy of respect, than any other.

#### -- Governments must weigh consequences

Harries 94 (Owen, Editor and Founder – National Interest and Senior Fellow – Centre for Independent Studies, “Power and Civilization”, The National Interest, Spring, Lexis)

Performance is the test. Asked directly by a Western interviewer, “In principle, do you believe in one standard of human rights and free expression?”, Lee immediately answers, “Look, it is not a matter of principle but of practice.” This might appear to represent a simple and rather crude pragmatism. But in its context it might also be interpreted as an appreciation of the fundamental point made by Max Weber that, in politics, it is “the ethic of responsibility” rather than “the ethic of absolute ends” that is appropriate. While an **individual** is free to treat human rights as absolute, to be observed whatever the cost, **governments** **must always weigh consequences** and the competing claims of other ends. So once they enter the realm of politics, human rights have to take their place in a hierarchy of interests, including such basic things as national security and the promotion of prosperity. Their place in that hierarchy will vary with circumstances, but no responsible government will ever be able to put them always at the top and treat them as inviolable and over-riding. The cost of implementing and promoting them will always have to be considered.

### Secrecy K2 Relations/Alt Causes – 2NC

#### Backlash against secret detention policies overwhelms alt causes and collapses EU relations – they’re on the brink

Huyck 9 (CPT Daniel J. – J.D. Candidate 2009, University of Minnesota Law School, “Fade to Black: El-Masri v. United States Validates the Use of the State Secrets Privilege to Dismiss "Extraordinary Rendition" Claims”, 2009, 17 Minn. J. Int'l L. 435, lexis)

1. Global Reaction to United States' Validation of Extraordinary Rendition The relationship of the United States and Europe, long considered one of the strongest in the world, has been declining steadily. n183 The United States has begun a shift from a society where information is distributed on the basis of a "right to know" to one where information is distributed on the basis of a "need to know." n184 A recent study found that citizens of Great Britain, Spain, and France believe the U.S.-led war in Iraq is a greater threat to world peace than Iran and its reported nuclear program. n185 The people of Europe believe that there is a gap between America's stated policies and actions. n186 The extraordinary rendition allegation, specifically sending suspects to Syria, is one of the strongest elements undermining the United State's moral authority in Europe. n187 Expanding the state secrets privilege beyond its evidentiary roots to effectively prevent a valid recourse for those who are captured unlawfully or inadvertently will only further undermine international relations. n188 As the U.S. Supreme Court has held "international [\*462] law is founded upon mutuality and reciprocity." n189 According to the International Covenant on Civil and Political Rights the right to adjudicate wrongs through the court is a fundamental right. n190 Often the European Court of Human Rights views the state secrets privilege as interfering with this right and requires an in camera inspection of the evidence in question when the formal elements of the privilege are satisfied. n191 The European Court of Human Rights implied that the state secrets privilege could be successfully challenged in the international court if challenges against the privilege were unsuccessful under domestic law and another domestic remedy does not exist. n192 On April 19, 2007 the Parliamentary Assembly of the Council of Europe (PACE) adopted a resolution (Resolution 1551) on espionage and divulging state secrets. n193 PACE made it clear that the need to protect sensitive national information is important to any government, but poorly defined or overly broad authorizations allowing the executive to define what constitutes a "secret" undermine government openness. n194 PACE also specifically mentioned the United States among the countries who have recently threatened freedom of information. n195

## 1NR – T

### Conditionality – 2NC

#### 1. Counter Interpretation – the Neg gets 1 conditional option and the status quo – especially not abusive because we advocate using the federal government to prevent an action they currently have control over

#### 2. Negative Flexibility – the Aff gets to choose the topic of the debate and speaks first and last, so the Neg should get to test the Aff from multiple angles.

#### 3. Strategic Thinking – forces the Aff to choose their best arguments. That’s the biggest internal link to education since it’s the only education we get in the debate.

#### ---9. Not A Voting Issue – at worst just stick us with the conditional options.

#### 10. Don’t Vote On Potential For Abuse – evaluating theory on competing interpretations encourages trivial procedurals at the expense of substantive debate. Only vote on conditionality if we made the debate impossible for the Aff.

### Overview

**The aff needs to defend a judicial or statuatory restriction of the president's war power authority - they do neither because they**

**only affirm a criticism of the indefinite attention authroity and do not defend a governmental restriction - we have multiple impacts:**

**First - limits & predictability - the judicial and statuatory restrictions serve as a universal starting point - they open up limitless frameworks that destroy pre-round prep and make clash impossible which means we could never actively engage them on making solutions - this turns their offense because it ensures their discussions are shallow as well**

**Second - decision making & Education - we're the only ones with lasting, out of round impacts--- they are for the purpose of solving human brutality, the particular form of decision making is key to take care of terminal**

**threats because it allows us to weigh costs and benefits - also specific pre-designed scenarios of government action create a domain-specific game space that allows for in depth research and information processing - their broad focus collapses meaningful discussions**

**Specifically our interpretation is key to political education - framing debate as a legal game with strict rules is our only chance to engage power institutions - it unites cultures under a common normaitve framework - this displaces the human brutality cycle with amoral rules capable of short-cicuting righteousness - encompasses a broad range of diaglogue**

**Topical version of the aff solves - they can still garner their advantages on the archeological criticism as a justification for government action against the president’s power to indefinitely detain**

#### A topical version of the aff would solve most of their offense—it’s capable of radical change

Lobel 7 (Orly Lobel, University of San Diego Assistant Professor of Law, 2007, The Paradox of Extralegal Activism: Critical Legal Consciousness and Transformative Politics,” 120 HARV. L. REV. 937, http://www.harvardlawreview.org/media/pdf/lobel.pdf)

V. RESTORING CRITICAL OPTIMISM IN THE LEGAL FIELD

“La critique est aisée; l’art difficile.”

A critique of cooptation often takes an uneasy path. Critique has always been and remains not simply an intellectual exercise but a political and moral act. The question we must constantly pose is how critical accounts of social reform models contribute to our ability to produce scholarship and action that will be constructive. To critique the ability of law to produce social change is inevitably to raise the question of alternatives. In and of itself, the exploration of the limits of law and the search for new possibilities is an insightful field of inquiry. However, the contemporary message that emerges from critical legal consciousness analysis has often resulted in the distortion of the critical arguments themselves. This distortion denies the potential of legal change in order to illuminate what has yet to be achieved or even imagined. Most importantly, cooptation analysis is not unique to legal reform but can be extended to any process of social action and engagement. When claims of legal cooptation are compared to possible alternative forms of activism, the false necessity embedded in the contemporary story emerges — a story that privileges informal extralegal forms as transformative while assuming that a conservative tilt exists in formal legal paths. In the triangular conundrum of “law and social change,” law is regularly the first to be questioned, deconstructed, and then critically dismissed. The other two components of the equation — social and change — are often presumed to be immutable and unambiguous. Understanding the limits of legal change reveals the dangers of absolute reliance on one system and the need, in any effort for social reform, to contextualize the discourse, to avoid evasive, open-ended slogans, and to develop greater sensitivity to indirect effects and multiple courses of action. **Despite its weaknesses, however, law is an** optimistic discipline. It operates both in the present and in the future. Order without law is often the privilege of the strong. Marginalized groups have used legal reform precisely because they lacked power. Despite limitations, these groups have often successfully secured their interests through legislative and judicial victories. **Rather than experiencing a** disabling disenchantment **with the legal system, we can learn from both the** successes and failures of past models, **with the aim of** constantly redefining the boundaries of legal reform **and making visible law’s broad reach**.

### CI

They don’t make a we meet argument no new ones

they read an interpretation that is not exclusive with ours but is also the interpretation that we make in the 1nc - their interp was read in cx and is "affs must defend a topical plan text or a method to decrease statuorily and or judicially conferred presidential war powers in the topic areas." the problems with this are that they don't have a method to decrease conferred war power and that was in cx of the 1ac

Since their own interpretation is that the aff must be topical – they didn’t answer the second violation and that is a therefore a reason to vote neg – restrictions aren’t prohibitons on action – that was the Conner evidence

– Including oversight affs explodes the topic. It adds at least three new mechanisms for every aff. Multiplying the number of mechanisms by the hundreds of affs in the four areas of the topic allows for thousands of new affs. It also allows for indirect and zero effects. Affs can have Courts create a new agency or organization to oversee and read a new advantage every week. Prohibition mandates that Courts must ban an action but regulation allows for a variety of indirect regulatory mechanisms.

That’s uniquely abusive and they didn’t have evidence against it

### A2 USFG = People

PAPER

This doesn’t mean our arguments go away – this interpretation assumes Jeffersonian direct democracy and this doesn’t NEGATE the fact that what exists now is a statuory and judicial system that checks the president

#### Checks and balances exist

Peterson 11 (Todd, Prof @ GW School of Law, Student Bar Association - George Washington School of Law, "Separation of Powers," http://www.gwsba.com/outlines/Separation%20of%20Powers/Separation%20of%20Powers%20-%20Peterson%20-%20Fall%202011.doc)

Power of each branch

* + 3 zones of executive power (J. Jackson)
    - Most authority with explicit statutory power
    - Intermediate authority (inherent power)
    - Least authority statute take away power
  + Generally, for statutory enhancements of power, the Court is more formalist
  + Generally, for statutory restrictions of power, the Court is more functionalist (Does statute prevent the branch from accomplishing its constitutional function?)

|  |  |  |  |
| --- | --- | --- | --- |
|  | Executive | Legislative | Judicial |
| Statutory Authority | Congress can delegate, box can grow indefinitely | Congress passes statutes to give itself more authority  Limited by bicameralism and presentment | Limited by case or controversy |
| No statute | President’s inherent power: In Re Neagle | Appropriations power |  |
| Statutory Restriction | Congress passes statutes to limit the president’s power |  |  |

### T – Must Be Courts – A2: Reasonability

#### --They aren’t reasonable – the Aff literally explodes the topic and eviscerates ground – they lose under their own standard

#### -- Prefer competing interpretations –

#### A) Only objective standard – reasonability is arbitrary and takes the debate out of the hands of the debaters by encouraging overtly subjective decisions.

#### B) Incentivizes bad debate – Negs would read their worst strategy to prove abuse – don’t punish well-prepared teams.

#### -- Competing interpretations should be judged by both precision and limits – means debate mirrors relevant topic literature with respect to particular resolutional wording – solves race to the bottom

#### It’s arbitrary and undermines research

Resnick 1 Evan- assistant professor of political science – Yeshiva University, “Defining Engagement,” Journal of International Affairs, Vol. 54, Iss. 2

In matters of national security, establishing a clear definition of terms is a precondition for effective policymaking. Decisionmakers who invoke critical terms in an erratic, ad hoc fashion risk alienating their constituencies. They also risk exacerbating misperceptions and hostility among those the policies target. Scholars who commit the same error undercut their ability to conduct valuable empirical research. Hence, if scholars and policymakers fail rigorously to define "engagement," they undermine the ability to build an effective foreign policy.

### A2: Debate = Exclusionary

#### Competitive game model would reform the state to help resolve their hierarchies

Carter 8 – prof @ The Colorado College, research support from the Rockefeller Foundation and the staff of the Villa Serbelloni, Bellagio, Italy, the Institute of Governmental Studies at the University of California, Berkeley, and the Benezet Foundation at The Colorado College (Lief H, 2008, "LAW AND POLITICS AS PLAY," Chicago-Kent Law Review, 83(3), http://www.cklawreview.com/wp-content/uploads/vol83no3/Carter.pdf)

If the United States approached domestic politics the way sports league commissioners, team owners, and rules committees work to equalize competition, Americans would, for the same self-interested motives, seek to level the political and social playing fields. They would insure that less-advantaged children received the same quality of education and health care as do otherwise more-advantaged children. They would no more perpetuate the tax policies and social programs that profoundly skew wealth distribu-tion toward the rich than sports leagues would allow winning teams to face only weak opponents on their schedules.141 A society that aspired to noth-ing more than good competitive legal and political games among its people would not question the propriety of taxing large wealth transfers by those whose wealth greatly exceeds the average.142 In international trade, wealthy nations, for their own self-interest, would treat developing nations as the Marshall Plan sought to bring the economies of Europe, devastated after World War II, effectively into the competitive economic game.143 A community that sought no more than to promote good economic competi-tion among producing nations would not at the same time prevent develop-ing countries from competing to sell their agricultural products at lower costs in world markets by wastefully subsidizing the more costly produc-tion of the same commodities at home. Precision of rules and unquestioned authority of judges: Substantive legal rules can seem notoriously ambiguous when compared to the codified rules of organized sports, but this is misleading.144 By the principle that “you can’t play the game without agreeing on the rules,” Roberts’ Rules of Order and the sometimes arcane accumulation of rules of procedure in legislative chambers precisely structure legislative tactics and debate just as The Bluebook: A Uniform System of Citation structures formal written legal advocacy and the rules of evidence and procedure govern formal litigation. More significantly, political and social play, like organized sports, requires regulatory and judicial independence from the “democratic game” itself. Fareed Zakaria recently reviewed for a general audience the horror sto-ries—the election of Hitler, for example—produced by popular democracy and suggests that other dynamics, and particularly “the rule of law,” con-tribute more to progressive government than does popular democracy it-self.145 Just as umpires, referees, and rules committees act outside competitive play, so a good political game depends on popular trust in the impartiality of judicial and regulatory decision making. The Federal Re-serve Board, the independent regulatory commissions, and ideally the judi-ciary itself, play the critical role of political and economic rules committees effectively only if they do not operate democratically but rather off the playing field altogether. Indeed, given the indeterminacy of substantive principles of morality and justice, rules committees—a category that includes courts of law in common law legal systems—can only be said to act sensibly when they rule (using the good-game criteria noted above) so as to make the game a better game, and not by “seeking justice.” Good political games, hence, require something like the wrongly ma-ligned practice of “judicial activism,” where judges, like calls of umpires and referees, make the rules of the game clear in the moment of play. South Dakotan voters presumably sensed the importance of independent judicial authority when they rejected, by a ratio of nearly nine to one, the proposal on their 2006 ballots to allow a person to sue judges for rendering decisions that he or she didn’t like.146 When the United States Supreme Court issued its deeply flawed result in Bush v. Gore,147 the loser, Gore, and most Americans, accepted the result and moved on.148 The Bush administra-tion’s attempt to justify a “unitary executive” power to operate independent of legal checks from the other political branches is the equivalent of a bat-ter insisting that he, having the power to define the strike zone and dis-agreeing with the umpire’s called third strike on a 3–2 count, trots to first base. The administration’s unitary executive claim, and its patterned disre-gard of legality more generally, ignores an unbroken line of precedents balancing Article I’s legislative powers with those of the executive in Arti-cle II going back to 1804.149

#### Good games create curiosity that merge competitors to solve inequality through competition

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Good games neutralize turf and, by legitimizing losing, reduce or eliminate the irrational and often self-defeating effects of Kahneman’s loss aversion, specifically the urge to double down and send good money after bad.127 Like legal education and legal practice, and like Vico’s rhetorical debating games, competitive games over time construct for players and fans a continuing civic education. The desire to win a competition moti-vates players to become keenly curious about the rules of the game, the conditions on the field of play, the skills of the opponent, and so on. In games people return to and practice the “thought of sense.”128 In games, players must base their calculations on what is real, not on what they imag-ine or hope for. Games thus rewire the remarkably plastic human brain in the direction of the classical rationality of “economic man” like no other social context. People come to belie Franklin’s belief that men only use reason to justify everything they have a mind to do. Through the behavior of playing, people reconfigure their brains to be more conventionally ra-tional. In play people create the sense that Faulkner thought they lacked.129 Curiosity necessarily humanizes opponents instead of “despeciating” them, as so often happens in the brutality cycle.130 Kahneman observes that each opponent in a conventional conflict believes that the other side acts out of malice and hostile motives,131 but just the opposite happens in games. Competitors merge identities. Each knows that the other experi-ences the same world, “thinks the way I think,” “wants what I want,” and “needs to know me as much as I need to know her.” Opponents do not “take it personally.”132 Competitive games, without any help from post-modern philosophers, convert believers into pragmatists. In games people delight in the particulars of concrete situations. Good play helps realize Whitman’s wise urging to turn from curiosity about God to curiosity about each other.133 The curiosity that players must develop to play well dis-places ethnocentrism, xenophobia, moral superiority, and the other brutaliz-ing tendencies of the human mind described by Hood, Milgram, Zimbardo, Pinker, Damasio, and Frith, and noted in Part I. Curiosity overcomes, or very much reduces, the impulse to hate.134 Good play has the same effect on players as does the naming of a doll or an animal. It creates a kind of love.

### A2: Other Ground Exists

#### No ground

#### A. Unpredictable – affs can do anything that is statutory under their interpretation – creates a host of process advantages we can’t predict

#### B. Mechanism – core neg ground like congressional deference disads, politics, and the executive counterplan all rely on the plan increasing a congressional restriction

#### On this topic neg ground outweigh aff flex – there’s a ton of affs within each category and few disads – topic explosion causes over-reliance on hyper-generics that consistently lose to aff-specific process advantages, signal advantages and answers. Plus, they get the first and last speech, persuasive value of the 2AR compensates for the neg block, and most of lit advocates decreasing war powers

#### 1. This is irrelevant – ground only matters if it's predictable – regurgitating back-files is less valuable than topic-specific research.

#### 2. Debate is a domain-specific game space with pre-designed scenarios that are the source of enhanced decision-making and critical thinking – they exclude the most important forms of learning – that’s Haghoj.

### A2: No ! to Education

1. **Debate education strengthens decision-making and allows for achievement, both of which are intrinsic goods – that’s above.**

#### The state can still be redeemed through political engagement

Brubaker 4

Rogers Brubaker, Department of Sociology, UCLA, 2004, In the Name of the Nation: Reflectionson Nationalism and Patriotism, Citizenship Studies, Vol. 8, No. 2, [www.sailorstraining.eu/admin/download/b28.pdf](http://www.sailorstraining.eu/admin/download/b28.pdf)

This, then, is the basic work done by the category ‘nation’ in the context of nationalist movements—movements to create a polity for a putative nation. In other contexts, the category ‘nation’ is used in a very different way. It is used not to challenge the existing territorial and political order, but to create a sense of national unity for a given polity. This is the sort of work that is often called nation-building, of which we have heard much of late. It is this sort of work that was evoked by the Italian statesman Massimo D’Azeglio, when he famously said, ‘we have made Italy, now we have to make Italians’. It is this sort of work that was (and still is) undertaken—with varying but on the whole not particularly impressive degrees of success—by leaders of post-colonial states, who had won independence, but whose populations were and remain deeply divided along regional, ethnic, linguistic, and religious lines. It is this sort of work that the category ‘nation’ could, in principle, be mobilized to do in contemporary Iraq—to cultivate solidarity and appeal to loyalty in a way that cuts across divisions between Shi’ites and Sunnis, Kurds and Arabs, North and South.2 In contexts like this, the category ‘nation’ can also be used in another way, not to appeal to a ‘national’ identity transcending ethnolinguistic, ethnoreligious, or ethnoregional distinctions, but rather to assert ‘ownership’ of the polity on behalf of a ‘core’ ethnocultural ‘nation’ distinct from the citizenry of the state as a whole, and thereby to define or redefine the state as the state of and for that core ‘nation’ (Brubaker, 1996, p. 83ff). This is the way ‘nation’ is used, for example, by Hindu nationalists in India, who seek to redefine India as a state founded on Hindutva or Hinduness, a state of and for the Hindu ethnoreligious ‘nation’ (Van der Veer, 1994). Needless to say, this use of ‘nation’ excludes Muslims from membership of the nation, just as similar claims to ‘ownership’ of the state in the name of an ethnocultural core nation exclude other ethnoreligious, ethnolinguistic, or ethnoracial groups in other settings. In the United States and other relatively settled, longstanding nation-states, ‘nation’ can work in this exclusionary way, as in nativist movements in America or in the rhetoric of the contemporary European far right (‘la France oux Franc¸ais’, ‘Deutschland den Deutshchen’). Yet it can also work in a very different and fundamentally inclusive way.3 It can work to mobilize mutual solidarity among members of ‘the nation’, inclusively defined to include all citizens—and perhaps all long-term residents—of the state. To invoke nationhood, in this sense, is to attempt to transcend or at least relativize internal differences and distinctions. It is an attempt to get people to think of themselves— to formulate their identities and their interests—as members of that nation, rather than as members of some other collectivity. To appeal to the nation can be a powerful rhetorical resource, though it is not automatically so. Academics in the social sciences and humanities in the United States are generally skeptical of or even hostile to such invocations of nationhood. They are often seen as de´passe´, parochial, naive, regressive, or even dangerous. For many scholars in the social sciences and humanities, ‘nation’ is a suspect category. Few American scholars wave flags, and many of us are suspicious of those who do. And often with good reason, since flag-waving has been associated with intolerance, xenophobia, and militarism, with exaggerated national pride and aggressive foreign policy. Unspeakable horrors—and a wide range of lesser evils—have been perpetrated in the name of the nation, and not just in the name of ‘ethnic’ nations, but in the name of putatively ‘civic’ nations as well (Mann, 2004). But this is not sufficient to account for the prevailingly negative stance towards the nation. Unspeakable horrors, and an equally wide range of lesser evils, have been committed in the name of many other sorts of imagined communities as well—in the name of the state, the race, the ethnic group, the class, the party, the faith. In addition to the sense that nationalism is dangerous, and closely connected to some of the great evils of our time—the sense that, as John Dunn (1979, p. 55) put it, nationalism is ‘the starkest political shame of the 20th-century’— there is a much broader suspicion of invocations of nationhood. This derives from the widespread diagnosis that we live in a post-national age. It comes from the sense that, however well fitted the category ‘nation’ was to economic, political, and cultural realities in the nineteenth century, it is increasingly ill-fitted to those realities today. On this account, nation is fundamentally an anachronistic category, and invocations of nationhood, even if not dangerous, are out of sync with the basic principles that structure social life today.4 The post-nationalist stance combines an empirical claim, a methodological critique, and a normative argument. I will say a few words about each in turn. The empirical claim asserts the declining capacity and diminishing relevance of the nation-state. Buffeted by the unprecedented circulation of people, goods, messages, images, ideas, and cultural products, the nation-state is said to have progressively lost its ability to ‘cage’ (Mann, 1993, p. 61), frame, and govern social, economic, cultural, and political life. It is said to have lost its ability to control its borders, regulate its economy, shape its culture, address a variety of border-spanning problems, and engage the hearts and minds of its citizens. I believe this thesis is greatly overstated, and not just because the September 11 attacks have prompted an aggressively resurgent statism.5 Even the European Union, central to a good deal of writing on post-nationalism, does not represent a linear or unambiguous move ‘beyond the nation-state’. As Milward (1992) has argued, the initially limited moves toward supranational authority in Europe worked—and were intended—to restore and strengthen the authority of the nation-state. And the massive reconfiguration of political space along national lines in Central and Eastern Europe at the end of the Cold War suggests that far from moving beyond the nation-state, large parts of Europe were moving back to the nation-state.6 The ‘short twentieth century’ concluded much as it had begun, with Central and Eastern Europe entering not a post-national but a post-multinational era through the large-scale nationalization of previously multinational political space. Certainly nationhood remains the universal formula for legitimating statehood. Can one speak of an ‘unprecedented porosity’ of borders, as one recent book has put it (Sheffer, 2003, p. 22)? In some respects, perhaps; but in other respects—especially with regard to the movement of people—social technologies of border control have continued to develop. One cannot speak of a generalized loss of control by states over their borders; in fact, during the last century, the opposite trend has prevailed, as states have deployed increasingly sophisticated technologies of identification, surveillance, and control, from passports and visas through integrated databases and biometric devices. The world’s poor who seek to better their estate through international migration face a tighter mesh of state regulation than they did a century ago (Hirst and Thompson, 1999, pp. 30–1, 267). Is migration today unprecedented in volume and velocity, as is often asserted? Actually, it is not: on a per capita basis, the overseas flows of a century ago to the United States were considerably larger than those of recent decades, while global migration flows are today ‘on balance slightly less intensive’ than those of the later nineteenth and early twentieth century (Held et al., 1999, p. 326). Do migrants today sustain ties with their countries of origin? Of course they do; but they managed to do so without e-mail and inexpensive telephone connections a century ago, and it is not clear—contrary to what theorists of post-nationalism suggest—that the manner in which they do so today represents a basic transcendence of the nation-state.7 Has a globalizing capitalism reduced the capacity of the state to regulate the economy? Undoubtedly. Yet in other domains—such as the regulation of what had previously been considered private behavior—the regulatory grip of the state has become tighter rather than looser (Mann, 1997, pp. 491–2). The methodological critique is that the social sciences have long suffered from ‘methodological nationalism’ (Centre for the Study of Global Governance, 2002; Wimmer and Glick-Schiller, 2002)—the tendency to take the ‘nation-state’ as equivalent to ‘society’, and to focus on internal structures and processes at the expense of global or otherwise border-transcending processes and structures. There is obviously a good deal of truth in this critique, even if it tends to be overstated, and neglects the work that some historians and social scientists have long been doing on border-spanning flows and networks. But what follows from this critique? If it serves to encourage the study of social processes organized on multiple levels in addition to the level of the nation-state, so much the better. But if the methodological critique is coupled— as it often is—with the empirical claim about the diminishing relevance of the nation-state, and if it serves therefore to channel attention away from state-level processes and structures, there is a risk that academic fashion will lead us to neglect what remains, for better or worse, a fundamental level of organization and fundamental locus of power. The normative critique of the nation-state comes from two directions. From above, the cosmopolitan argument is that humanity as a whole, not the nation- state, should define the primary horizon of our moral imagination and political engagement (Nussbaum, 1996). From below, muticulturalism and identity politics celebrate group identities and privilege them over wider, more encompassing affiliations. One can distinguish stronger and weaker versions of the cosmopolitan argument. The strong cosmopolitan argument is that there is no good reason to privilege the nation-state as a focus of solidarity, a domain of mutual responsibility, and a locus of citizenship.8 The nation-state is a morally arbitrary community, since membership in it is determined, for the most part, by the lottery of birth, by morally arbitrary facts of birthplace or parentage. The weaker version of the cosmopolitan argument is that the boundaries of the nation-state should not set limits to our moral responsibility and political commitments. It is hard to disagree with this point. No matter how open and ‘joinable’ a nation is—a point to which I will return below—it is always imagined, as Benedict Anderson (1991) observed, as a limited community. It is intrinsically parochial and irredeemably particular. Even the most adamant critics of universalism will surely agree that those beyond the boundaries of the nation-state have some claim, as fellow human beings, on our moral imagination, our political energy, even perhaps our economic resources.9 The second strand of the normative critique of the nation-state—the multiculturalist critique—itself takes various forms. Some criticize the nation-state for a homogenizing logic that inexorably suppresses cultural differences. Others claim that most putative nation-states (including the United States) are not in fact nation-states at all, but multinational states whose citizens may share a common loyalty to the state, but not a common national identity (Kymlicka, 1995, p. 11). But the main challenge to the nation-state from multiculturalism and identity politics comes less from specific arguments than from a general disposition to cultivate and celebrate group identities and loyalties at the expense of state-wide identities and loyalties. In the face of this twofold cosmopolitan and multiculturalist critique, I would like to sketch a qualified defense of nationalism and patriotism in the contemporary American context.10 Observers have long noted the Janus-faced character of nationalism and patriotism, and I am well aware of their dark side. As someone who has studied nationalism in Eastern Europe, I am perhaps especially aware of that dark side, and I am aware that nationalism and patriotism have a dark side not only there but here. Yet the prevailing anti-national, post-national, and trans-national stances in the social sciences and humanities risk obscuring the good reasons—at least in the American context—for cultivating solidarity, mutual responsibility, and citizenship at the level of the nation-state. Some of those who defend patriotism do so by distinguishing it from nationalism.11 I do not want to take this tack, for I think that attempts to distinguish good patriotism from bad nationalism neglect the intrinsic ambivalence and polymorphism of both. Patriotism and nationalism are not things with fixed natures; they are highly flexible political languages, ways of framing political arguments by appealing to the patria, the fatherland, the country, the nation. These terms have somewhat different connotations and resonances, and the political languages of patriotism and nationalism are therefore not fully overlapping. But they do overlap a great deal, and an enormous variety of work can be done with both languages. I therefore want to consider them together here. I want to suggest that patriotism and nationalism can be valuable in four respects. They can help develop more robust forms of citizenship, provide support for redistributive social policies, foster the integration of immigrants, and even serve as a check on the development of an aggressively unilateralist foreign policy. First, nationalism and patriotism can motivate and sustain civic engagement. It is sometimes argued that liberal democratic states need committed and active citizens, and therefore need patriotism to generate and motivate such citizens. This argument shares the general weakness of functionalist arguments about what states or societies allegedly ‘need’; in fact, liberal democratic states seem to be able to muddle through with largely passive and uncommitted citizenries. But the argument need not be cast in functionalist form. A committed and engaged citizenry may not be necessary, but that does not make it any less desirable. And patriotism can help nourish civic engagement. It can help generate feelings of solidarity and mutual responsibility across the boundaries of identity groups. As Benedict Anderson (1991, p. 7) put it, the nation is conceived as a ‘deep horizontal comradeship’. Identification with fellow members of this imagined community can nourish the sense that their problems are on some level my problems, for which I have a special responsibility.12 Patriotic identification with one’s country—the feeling that this is my country, and my government—can help ground a sense of responsibility for, rather than disengagement from, actions taken by the national government. A feeling of responsibility for such actions does not, of course, imply agreement with them; it may even generate powerful emotions such as shame, outrage, and anger that underlie and motivate opposition to government policies. Patriotic commitments are likely to intensify rather than attenuate such emotions. As Richard Rorty (1994) observed, ‘you can feel shame over your country’s behavior only to the extent to which you feel it is your country’.13 Patriotic commitments can furnish the energies and passions that motivate and sustain civic engagement.

#### Role-playing as the government does not necessitate acceptance of that role but rather provides an epistemic frame for knowledge gained

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For Shaffer, it is not only professionals who benefit from participating in a practicum; students can also benefit from learning through the distinctive epistemologies of professional practices, which represent “ways of knowing and ways of deciding what is worth knowing” (Shaffer, 2004: 1403). In this way, Shaffer assumes that Schön’s theory is “essential to all complex learning: cognitive, practical, and civic” (Shaffer, 2004: 1403). Here, Shaffer is not only referring to Schön but also to Dewey, who believed that the traditional organisation of knowledge was misaligned with the social and cultural realities of the industrial era (Dewey, 1916). Thus, Shaffer views the epistemologies of professional practitioners as a “powerful model” for changing education in the post-industrial era by developing technology-based learning environments for middle and high school students (Shaffer, 2004: 1403). Shaffer exemplifies this claim by referring to his own on-going design and research projects: Escher’s World, The Pandora Project, and Science.net. In all these projects, students are supposedly able to learn by participating in learning environments modelled on the practices and epistemologies of professional practitioners. Thus, students are able to learn about basic concepts in transformational geometry through graphic design activities in a computer-aided design studio (Escher’s World), human immunobiology and biomedical ethics through computer-supported negotiation modelled on exercises similar to the training professional mediators receive (The Pandora Project), and emerging technologies such as the Internet, wireless communications, and weapons of mass destruction by writing online stories about the impact of such technologies on the community (Science.net). According to Shaffer, all these projects “illustrate the effectiveness of pedagogical praxis as a method for developing compelling learning environments” (Shaffer, 2004: 1403).15 Shaffer further develops the role of epistemologies in profession-based learning environments by introducing the term epistemic frame, which he defines as an “organising principle” that “orchestrates (and is orchestrated by) participation in a community of practice by linking practice, identity, values, and knowledge within a particular way of thinking – within the epistemology of a practice” (Shaffer, 2005: 3). Based upon this definition, Shaffer describes each of the profession-based learning environments mentioned above as an epistemic game. Thus, an epistemic game “deliberately creates the epistemic frame of a socially valued community by recreating the process by which the individuals develop the skills, knowledge, identities, values, and epistemology of that community” (Shaffer, 2006: 164). Even though The Power Game is not based on a professional practice model of learning, the election scenario shares important similarities with Shaffer’s epistemic games. Thus, the participating students are expected to adopt important aspects of the epistemological models of professional journalists, politicians and spin doctors in a parliamentary election scenario. This means that in order to play a politician in The Power Game, the students must be able to identify with the knowledge forms and practices of real-life politicians which involves finding and analysing information in relation to different ideological positions, preparing ideologically key issues, and giving “performances” in front of a public audience, which in this case is made up of their classmates (cf chapters 6 and 8). Both Gee and Shaffer’s theoretical frameworks are valuable when trying to understand how students make meaning through particular game environments. Gee’s notion of semiotic domains is particularly useful for analysing the discursive interplay between game practices and educational practices. Similarly, Shaffer convincingly argues how students may learn through game environments that attempt to re-create the practices of real-life professionals. However, Gee and Shaffer’s approaches also differ from the aim of this study as they do not provide detailed empirical descriptions of how educational games are enacted and validated within particular educational contexts. Gee makes several bold claims about how the “bad” learning that takes place in schools could be replaced with the learning principles of “good” games (Gee, 2003). As Julian SeftonGreen argues, this black and white dichotomy is somewhat speculative, since Gee provides no empirical examples of how the literacy of games can do “anything other than support the playing of more games” (Sefton-Green, 2006: 291). It is also questionable whether Gee’s attempt to identify the learning principles of video games is able to affect the changes at the policy-level his critique aims to achieve. Hence, Gee mostly presents video games as an idealised symbol of how educational systems could and should be designed differently. In comparison to Gee, Shaffer’s work is clearly more focused on the actual practices of designing and enacting game environments, i.e. his example with middle school students that play a debate game in a history class clearly shares some similarities with my analysis of how students enact the election scenario of The Power Game (Shaffer, 2006: 17-40; cf. chapter 8). Still, Shaffer only offer limited descriptions of how this debate game and a number of other game examples are actually enacted within particular educational contexts such as classroom settings or after-school programs. Consequently, it is difficult to determine to what extent Shaffer’s examples of particular games are able to “fit in” with everyday school practices, and how the generated knowledge is or can be validated by participating teachers and students in relation to their existing knowledge traditions (Barth, 2002). My second objection to Shaffer’s otherwise inspiring work regards his theory of epistemic frames (Shaffer, 2005, 2006). Shaffer defines the term by drawing on a wide range of different theoretical sources, especially Goffman’s frame analysis and Schön’s notion of epistemologies (Goffman, 1974; Schön, 1983, 1987). In doing so, Shaffer creates a theoretical framework, which may explain how games can be used to organise particular forms of knowledge, skills, values and identities. However, when combining the work of Goffman and Schön, Shaffer is clearly closer to the aims of Schön than Goffman. For Goffman, a frame is defined as an “organising principle” that govern everyday, face-to-face interaction through social actors’ mutual interplay of meaning (Goffman, 1974: 10). Schön, on the other hand, explores how professionals learn to act and reflect in relation to the particular epistemologies of their professions, i.e. design, architecture, engineering, medicine etc. (Schön, 1983, 1987). According to Shaffer, these two analytical perspectives are congruent since “learning happens along a continuum of time scales” (Shaffer, 2005: 3). However, these theories are based on quite different ontological assumptions of social agency and meaning-making, which cannot be reduced only to a matter of time scales. Unlike Schön, Goffman’s frame analysis does not describe how learning and reflection are related to particular professions. Instead, Goffman’s theory address the minutiae communicative processes of establishing and negotiating “the interaction order” of social encounters – including gaming encounters (Goffman, 1961a, 1983; cf. chapter 4). By evening out these theoretical and analytical differences, Shaffer’s conception of epistemic frames limits the context of interpretive framing to the epistemologies of the professional practices that his epistemic games are trying to re-create. Put differently, Shaffer’s notion of epistemic frames implicitly assumes that social actors more or less accept their assigned roles as professional practitioners by taking on a particular “pair of glasses” (Shaffer, 2006: 160). However, from a Goffmanian perspective it is questionable whether students playing an educational game readily “embrace” their assigned roles as if they were merely taking on a pair of glasses. Individuals often disassociate themselves from particular roles for various reasons through different forms of “role distance” (Goffman, 1961b). Furthermore, as Gary Alan Fine argues, Goffman’s frame analysis implies a dynamic “oscillation” between different interpretive frames within particular social contexts, i.e. by continually stepping in and out of character in a role-playing game (Fine, 1983: 182-3; cf. chapter 4). Taken at a glance, the students that performed as politicians in The Power Game generally accepted and adopted the norms and expectations of their assigned roles as professional politicians. However, as my analysis indicates, they clearly also distanced themselves from various ideological and performative aspects of their roles, which elicited different responses from their teachers and classmates (cf. chapter 8). Moreover, the game participants also interpreted their assigned roles in relation to their everyday roles as “social studies students”, and the educational goals set by the teachers and the social studies curriculum. In this way, the students explored a wide range of different knowledge aspects that were not necessarily related to the epistemologies of real-life politicians (Barth, 2002). The point here is that even though the upper secondary students were assigned roles as professional politicians, the game participants still defined themselves as students in a school setting. Thus, when discussing and reflecting upon their game experiences, the students primarily validated their game knowledge and performance in relation to the existing knowledge criteria of the everyday context of upper secondary education.

#### 2. Game education has no aims but provides an end in itself

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One of Gee and Shaffer’s main arguments for teaching with games is that this form of education represents a valuable alternative to the political and empirical reality of an American educational context. Thus, Gee and Shaffer’s work is strongly driven by a critique of educational policies that demand that the organisation and assessment of student learning rely on standardised testing. In a joint article, Gee and Shaffer argue that political discussions on educational goals suffer from a dichotomy between the discourse of “liberals” and “conservatives” (Gee & Shaffer, 2005). Thus, liberals advocate “pedagogies that immerse children in rich activities and focus on the learners’ own goals and backgrounds” (Gee & Shaffer, 2005: 11). Even though these pedagogies are “empowering”, they are also difficult to master for children who lack resources and are unable to “pick up the rules of the game at home and use liberal schooling as fruitful and empowering practice ground”. In contrast to the liberals, conservatives tend to advocate “back to the basics” and “standardized testing”, which fails to build “expertise and innovation” (Gee & Shaffer, 2005: 11). Gee and Shaffer then argue that educational games can be used to overcome both the liberalists’ “progressive reform” and the conservatives’ “back to the basics”. Epistemic frameworks provide meaningful goals and structures that can be used to develop “post-progressive pedagogies of practice”. In this way, they assume that students are able to become “innovators” and meet the demands of the post-industrial knowledge society: Epistemic games of all kinds make it possible for students of all ages to learn by working as innovators. In playing epistemic games, students learn basic skills, to be sure. They learn the “facts” and “content” that we currently reward. But in epistemic games students learn facts and content in the context of innovative ways of thinking and working. They learn in a way that sticks, because they learn in the process of doing things that matter (Gee & Shaffer, 2005: 24). As this quote shows, Gee and Shaffer’s view of educational games is remarkably close to Dewey’s assumption that play and games can be used to create meaningful and valuable learning 39 environments. Furthermore, their attempt to overcome the dichotomy between “liberalists” and ”conservatives” echoes Dewey’s attempts to reconcile the debate between progressive education, which is focused on “development from within”, and traditional forms of education, which is guided by “formation from without” (Dewey, 1938b: 5). However, Dewey’s pragmatism differs markedly from Gee and Shaffer in relation to the aims of education. For Gee and Shaffer, teaching with games enables students to become “innovators”, which may help solve the American economic crisis (Gee & Shaffer, 2005). But for Dewey, the aims of education cannot be narrowed down to solving a specific political problem: “education as such has no aims. Only persons, parents, and teachers, etc. have aims, not an abstract idea like education” (Dewey, 1916: 114). Instead, the overall aim of education is defined as “growth”: Since growth is the characteristic of life, education is all one with growing; it has no end beyond itself. The criterion of the value of school education is the extent in which it creates a desire for continued growth and supplies means for making the desire effective in fact (Dewey, 1916: 58). Following Dewey’s pragmatist philosophy, it is meaningless to stake out universal political goals for education and educational gaming as these phenomena are highly variable in relation to particular teachers, games, students and educational contexts. Similarly, this study does not attempt to answer the overall question of why we should teach with games as it requires not one but a multitude of different answers. Instead, the aim is a critical investigation of the mutual relationship between the “ends” and “means” of educational gaming; between what is desirable and what is achievable by focusing empirically on a particular game in a particular school context (Biesta & Burbules, 2003: 76-81).

## Rd 7 vs. Binghamton

## 1NC

### 1

#### A. Interpretation – debate is a game that requires the aff to have a defense of the USFG increasing statutory and/or judicial restrictions on the war powers authority of the President in one of the topic areas

#### --‘resolved’ means to enact a policy by law.

Words and Phrases 64 (Permanent Edition)

Definition of the word “resolve,” given by Webster is “to express an opinion or determination by resolution or vote; as ‘it was resolved by the legislature;” It is of similar force to the word “enact,” which is defined by Bouvier as meaning “to establish by law”.

#### ‘Indefinite detention’ is detainment without a trial where the individual doesn’t know when or whether they will be released

Robideau 13 -- Center for Victims of Torture, Media Relations Manager (Brad, 7/24/2013, "CVT Submits Testimony to Senate Judiciary Committee on Indefinite Detention at Guantanamo," http://www.cvt.org/news-events/press-releases/cvt-submits-testimony-senate-judiciary-committee-indefinite-detention)

“CVT opposes indefinite detention, which we define as detention without trial for an undefined duration over which the individual has no knowledge of when or whether he will be released. From our 27 years of experience healing torture survivors, we know indefinite detention causes such severe, prolonged and harmful health and mental health problems for those detained that it can constitute cruel, inhuman, and degrading treatment. Among the thousands of survivors CVT cares for are many who have suffered while being imprisoned without charge or trial and without being told when, if ever, they might be released.”

#### Statutory restrictions require congressional action

Barron and Lederman 8 (David J. – Professor of Law, Harvard Law School, and Martin S. – Visiting Professor of Law, Georgetown University Law Center, “THE COMMANDER IN CHIEF AT THE LOWEST EBB - FRAMING THE PROBLEM, DOCTRINE, AND ORIGINAL UNDERSTANDING”, January, 121 Harv. L. Rev. 689, lexis)

2. Congress (Almost) Always Wins Under the Separation of Powers Principle. - We must also consider a related argument for congressional supremacy. This claim is based on the doctrinal test that generally governs separation of powers issues arising from clashes between the President and the Congress in the domestic setting. n149 Under this test, the "real question" the Court asks is whether the statute "impedes the President's ability to perform" his constitutionally assigned functions. n150 And even if such a potential for disruption of executive authority is present, the Court employs a balancing test to "determine whether that impact is justified by an overriding need to promote objectives within the constitutional authority of Congress." n151 Thus, under the general separation of powers principle, even a "serious impact ... on the ability of the Executive Branch to accomplish its assigned mission" might not be enough to render a statute invalid. n152 This approach appears to have a pro-congressional tilt; yet it actually does little more than relocate the dilemma it is impressed to avoid. Even under this deferential test, it is well understood that certain statutes can infringe the President's constitutionally assigned authority to exercise discretion; a statutory restriction on the pardoning of a given category of persons is an obvious example. Nothing in the application of the separation of powers test, then, explains why certain core executive powers (including merely discretionary authorities, rather than obligatory duties) cannot be infringed, even though it is generally understood that such inviolable cores might exist. For this reason, the general separation of powers principle does not actually resolve the question that arises in a Youngstown Category Three case. In all [\*739] events, the question remains whether the President possesses an illimitable reserve of wartime authority. Insofar as the separation of powers principle is thought to provide affirmative support for congressional control, it seems objectionable because it, too, fails to require the analyst to explain why the particular wartime power the President is asserting is not one that Congress can countermand. It simply asserts that it is not.

#### judicial restrictions are imposed by courts

Kang 6 (Michael – Assistant Professor, Emory University School of Law, “De-Rigging Elections: Direct Democracy and the Future of Redistricting Reform”, 2006, 84 Wash. U. L. Rev. 667, lexis)

The Court's general reluctance to restrict partisan gerrymandering appeared motivated by a lack of judicial confidence. Judicial restriction of gerrymandering would draw courts, which are putatively nonpartisan and apolitical institutions, n39 into the untenable position of managing what is fundamentally a political exercise. Justice Kennedy emphasized the difficulty for courts of "acting without a legislature's expertise" and the unwelcome task of removing from the democratic process "one of the most significant acts a State can perform to ensure citizen participation in republican self-governance." n40 Indeed, challenges to gerrymanders demand more of courts than simply striking down excessively partisan plans. Today, judicial intervention against gerrymandering almost necessarily brings with it active judicial management of the redistricting process. A court that strikes down a redistricting plan, for whatever reason, n41 invariably is drawn into authorship of a new redistricting plan to replace it, or a close interaction with legislators working to formulate a new plan (or both). n42 Courts "become active players often placed in the uncomfortable role of determining winners and losers in redistricting, and, therefore, elections." n43 When courts have involved themselves in redistricting matters, namely in racial gerrymandering and one person, one vote cases, [\*675] the courts have drawn heavy criticism. n44 Even so, Justice Stevens predicted that "the present "failure of judicial will' will be replaced by stern condemnation of partisan gerrymandering." n45 Greater judicial direction of the redistricting process is a price that Justice Stevens and reformers seem happy to pay. They are more than willing to trade the costs of judicial entanglement for the perceived benefits of judicial oversight in redistricting. I further discuss the costs of this approach in Part III.

#### Restrictions on authority must prohibit actions

William Conner 78, former federal judge for the United States District Court for the Southern District of New York United States District Court, S. D. New York, CORPORACION VENEZOLANA de FOMENTO v. VINTERO SALES, http://www.leagle.com/decision/19781560452FSupp1108\_11379

Plaintiff next contends that Merban was charged with notice of the restrictions on the authority of plaintiff's officers to execute the guarantees. Properly interpreted, the "conditions" that had been imposed by plaintiff's Board of Directors and by the Venezuelan Cabinet were not "restrictions" or "limitations" upon the authority of plaintiff's agents but rather conditions precedent to the granting of authority. Essentially, then, plaintiff's argument is that Merban should have known that plaintiff's officers were not authorized to act except upon the fulfillment of the specified conditions.

#### B. They don’t meet – don’t defend a statutory or judicial restriction and claim advantages based on the domestic prison system

#### C. Reasons to prefer:

#### 1. Predictability – debate games open up dialogue which fosters information processing – they open up infinite frameworks making the game impossible

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Debate games are often based on pre-designed scenarios that include descriptions of issues to be debated, educational goals, game goals, roles, rules, time frames etc. In this way, debate games differ from textbooks and everyday classroom instruction as debate scenarios allow teachers and students to actively imagine, interact and communicate within a domain-specific game space. However, instead of mystifying debate games as a “magic circle” (Huizinga, 1950), I will try to overcome the epistemological dichotomy between “gaming” and “teaching” that tends to dominate discussions of educational games. In short, educational gaming is a form of teaching. As mentioned, education and games represent two different semiotic domains that both embody the three faces of knowledge: assertions, modes of representation and social forms of organisation (Gee, 2003; Barth, 2002; cf. chapter 2). In order to understand the interplay between these different domains and their interrelated knowledge forms, I will draw attention to a central assumption in Bakhtin’s dialogical philosophy. According to Bakhtin, all forms of communication and culture are subject to centripetal and centrifugal forces (Bakhtin, 1981). A centripetal force is the drive to impose one version of the truth, while a centrifugal force involves a range of possible truths and interpretations. This means that any form of expression involves a duality of centripetal and centrifugal forces: “Every concrete utterance of a speaking subject serves as a point where centrifugal as well as centripetal forces are brought to bear” (Bakhtin, 1981: 272). If we take teaching as an example, it is always affected by centripetal and centrifugal forces in the on-going negotiation of “truths” between teachers and students. In the words of Bakhtin: “Truth is not born nor is it to be found inside the head of an individual person, it is born between people collectively searching for truth, in the process of their dialogic interaction” (Bakhtin, 1984a: 110). Similarly, the dialogical space of debate games also embodies centrifugal and centripetal forces. Thus, the election scenario of The Power Game involves centripetal elements that are mainly determined by the rules and outcomes of the game, i.e. the election is based on a limited time frame and a fixed voting procedure. Similarly, the open-ended goals, roles and resources represent centrifugal elements and create virtually endless possibilities for researching, preparing, 51 presenting, debating and evaluating a variety of key political issues. Consequently, the actual process of enacting a game scenario involves a complex negotiation between these centrifugal/centripetal forces that are inextricably linked with the teachers and students’ game activities. In this way, the enactment of The Power Game is a form of teaching that combines different pedagogical practices (i.e. group work, web quests, student presentations) and learning resources (i.e. websites, handouts, spoken language) within the interpretive frame of the election scenario. Obviously, tensions may arise if there is too much divergence between educational goals and game goals. This means that game facilitation requires a balance between focusing too narrowly on the rules or “facts” of a game (centripetal orientation) and a focusing too broadly on the contingent possibilities and interpretations of the game scenario (centrifugal orientation). For Bakhtin, the duality of centripetal/centrifugal forces often manifests itself as a dynamic between “monological” and “dialogical” forms of discourse. Bakhtin illustrates this point with the monological discourse of the Socrates/Plato dialogues in which the teacher never learns anything new from the students, despite Socrates’ ideological claims to the contrary (Bakhtin, 1984a). Thus, discourse becomes monologised when “someone who knows and possesses the truth instructs someone who is ignorant of it and in error”, where “a thought is either affirmed or repudiated” by the authority of the teacher (Bakhtin, 1984a: 81). In contrast to this, dialogical pedagogy fosters inclusive learning environments that are able to expand upon students’ existing knowledge and collaborative construction of “truths” (Dysthe, 1996). At this point, I should clarify that Bakhtin’s term “dialogic” is both a descriptive term (all utterances are per definition dialogic as they address other utterances as parts of a chain of communication) and a normative term as dialogue is an ideal to be worked for against the forces of “monologism” (Lillis, 2003: 197-8). In this project, I am mainly interested in describing the dialogical space of debate games. At the same time, I agree with Wegerif that “one of the goals of education, perhaps the most important goal, should be dialogue as an end in itself” (Wegerif, 2006: 61).

#### 2. Ground – the resolution exists to create balanced difficulty, creating a topic that is supposed to be moral and controversial – games requires acceptance of rules whose purpose is to forbid the easiest means to a goal – this makes the game meaningful

Hurka 6 – philosopher who serves as the Jackman Distinguished Chair in Philosophical Studies at the University of Toronto (Thomas, 2006, "Games and the Good," Proceedings of the Aristotelian Society, Supplementary Volume 80, http://homes.chass.utoronto.ca/~thurka/docs/pass\_games.pdf)

I take this admiration to rest on the judgement that excellence in games is good in itself, apart from any pleasure it may give the player or other people but just for the properties that make it excellent. The admiration, in other words, rests on the perfectionist judgement that skill in games is worth pursuing for its own sake and can add value to one’s life. This skill is not the only thing we value in this way; we give similar honours to achievements in the arts, science, and business. But one thing we admire, and to a significant degree, is excellence in athletic and nonathletic games. Unless we dismiss this view, one task for philosophy is to explain why such excellence is good. But few philosophers have attempted this, for a well-known reason. A unified explanation of why excellence in games is good requires a unified account of what games are, and many doubt that this is possible. After all, Wittgenstein famously gave the concept of a game as his primary example of one for which necessary and sufficient conditions cannot be given but whose instances are linked only by looser “family resemblances.”2 If Wittgenstein was right about this, 2 there can be no single explanation of why skill in games is good, just a series of distinct explanations of the value of skill in hockey, skill in chess, and so on. But Wittgenstein was not right, as is shown in a little-known book that is nonetheless a classic of twentieth-century philosophy, Bernard Suits’s The Grasshopper: Games, Life and Utopia. Suits gives a perfectly persuasive analysis of playing a game as, to quote his summary statement, “the voluntary attempt to overcome unnecessary obstacles.”3 And in this paper I will use his analysis to explain the value of playing games. More specifically, I will argue that the different elements of Suits’s analysis give game-playing two distinct but related grounds of value, so it instantiates two related intrinsic goods. I will also argue that game-playing is an important intrinsic good, which gives the clearest possible expression of what can be called a modern as against a classical, or more specifically Aristotelian, view of value. But first Suits’s analysis. It says that a game has three main elements, which he calls the prelusory goal, the constitutive rules, and the lusory attitude. To begin with the first, in playing a game one always aims at a goal that can be described independently of the game. In golf, this is that a ball enter a hole in the ground; in mountain-climbing, that one stand on top of a mountain; in Olympic sprinting, that one cross a line on the track before one’s competitors. Suits calls this goal “prelusory” because it can be understood and achieved apart from the game, and he argues that every game has such a goal. Of course, in playing a game one also aims at a goal internal to it, such as winning the race, climbing the mountain, or breaking par on the golf course. But on Suits’s view this “lusory” goal is derivative, since achieving it involves achieving the prior prelusory goal in a specified way. This way is identified by the second element, the game’s constitutive rules. According to 3 Suits, the function of these rules is to forbid the most efficient means to the prelusory goal. Thus, in golf one may not carry the ball down the fairway and drop it in the hole by hand; one must advance it using clubs, play it where it lies, and so on. In mountain-climbing one may not ride a gondola to the top of the mountain or charter a helicopter; in 200-metre sprinting, one may not cut across the infield. Once these rules are in place, success in the game typically requires achieving the prelusory goal as efficiently as they allow, such as getting the ball into the hole in the fewest possible strokes or choosing the best way up the mountain. But this is efficiency within the rules, whose larger function is to forbid the easiest means to the game’s initial goal. These first two elements involve pursuing a goal by less than the most efficient means, but they are not sufficient for playing a game. This is because someone can be forced to use these means by circumstances he regrets and wishes were different. If this is the case – if, for example, a farmer harvests his field by hand because he cannot afford the mechanical harvester he would much rather use – he is not playing a game. Hence the need for the third element in Suits’s analysis, the lusory attitude, which involves a person’s willingly accepting the constitutive rules, or accepting them because they make the game possible. Thus, a golfer accepts that he may not carry the ball by hand or improve his lie because he wants to play golf, and obeying those rules is necessary for him to do so; the mountaineer accepts that he may not take a helicopter to the summit because he wants to climb. The restrictions the rules impose are adhered to not reluctantly but willingly, because they are essential to the game. Adding this third element gives Suits’s full definition: “To play a game is to attempt to achieve a specific state of affairs [prelusory goal], using only means permitted by the rules ..., where the rules prohibit the use of more efficient in favour of less efficient means [constitutive rules], and where the rules are 4 accepted just because they make possible such activity [lusory attitude].” Or, in the summary statement quoted above, “playing a game is the voluntary attempt to overcome unnecessary obstacles.”4 This analysis will doubtless meet with objections, in the form of attempted counterexamples. But Suits considers a whole series of these in his book, showing repeatedly that his analysis handles them correctly, and not by some ad hoc addition but once its elements are properly understood. Nor would it matter terribly if there were a few counterexamples. Some minor lack of fit between his analysis and the English use of “game” would not be important if the analysis picks out a phenomenon that is unified, close to what is meant by “game,” and philosophically interesting. But the analysis is interesting if, as I will now argue, it allows a persuasive explanation of the value of excellence in games. Suits himself addresses this issue of value. In fact, a central aim of his book is to give a defence of the grasshopper in Aesop’s fable, who played all summer, against the ant, who worked. But in doing so he argues for the strong thesis that playing games is not just an intrinsic good but the supreme such good, since in the ideal conditions of utopia, where all instrumental goods are provided, it would be everyone’s primary pursuit. The grasshopper’s game-playing, therefore, while it had the unfortunate effect of leaving him without food for the winter, involved him in the intrinsically finest actvity. Now, I do not accept Suits’s strong thesis that gameplaying is the supreme good – I think many other states and activities have comparable value – and I do not find his arguments for it persuasive. But I will connect the weaker thesis that playing games is one intrinsic good to the details of his analysis more explicitly than he ever does.

#### 3. Education – debate as a competitive political game is the best framework to solve dogmatism and human brutality

Carter 8 – prof @ The Colorado College, research support from the Rockefeller Foundation and the staff of the Villa Serbelloni, Bellagio, Italy, the Institute of Governmental Studies at the University of California, Berkeley, and the Benezet Foundation at The Colorado College (Lief H, 2008, "LAW AND POLITICS AS PLAY," Chicago-Kent Law Review, 83(3), http://www.cklawreview.com/wp-content/uploads/vol83no3/Carter.pdf)

Vico asked his audience at the University of Naples in 1708 to debate two competing ways of knowing: Cartesian rationality versus the poetic world of the ancients. Vico, the “pre-law advisor” of his day, saw law as a rhetorical game. That is, he understood the civic (ethical) value of competi-tion itself.12 He understood that Cartesian rationality, like religious and ideological fundamentalism, generates a kind of certainty that shuts down robust debate. Vico’s comprehensive vision suggests, in effect, that people should practice law and politics not as the search for the most rational or logically correct outcomes but rather as passionate and embodied yet peaceful competitive play. Vico inspires this vision of law and politics as play because he sees that all things in the human mind, including law and politics, are at one with the human body. As Vico put it as he concluded his 1708 address, “[T]he soul should be drawn to love by means of bodily images; for once it loves it is easily taught to believe; and when it believes and loves it should be inflamed so that it wills things by means of its normal intemperance.”13 Vico had no hope that such abstract moral principles as liberty, equality, justice, and tolerance could effectively offset the “crude and rough” nature of men.14 The Holy Bible and the Qur’an contain normative principles of love, tolerance, equal respect, and peace, but these commands have not forestalled ancient and modern religious warfare. This essay proposes that humans learn how to keep the peace not by obeying the norms, rules, and principles of civil conduct but by learning how to play, and thereby reintegrating the mind and the body. People do law, politics, and economic life well when they do them in the same ways and by the same standards that structure and govern good competitive sports and games. The word “sport” derives from “port” and “portal” and relates to the words “disport” and “transport.” The word at least hints that the primitive and universal joy of play carries those who join the game across space to a better, and ideally safer, place—a harbor that Vico him-self imagined. This essay’s bold proposition honors Vico in many ways. Its “grand theory” matches the scope of Vico’s comprehensive and integrated vision of the human condition. It plausibly confirms Vico’s hope for a “concep-tion of a natural law for all of humanity” that is rooted in human historical practice.15 Seeing these core social processes as play helps us to escape from arid academic habits and to “learn to think like children,” just as Vico urged.16 Imagining law and politics as play honors Vico above all because, if we attain Ruskin’s epigraphic ideal,17 we will see that the peace-tending qualities of sports and games already operate under our noses. Seeing law and politics as play enables us “to reach out past our inclination to make experience familiar through the power of the concept and to engage the power of the image. We must reconstruct the human world not through concepts and criteria but as something we can practically see.”18 If at its end readers realize that they could have seen, under their noses, the world as this essay sees it without ever having read it, this essay will successfully honor Vico. As Vico would have predicted, formal academic theory has played at best a marginal role in the construction of competitive games. Ordinary people have created cricket and football, and common law and electoral politics and fair market games, more from the experience of doing them than from formal theories of competitive games. When they play interna-tional football today, ordinary people in virtually every culture in the world recreate the experience of competitive games. Playing competitive games unites people across cultures in a common normative world.19 Within Vico’s social anthropological and proto-scientific framework, the claim that competitive play can generate peaceful civic life is purely empirical: law and politics in progressively peaceful political systems already are nothing more or less than competitive games. All empirical description operates within some, though too often ob-scured, normative frame. This essay’s normative frame is clear. It holds, with Shaw’s epigraph, above: Human brutalities waged against other hu-mans—suicide bombings, genocides, tribal and religious wars that provoke the indiscriminate rape, murder, torture, and enslavement of men, women, and children, often because they are labeled “evil”—are the worst things that we humans do. We should learn not to do them. In Vico’s anti-Cartesian, non-foundational world, no method exists to demonstrate that this essay’s normative core is “correct,” or even “better than,” say, the core norm holding that the worst thing humans do is dishonor God. Readers who reject Shaw’s and this essay’s normative frame may have every reason to reject the essay’s entire argument. However, this essay does describe empirically how those whose core norm requires honoring any absolute, including God, above all else regu-larly brutalize other human beings, and why those who live by the norms of good competitive play do not. People brutalize people, as Shaw’s Caesar observed, in the name of right and honor and peace. Evaluated by the norm that human brutality is the worst thing humans do, the essay shows why and how the human invention of competitive play short circuits the psy-chology of a righteousness-humiliation-brutality cycle. We cannot help but see and experience on fields of contested play testosterone-charged males striving mightily to defeat one another. Yet at the end of play, losers and winners routinely shake hands and often hug; adult competitors may dine and raise a glass together.20 Whether collectively invented as a species-wide survival adaptation or not, institutionalized competitive play under-cuts the brutality cycle by displacing religious and other forms of funda-mentalist righteousness with something contingent, amoral, and thus less lethal. Play thereby helps humans become Shaw’s “race that can under-stand.”

#### Simulated national security law debates preserve agency, enables activism, enhances decision-making, and avoids cooption – only legal deliberative action solves

Donohue 13 (Laura K. Donohue, Associate Professor of Law, Georgetown Law, 4/11, “National Security Law Pedagogy and the Role of Simulations”, http://jnslp.com/wp-content/uploads/2013/04/National-Security-Law-Pedagogy-and-the-Role-of-Simulations.pdf)

The concept of simulations as an aspect of higher education, or in the law school environment, is not new.164 Moot court, after all, is a form of simulation and one of the oldest teaching devices in the law. What is new, however, is the idea of designing a civilian national security course that takes advantage of the doctrinal and experiential components of law school education and integrates the experience through a multi-day simulation. In 2009, I taught the first module based on this design at Stanford Law, which I developed the following year into a full course at Georgetown Law. It has since gone through multiple iterations. The initial concept followed on the federal full-scale Top Official (“TopOff”) exercises, used to train government officials to respond to domestic crises.165 It adapted a Tabletop Exercise, designed with the help of exercise officials at DHS and FEMA, to the law school environment. The Tabletop used one storyline to push on specific legal questions, as students, assigned roles in the discussion, sat around a table and for six hours engaged with the material. The problem with the Tabletop Exercise was that it was too static, and the rigidity of the format left little room, or time, for student agency. Unlike the government’s TopOff exercises, which gave officials the opportunity to fully engage with the many different concerns that arise in the course of a national security crisis as well as the chance to deal with externalities, the Tabletop focused on specific legal issues, even as it controlled for external chaos. The opportunity to provide a more full experience for the students came with the creation of first a one-day, and then a multi-day simulation. The course design and simulation continues to evolve. It offers a model for achieving the pedagogical goals outlined above, in the process developing a rigorous training ground for the next generation of national security lawyers.166 A. Course Design The central idea in structuring the NSL Sim 2.0 course was to bridge the gap between theory and practice by conveying doctrinal material and creating an alternative reality in which students would be forced to act upon legal concerns.167 The exercise itself is a form of problem-based learning, wherein students are given both agency and responsibility for the results. Towards this end, the structure must be at once bounded (directed and focused on certain areas of the law and legal education) and flexible (responsive to student input and decisionmaking). Perhaps the most significant weakness in the use of any constructed universe is the problem of authenticity. Efforts to replicate reality will inevitably fall short. There is simply too much uncertainty, randomness, and complexity in the real world. One way to address this shortcoming, however, is through design and agency. The scenarios with which students grapple and the structural design of the simulation must reflect the national security realm, even as students themselves must make choices that carry consequences. Indeed, to some extent, student decisions themselves must drive the evolution of events within the simulation.168 Additionally, while authenticity matters, it is worth noting that at some level the fact that the incident does not take place in a real-world setting can be a great advantage. That is, the simulation creates an environment where students can make mistakes and learn from these mistakes – without what might otherwise be devastating consequences. It also allows instructors to develop multiple points of feedback to enrich student learning in a way that would be much more difficult to do in a regular practice setting. NSL Sim 2.0 takes as its starting point the national security pedagogical goals discussed above. It works backwards to then engineer a classroom, cyber, and physical/simulation experience to delve into each of these areas. As a substantive matter, the course focuses on the constitutional, statutory, and regulatory authorities in national security law, placing particular focus on the interstices between black letter law and areas where the field is either unsettled or in flux. A key aspect of the course design is that it retains both the doctrinal and experiential components of legal education. Divorcing simulations from the doctrinal environment risks falling short on the first and third national security pedagogical goals: (1) analytical skills and substantive knowledge, and (3) critical thought. A certain amount of both can be learned in the course of a simulation; however, the national security crisis environment is not well-suited to the more thoughtful and careful analytical discussion. What I am thus proposing is a course design in which doctrine is paired with the type of experiential learning more common in a clinical realm. The former precedes the latter, giving students the opportunity to develop depth and breadth prior to the exercise. In order to capture problems related to adaptation and evolution, addressing goal [1(d)], the simulation itself takes place over a multi-day period. Because of the intensity involved in national security matters (and conflicting demands on student time), the model makes use of a multi-user virtual environment. The use of such technology is critical to creating more powerful, immersive simulations.169 It also allows for continual interaction between the players. Multi-user virtual environments have the further advantage of helping to transform the traditional teaching culture, predominantly concerned with manipulating textual and symbolic knowledge, into a culture where students learn and can then be assessed on the basis of their participation in changing practices.170 I thus worked with the Information Technology group at Georgetown Law to build the cyber portal used for NSL Sim 2.0. The twin goals of adaptation and evolution require that students be given a significant amount of agency and responsibility for decisions taken in the course of the simulation. To further this aim, I constituted a Control Team, with six professors, four attorneys from practice, a media expert, six to eight former simulation students, and a number of technology experts. Four of the professors specialize in different areas of national security law and assume roles in the course of the exercise, with the aim of pushing students towards a deeper doctrinal understanding of shifting national security law authorities. One professor plays the role of President of the United States. The sixth professor focuses on questions of professional responsibility. The attorneys from practice help to build the simulation and then, along with all the professors, assume active roles during the simulation itself. Returning students assist in the execution of the play, further developing their understanding of national security law. Throughout the simulation, the Control Team is constantly reacting to student choices. When unexpected decisions are made, professors may choose to pursue the evolution of the story to accomplish the pedagogical aims, or they may choose to cut off play in that area (there are various devices for doing so, such as denying requests, sending materials to labs to be analyzed, drawing the players back into the main storylines, and leaking information to the media). A total immersion simulation involves a number of scenarios, as well as systemic noise, to give students experience in dealing with the second pedagogical goal: factual chaos and information overload. The driving aim here is to teach students how to manage information more effectively. Five to six storylines are thus developed, each with its own arc and evolution. To this are added multiple alterations of the situation, relating to background noise. Thus, unlike hypotheticals, doctrinal problems, single-experience exercises, or even Tabletop exercises, the goal is not to eliminate external conditions, but to embrace them as part of the challenge facing national security lawyers. The simulation itself is problem-based, giving players agency in driving the evolution of the experience – thus addressing goal [2(c)]. This requires a realtime response from the professor(s) overseeing the simulation, pairing bounded storylines with flexibility to emphasize different areas of the law and the students’ practical skills. Indeed, each storyline is based on a problem facing the government, to which players must then respond, generating in turn a set of new issues that must be addressed. The written and oral components of the simulation conform to the fourth pedagogical goal – the types of situations in which national security lawyers will find themselves. Particular emphasis is placed on nontraditional modes of communication, such as legal documents in advance of the crisis itself, meetings in the midst of breaking national security concerns, multiple informal interactions, media exchanges, telephone calls, Congressional testimony, and formal briefings to senior level officials in the course of the simulation as well as during the last class session. These oral components are paired with the preparation of formal legal instruments, such as applications to the Foreign Intelligence Surveillance Court, legal memos, applications for search warrants under Title III, and administrative subpoenas for NSLs. In addition, students are required to prepare a paper outlining their legal authorities prior to the simulation – and to deliver a 90 second oral briefing after the session. To replicate the high-stakes political environment at issue in goals (1) and (5), students are divided into political and legal roles and assigned to different (and competing) institutions: the White House, DoD, DHS, HHS, DOJ, DOS, Congress, state offices, nongovernmental organizations, and the media. This requires students to acknowledge and work within the broader Washington context, even as they are cognizant of the policy implications of their decisions. They must get used to working with policymakers and to representing one of many different considerations that decisionmakers take into account in the national security domain. Scenarios are selected with high consequence events in mind, to ensure that students recognize both the domestic and international dimensions of national security law. Further alterations to the simulation provide for the broader political context – for instance, whether it is an election year, which parties control different branches, and state and local issues in related but distinct areas. The media is given a particularly prominent role. One member of the Control Team runs an AP wire service, while two student players represent print and broadcast media, respectively. The Virtual News Network (“VNN”), which performs in the second capacity, runs continuously during the exercise, in the course of which players may at times be required to appear before the camera. This media component helps to emphasize the broader political context within which national security law is practiced. Both anticipated and unanticipated decisions give rise to ethical questions and matters related to the fifth goal: professional responsibility. The way in which such issues arise stems from simulation design as well as spontaneous interjections from both the Control Team and the participants in the simulation itself. As aforementioned, professors on the Control Team, and practicing attorneys who have previously gone through a simulation, focus on raising decision points that encourage students to consider ethical and professional considerations. Throughout the simulation good judgment and leadership play a key role, determining the players’ effectiveness, with the exercise itself hitting the aim of the integration of the various pedagogical goals. Finally, there are multiple layers of feedback that players receive prior to, during, and following the simulation to help them to gauge their effectiveness. The Socratic method in the course of doctrinal studies provides immediate assessment of the students’ grasp of the law. Written assignments focused on the contours of individual players’ authorities give professors an opportunity to assess students’ level of understanding prior to the simulation. And the simulation itself provides real-time feedback from both peers and professors. The Control Team provides data points for player reflection – for instance, the Control Team member playing President may make decisions based on player input, giving students an immediate impression of their level of persuasiveness, while another Control Team member may reject a FISC application as insufficient. The simulation goes beyond this, however, focusing on teaching students how to develop (6) opportunities for learning in the future. Student meetings with mentors in the field, which take place before the simulation, allow students to work out the institutional and political relationships and the manner in which law operates in practice, even as they learn how to develop mentoring relationships. (Prior to these meetings we have a class discussion about mentoring, professionalism, and feedback). Students, assigned to simulation teams about one quarter of the way through the course, receive peer feedback in the lead-up to the simulation and during the exercise itself. Following the simulation the Control Team and observers provide comments. Judges, who are senior members of the bar in the field of national security law, observe player interactions and provide additional debriefing. The simulation, moreover, is recorded through both the cyber portal and through VNN, allowing students to go back to assess their performance. Individual meetings with the professors teaching the course similarly follow the event. Finally, students end the course with a paper reflecting on their performance and the issues that arose in the course of the simulation, develop frameworks for analyzing uncertainty, tension with colleagues, mistakes, and successes in the future. B. Substantive Areas: Interstices and Threats As a substantive matter, NSL Sim 2.0 is designed to take account of areas of the law central to national security. It focuses on specific authorities that may be brought to bear in the course of a crisis. The decision of which areas to explore is made well in advance of the course. It is particularly helpful here to think about national security authorities on a continuum, as a way to impress upon students that there are shifting standards depending upon the type of threat faced. One course, for instance, might center on the interstices between crime, drugs, terrorism and war. Another might address the intersection of pandemic disease and biological weapons. A third could examine cybercrime and cyberterrorism. This is the most important determination, because the substance of the doctrinal portion of the course and the simulation follows from this decision. For a course focused on the interstices between pandemic disease and biological weapons, for instance, preliminary inquiry would lay out which authorities apply, where the courts have weighed in on the question, and what matters are unsettled. Relevant areas might include public health law, biological weapons provisions, federal quarantine and isolation authorities, habeas corpus and due process, military enforcement and posse comitatus, eminent domain and appropriation of land/property, takings, contact tracing, thermal imaging and surveillance, electronic tagging, vaccination, and intelligence-gathering. The critical areas can then be divided according to the dominant constitutional authority, statutory authorities, regulations, key cases, general rules, and constitutional questions. This, then, becomes a guide for the doctrinal part of the course, as well as the grounds on which the specific scenarios developed for the simulation are based. The authorities, simultaneously, are included in an electronic resource library and embedded in the cyber portal (the Digital Archives) to act as a closed universe of the legal authorities needed by the students in the course of the simulation. Professional responsibility in the national security realm and the institutional relationships of those tasked with responding to biological weapons and pandemic disease also come within the doctrinal part of the course. The simulation itself is based on five to six storylines reflecting the interstices between different areas of the law. The storylines are used to present a coherent, non-linear scenario that can adapt to student responses. Each scenario is mapped out in a three to seven page document, which is then checked with scientists, government officials, and area experts for consistency with how the scenario would likely unfold in real life. For the biological weapons and pandemic disease emphasis, for example, one narrative might relate to the presentation of a patient suspected of carrying yersinia pestis at a hospital in the United States. The document would map out a daily progression of the disease consistent with epidemiological patterns and the central actors in the story: perhaps a U.S. citizen, potential connections to an international terrorist organization, intelligence on the individual’s actions overseas, etc. The scenario would be designed specifically to stress the intersection of public health and counterterrorism/biological weapons threats, and the associated (shifting) authorities, thus requiring the disease initially to look like an innocent presentation (for example, by someone who has traveled from overseas), but then for the storyline to move into the second realm (awareness that this was in fact a concerted attack). A second storyline might relate to a different disease outbreak in another part of the country, with the aim of introducing the Stafford Act/Insurrection Act line and raising federalism concerns. The role of the military here and Title 10/Title 32 questions would similarly arise – with the storyline designed to raise these questions. A third storyline might simply be well developed noise in the system: reports of suspicious activity potentially linked to radioactive material, with the actors linked to nuclear material. A fourth storyline would focus perhaps on container security concerns overseas, progressing through newspaper reports, about containers showing up in local police precincts. State politics would constitute the fifth storyline, raising question of the political pressures on the state officials in the exercise. Here, ethnic concerns, student issues, economic conditions, and community policing concerns might become the focus. The sixth storyline could be further noise in the system – loosely based on current events at the time. In addition to the storylines, a certain amount of noise is injected into the system through press releases, weather updates, private communications, and the like. The five to six storylines, prepared by the Control Team in consultation with experts, become the basis for the preparation of scenario “injects:” i.e., newspaper articles, VNN broadcasts, reports from NGOs, private communications between officials, classified information, government leaks, etc., which, when put together, constitute a linear progression. These are all written and/or filmed prior to the exercise. The progression is then mapped in an hourly chart for the unfolding events over a multi-day period. All six scenarios are placed on the same chart, in six columns, giving the Control Team a birds-eye view of the progression. C. How It Works As for the nuts and bolts of the simulation itself, it traditionally begins outside of class, in the evening, on the grounds that national security crises often occur at inconvenient times and may well involve limited sleep and competing demands.171 Typically, a phone call from a Control Team member posing in a role integral to one of the main storylines, initiates play. Students at this point have been assigned dedicated simulation email addresses and provided access to the cyber portal. The portal itself gives each team the opportunity to converse in a “classified” domain with other team members, as well as access to a public AP wire and broadcast channel, carrying the latest news and on which press releases or (for the media roles) news stories can be posted. The complete universe of legal authorities required for the simulation is located on the cyber portal in the Digital Archives, as are forms required for some of the legal instruments (saving students the time of developing these from scratch in the course of play). Additional “classified” material – both general and SCI – has been provided to the relevant student teams. The Control Team has access to the complete site. For the next two (or three) days, outside of student initiatives (which, at their prompting, may include face-to-face meetings between the players), the entire simulation takes place through the cyber portal. The Control Team, immediately active, begins responding to player decisions as they become public (and occasionally, through monitoring the “classified” communications, before they are released). This time period provides a ramp-up to the third (or fourth) day of play, allowing for the adjustment of any substantive, student, or technology concerns, while setting the stage for the breaking crisis. The third (or fourth) day of play takes place entirely at Georgetown Law. A special room is constructed for meetings between the President and principals, in the form of either the National Security Council or the Homeland Security Council, with breakout rooms assigned to each of the agencies involved in the NSC process. Congress is provided with its own physical space, in which meetings, committee hearings and legislative drafting can take place. State government officials are allotted their own area, separate from the federal domain, with the Media placed between the three major interests. The Control Team is sequestered in a different area, to which students are not admitted. At each of the major areas, the cyber portal is publicly displayed on large flat panel screens, allowing for the streaming of video updates from the media, AP wire injects, articles from the students assigned to represent leading newspapers, and press releases. Students use their own laptop computers for team decisions and communication. As the storylines unfold, the Control Team takes on a variety of roles, such as that of the President, Vice President, President’s chief of staff, governor of a state, public health officials, and foreign dignitaries. Some of the roles are adopted on the fly, depending upon player responses and queries as the storylines progress. Judges, given full access to each player domain, determine how effectively the students accomplish the national security goals. The judges are themselves well-experienced in the practice of national security law, as well as in legal education. They thus can offer a unique perspective on the scenarios confronted by the students, the manner in which the simulation unfolded, and how the students performed in their various capacities. At the end of the day, the exercise terminates and an immediate hotwash is held, in which players are first debriefed on what occurred during the simulation. Because of the players’ divergent experiences and the different roles assigned to them, the students at this point are often unaware of the complete picture. The judges and formal observers then offer reflections on the simulation and determine which teams performed most effectively. Over the next few classes, more details about the simulation emerge, as students discuss it in more depth and consider limitations created by their knowledge or institutional position, questions that arose in regard to their grasp of the law, the types of decision-making processes that occurred, and the effectiveness of their – and other students’ – performances. Reflection papers, paired with oral briefings, focus on the substantive issues raised by the simulation and introduce the opportunity for students to reflect on how to create opportunities for learning in the future. The course then formally ends.172 Learning, however, continues beyond the temporal confines of the semester. Students who perform well and who would like to continue to participate in the simulations are invited back as members of the control team, giving them a chance to deepen their understanding of national security law. Following graduation, a few students who go in to the field are then invited to continue their affiliation as National Security Law fellows, becoming increasingly involved in the evolution of the exercise itself. This system of vertical integration helps to build a mentoring environment for the students while they are enrolled in law school and to create opportunities for learning and mentorship post-graduation. It helps to keep the exercise current and reflective of emerging national security concerns. And it builds a strong community of individuals with common interests. CONCLUSION The legal academy has, of late, been swept up in concern about the economic conditions that affect the placement of law school graduates. The image being conveyed, however, does not resonate in every legal field. It is particularly inapposite to the burgeoning opportunities presented to students in national security. That the conversation about legal education is taking place now should come as little surprise. Quite apart from economic concern is the traditional introspection that follows American military engagement. It makes sense: law overlaps substantially with political power, being at once both the expression of government authority and the effort to limit the same. The one-size fits all approach currently dominating the conversation in legal education, however, appears ill-suited to address the concerns raised in the current conversation. Instead of looking at law across the board, greater insight can be gleaned by looking at the specific demands of the different fields themselves. This does not mean that the goals identified will be exclusive to, for instance, national security law, but it does suggest there will be greater nuance in the discussion of the adequacy of the current pedagogical approach. With this approach in mind, I have here suggested six pedagogical goals for national security. For following graduation, students must be able to perform in each of the areas identified – (1) understanding the law as applied, (2) dealing with factual chaos and uncertainty, (3) obtaining critical distance, (4) developing nontraditional written and oral communication skills, (5) exhibiting leadership, integrity, and good judgment in a high-stakes, highly-charged environment, and (6) creating continued opportunities for self-learning. They also must learn how to integrate these different skills into one experience, to ensure that they will be most effective when they enter the field. The problem with the current structures in legal education is that they fall short, in important ways, from helping students to meet these goals. Doctrinal courses may incorporate a range of experiential learning components, such as hypotheticals, doctrinal problems, single exercises, extended or continuing exercises, and tabletop exercises. These are important classroom devices. The amount of time required for each varies, as does the object of the exercise itself. But where they fall short is in providing a more holistic approach to national security law which will allow for the maximum conveyance of required skills. Total immersion simulations, which have not yet been addressed in the secondary literature for civilian education in national security law, may provide an important way forward. Such simulations also cure shortcomings in other areas of experiential education, such as clinics and moot court. It is in an effort to address these concerns that I developed the simulation model above. NSL Sim 2.0 certainly is not the only solution, but it does provide a starting point for moving forward. The approach draws on the strengths of doctrinal courses and embeds a total immersion simulation within a course. It makes use of technology and physical space to engage students in a multi-day exercise, in which they are given agency and responsibility for their decision making, resulting in a steep learning curve. While further adaptation of this model is undoubtedly necessary, it suggests one potential direction for the years to come.

#### 4. Decision-making – debate gaming through dramatic rehearsal strengthens decision-making – only maintained by a confined educational space

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Joas’ re-interpretation of Dewey’s pragmatism as a “theory of situated creativity” raises a critique of humans as purely rational agents that navigate instrumentally through meansendsschemes (Joas, 1996: 133f). This critique is particularly important when trying to understand how games are enacted and validated within the realm of educational institutions that by definition are inscribed in the great modernistic narrative of “progress” where nation states, teachers and parents expect students to acquire specific skills and competencies (Popkewitz, 1998; cf. chapter 3). However, as Dewey argues, the actual doings of educational gaming cannot be reduced to rational means-ends schemes. Instead, the situated interaction between teachers, students, and learning resources are played out as contingent re-distributions of means, ends and ends in view, which often make classroom contexts seem “messy” from an outsider’s perspective (Barab & Squire, 2004). 4.2.3. Dramatic rehearsal The two preceding sections discussed how Dewey views play as an imaginative activity of educational value, and how his assumptions on creativity and playful actions represent a critique of rational means-end schemes. For now, I will turn to Dewey’s concept of dramatic rehearsal, which assumes that social actors deliberate by projecting and choosing between various scenarios for future action. Dewey uses the concept dramatic rehearsal several times in his work but presents the most extensive elaboration in Human Nature and Conduct: Deliberation is a dramatic rehearsal (in imagination) of various competing possible lines of action… [It] is an experiment in finding out what the various lines of possible action are really like (...) Thought runs ahead and foresees outcomes, and thereby avoids having to await the instruction of actual failure and disaster. An act overtly tried out is irrevocable, its consequences cannot be blotted out. An act tried out in imagination is not final or fatal. It is retrievable (Dewey, 1922: 132-3). 86 This excerpt illustrates how Dewey views the process of decision making (deliberation) through the lens of an imaginative drama metaphor. Thus, decisions are made through the imaginative projection of outcomes, where the “possible competing lines of action” are resolved through a thought experiment. Moreover, Dewey’s compelling use of the drama metaphor also implies that decisions cannot be reduced to utilitarian, rational or mechanical exercises, but that they have emotional, creative and personal qualities as well. Interestingly, there are relatively few discussions within the vast research literature on Dewey of his concept of dramatic rehearsal. A notable exception is the phenomenologist Alfred Schütz, who praises Dewey’s concept as a “fortunate image” for understanding everyday rationality (Schütz, 1943: 140). Other attempts are primarily related to overall discussions on moral or ethical deliberation (Caspary, 1991, 2000, 2006; Fesmire, 1995, 2003; Rönssön, 2003; McVea, 2006). As Fesmire points out, dramatic rehearsal is intended to describe an important phase of deliberation that does not characterise the whole process of making moral decisions, which includes “duties and contractual obligations, short and long-term consequences, traits of character to be affected, and rights” (Fesmire, 2003: 70). Instead, dramatic rehearsal should be seen as the process of “crystallizing possibilities and transforming them into directive hypotheses” (Fesmire, 2003: 70). Thus, deliberation can in no way guarantee that the response of a “thought experiment” will be successful. But what it can do is make the process of choosing more intelligent than would be the case with “blind” trial-and-error (Biesta, 2006: 8). The notion of dramatic rehearsal provides a valuable perspective for understanding educational gaming as a simultaneously real and imagined inquiry into domain-specific scenarios. Dewey defines dramatic rehearsal as the capacity to stage and evaluate “acts”, which implies an “irrevocable” difference between acts that are “tried out in imagination” and acts that are “overtly tried out” with real-life consequences (Dewey, 1922: 132-3). This description shares obvious similarities with games as they require participants to inquire into and resolve scenario-specific problems (cf. chapter 2). On the other hand, there is also a striking difference between moral deliberation and educational game activities in terms of the actual consequences that follow particular actions. Thus, when it comes to educational games, acts are both imagined and tried out, but without all the real-life consequences of the practices, knowledge forms and outcomes that are being simulated in the game world. Simply put, there is a difference in realism between the dramatic rehearsals of everyday life and in games, which only “play at” or simulate the stakes and 87 risks that characterise the “serious” nature of moral deliberation, i.e. a real-life politician trying to win a parliamentary election experiences more personal and emotional risk than students trying to win the election scenario of The Power Game. At the same time, the lack of real-life consequences in educational games makes it possible to design a relatively safe learning environment, where teachers can stage particular game scenarios to be enacted and validated for educational purposes. In this sense, educational games are able to provide a safe but meaningful way of letting teachers and students make mistakes (e.g. by giving a poor political presentation) and dramatically rehearse particular “competing possible lines of action” that are relevant to particular educational goals (Dewey, 1922: 132). Seen from this pragmatist perspective, the educational value of games is not so much a question of learning facts or giving the “right” answers, but more a question of exploring the contingent outcomes and domain-specific processes of problem-based scenarios.

#### ----Effective decision-making outweighs – it’s the lynchpin of solving all existential global problems – being relevantly informed is key

Lundberg 10 (Christian O. Lundberg 10 Professor of Communications @ University of North Carolina, Chapel Hill, “Tradition of Debate in North Carolina” in Navigating Opportunity: Policy Debate in the 21st Century By Allan D. Louden, p311)

The second major problem with the critique that identifies a naivety in articulating debate and democracy is that it presumes that the primary pedagogical outcome of debate is speech capacities. But the democratic capacities built by debate are not limited to speech—as indicated earlier, **debate builds capacity for** critical thinking, analysis of public claims, informed decision making, and better public judgment. If the picture of modem political life that underwrites this critique of debate is a pessimistic view of increasingly labyrinthine and bureaucratic administrative politics, rapid scientific and technological change outpacing the capacities of the citizenry to comprehend them, and ever-expanding insular special-interest- and money-driven politics, it is a puzzling solution, at best, to argue that these conditions warrant giving up on debate. If democracy is open to rearticulation, it is open to rearticulation precisely because **as the challenges of modern political life proliferam te, the citizenry's capacities can change**, which is one of the primary reasons that theorists of democracy such as Ocwey in The Public awl Its Problems place such a high premium on education (Dewey 1988,63, 154). Debate provides an indispensible form of education in the modem articulation of democracy because it **builds precisely the skills that allow the citizenry** to research and be informed about policy decisions that impact them, to son rhroueh and evaluate the evidence for and relative merits of arguments for and against a policy in an increasingly infonnation-rich environment, and to prioritize their time and political energies toward policies that matter the most to them. The merits of debate as a tool for building democratic capacity-building take on a special significance in the context of information literacy. John Larkin (2005, HO) argues that one of the primary failings of modern colleges and universities is that they have not changed curriculum to match with the challenges of a new information environment. This is a problem for the course of academic study in our current context, but perhaps more important, argues Larkin, for the future of a citizenry that will need to make evaluative choices against an increasingly complex and multimediatcd information environment (ibid-). Larkin's study tested the benefits of debate participation on information-literacy skills and concluded that in-class debate participants reported significantly higher self-efficacy ratings of their ability to navigate academic search databases and to effectively search and use other Web resources: To analyze the self-report ratings of the instructional and control group students, we first conducted a multivariate analysis of variance on all of the ratings, looking jointly at the effect of instmction/no instruction and debate topic . . . that it did not matter which topic students had been assigned . . . students in the Instnictional [debate) group were significantly more confident in their ability to access information and less likely to feel that they needed help to do so----These findings clearly indicate greater self-efficacy for online searching among students who participated in (debate).... These results constitute strong support for the effectiveness of the project on students' self-efficacy for online searching in the academic databases. There was an unintended effect, however: After doing ... the project, instructional group students also felt more confident than the other students in their ability to get good information from Yahoo and Google. It may be that the library research experience increased self-efficacy for any searching, not just in academic databases. (Larkin 2005, 144) Larkin's study substantiates Thomas Worthcn and Gaylcn Pack's (1992, 3) claim that debate in the college classroom plays a critical role in fostering the kind of problem-solving skills demanded by the increasingly rich media and information environment of modernity. Though their essay was written in 1992 on the cusp of the eventual explosion of the Internet as a medium, Worthcn and Pack's framing of the issue was prescient: the primary question facing today's student has changed from how to best research a topic to the crucial question of learning how to best evaluate which arguments to cite and rely upon from an easily accessible and veritable cornucopia of materials. There are, without a doubt, a number of important criticisms of employing debate as a model for democratic deliberation. But cumulatively, the evidence presented here warrants strong support for expanding debate practice in the classroom as a technology **for enhancing democratic deliberative capacities**. The unique combination of critical thinking skills, research and information processing skills, oral communication skills, and capacities for listening and thoughtful, open engagement with hotly contested issues argues for debate as a **crucial component of a rich and vital democratic life**. In-class debate practice both aids students in achieving the best goals of college and university education, and serves as an unmatched practice for creating thoughtful, engaged, open-minded and self-critical students who are open to the possibilities of **meaningful political engagement** and **new articulations of democratic life.** Expanding this practice is crucial, if only because the more we produce citizens that can actively and effectively engage the political process, the more likely we are to **produce revisions of democratic life** that are **necessary if democracy is not only to survive, but to thrive**. Democracy faces a myriad of challenges, including: domestic and international **issues of class, gender, and racial justice**; wholesale **environmental destruction** and the potential for **rapid climate change**; emerging **threats to international stability** in the form of terrorism, intervention and new possibilities for great power conflict; and increasing **challenges of rapid globalization** including an increasingly volatile global economic structure. More than any specific policy or proposal, an **informed and active citizenry that** deliberates with greater skil**l** and sensitivity provides one of the best hopes for responsive and effective democratic governance, and by extension, one of the last best hopes for dealing with the **existential challenges** to democracy [in an] increasingly complex world.

### 2

#### Plan causes a compensatory shift to drone strikes – that’s worse and causes drone prolif

RT, 13 (5/3, “US targeted drone killings used as alternative to Guantanamo Bay - Bush lawyer.” http://rt.com/usa/obama-using-drones-avoid-gitmo-747/)

A lawyer who was influential in the United States’ adoption of unmanned aircraft has spoken out against the Obama administration for what he perceives as using drones as an alternative to capturing suspects and sending them to Guantanamo Bay prison camp. John Bellinger, the Bush administration attorney who drafted the initial legal specifications regarding drone killings after the September 11, 2001 terrorist attacks, said that Bush’s successor has abused the framework, skirting international law for political points. “This government has decided that instead of detaining members of Al-Qaeda [at Guantanamo Bay prison camp in Cuba] they are going to kill them,” Bellinger told a conference at the Bipartisan Policy Center, as quoted by The Guardian. Earlier this week Obama promised to reignite efforts to close Guantanamo Bay, where prisoners have gone on a hunger strike to protest human rights violations and wrongful incarcerations. They were his first in-depth remarks on the subject since 2009, when Obama had just recently been elected to office after campaigning on a promise to close the facility. But international law is equally suspect of drone strikes. Almost 5,000 people are thought to have been killed by roughly 300 US attacks in four countries, according to The Guardian. Bellinger maintained that the government has justified strikes throughout Pakistan and Yemen by using the 'War on Terror' as an excuse. “We are about the only country in the world that thinks we are in an armed conflict with Al-Qaeda,” he said. “We really need to get on top of this and explain to our allies why it is legal and why it is permissible under international law." “These drone strikes are causing us great damage in the world, but on the other hand if you are the president and you do nothing to stop another 9/11 then you also have a problem,” he added. Of the 166 detainees at Guantanamo Bay, 86 have been cleared for release by a commission made up of officials from the Department of Homeland Security, Joint Chiefs of Staff and other influential government divisions. White House officials have justified the use of unmanned aircraft by saying the US is at war with Al-Qaeda and that those targeted in drone attacks were planning attacks on America. In the future, experts say, future countries could use the same rationale to explain their own attacks. “Countries under attack are the ones that get to decide whether or not they are at war,” said Philip Zelikow, a member of the White House Intelligence Advisory Board. While the conversation around drones is certainly a sign of things to come, Hina Shamsi of the American Civil Liberties Union encouraged Americans to think about the human rights issues posed by the new technology. It could be another long process, if the Guantanamo Bay handling is any indication. “The use of this technology is spreading and we have to think about what we would say if other countries used drones for targeted killing programs,” Shamsi said. “Few things are more likely to undermine our legitimacy than the perception that we are not abiding by the rule of law or are indifferent to civilian casualties.”

#### Drone prolif escalates and destroys deterrence without strong norms—multiple scenarios for conflict

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An important, but overlooked, strategic consequence of the Obama administration’s embrace of drones is that it has generated a new and dangerous arms race for this technology. At present, the use of lethal drones is seen as acceptable to US policy-makers because no other state possesses the ability to make highly sophisticated drones with the range, surveillance capability and lethality of those currently manufactured by the United States. Yet the rest of the world is not far behind. At least 76 countries have acquired UAV technology, including Russia, China, Pakistan and India.120 China is reported to have at least 25 separate drone systems currently in development.121 At present, there are 680 drone programmes in the world, an increase of over 400 since 2005.122 Many states and non-state actors hostile to the United States have begun to dabble in drone technology. Iran has created its own drone, dubbed the ‘Ambassador of Death’, which has a range of up to 600 miles.123 Iran has also allegedly supplied the Assad regime in Syria with drone technology.124 Hezbollah launched an Iranian-made drone into Israeli territory, where it was shot down by the Israeli air force in October 2012.125 A global arms race for drone technology is already under way. According to one estimate, global spending on drones is likely to be more than US$94 billion by 2021.126 One factor that is facilitating the spread of drones (particularly non-lethal drones) is their cost relative to other military purchases. The top-of-the line Predator or Reaper model costs approximately US$10.5 million each, compared to the US$150 million price tag of a single F-22 fighter jet.127 At that price, drone technology is already within the reach of most developed militaries, many of which will seek to buy drones from the US or another supplier. With demand growing, a number of states, including China and Israel, have begun the aggressive selling of drones, including attack drones, and Russia may also be moving into this market.128 Because of concerns that export restrictions are harming US competitiveness in the drones market, the Pentagon has granted approval for drone exports to 66 governments and is currently being lobbied to authorize sales to even more.129 The Obama administration has already authorized the sale of drones to the UK and Italy, but Pakistan, the UAE and Saudi Arabia have been refused drone technology by congressional restrictions.130 It is only a matter of time before another supplier steps in to offer the drone technology to countries prohibited by export controls from buying US drones. According to a study by the Teal Group, the US will account for 62 per cent of research and development spending and 55 per cent of procurement spending on drones by 2022.131 As the market expands, with new buyers and sellers, America’s ability to control the sale of drone technology will be diminished. It is likely that the US will retain a substantial qualitative advantage in drone technology for some time, but even that will fade as more suppliers offer drones that can match US capabilities. The emergence of this arms race for drones raises at least five long-term strategic consequences, not all of which are favourable to the United States over the long term. First, it is now obvious that other states will use drones in ways that are inconsistent with US interests. One reason why the US has been so keen to use drone technology in Pakistan and Yemen is that at present it retains a substantial advantage in high-quality attack drones. Many of the other states now capable of employing drones of near-equivalent technology—for example, the UK and Israel—are considered allies. But this situation is quickly changing as other leading geopolitical players, such as Russia and China, are beginning rapidly to develop and deploy drones for their own purposes. While its own technology still lags behind that of the US, Russia has spent huge sums on purchasing drones and has recently sought to buy the Israeli-made Eitan drone capable of surveillance and firing air-to-surface missiles.132 China has begun to develop UAVs for reconnaissance and combat and has several new drones capable of long-range surveillance and attack under development.133 China is also planning to use unmanned surveillance drones to allow it to monitor the disputed East China Sea Islands, which are currently under dispute with Japan and Taiwan.134 Both Russia and China will pursue this technology and develop their own drone suppliers which will sell to the highest bidder, presumably with fewer export controls than those imposed by the US Congress. Once both governments have equivalent or near-equivalent levels of drone technology to the United States, they will be similarly tempted to use it for surveillance or attack in the way the US has done. Thus, through its own over-reliance on drones in places such as Pakistan and Yemen, the US may be hastening the arrival of a world where its qualitative advantages in drone technology are eclipsed and where this technology will be used and sold by rival Great Powers whose interests do not mirror its own. A second consequence of the spread of drones is that many of the traditional concepts which have underwritten stability in the international system will be radically reshaped by drone technology. For example, much of the stability among the Great Powers in the international system is driven by deterrence, specifically nuclear deterrence.135 Deterrence operates with informal rules of the game and tacit bargains that govern what states, particularly those holding nuclear weapons, may and may not do to one another.136 While it is widely understood that nuclear-capable states will conduct aerial surveillance and spy on one another, overt military confrontations between nuclear powers are rare because they are assumed to be costly and prone to escalation. One open question is whether these states will exercise the same level of restraint with drone surveillance, which is unmanned, low cost, and possibly deniable. States may be more willing to engage in drone overflights which test the resolve of their rivals, or engage in ‘salami tactics’ to see what kind of drone-led incursion, if any, will motivate a response.137 This may have been Hezbollah’s logic in sending a drone into Israeli airspace in October 2012, possibly to relay information on Israel’s nuclear capabilities.138 After the incursion, both Hezbollah and Iran boasted that the drone incident demonstrated their military capabilities.139 One could imagine two rival states—for example, India and Pakistan—deploying drones to test each other’s capability and resolve, with untold consequences if such a probe were misinterpreted by the other as an attack. As drones get physically smaller and more precise, and as they develop a greater flying range, the temptation to use them to spy on a rival’s nuclear programme or military installations might prove too strong to resist. If this were to happen, drones might gradually erode the deterrent relationships that exist between nuclear powers, thus magnifying the risks of a spiral of conflict between them. Another dimension of this problem has to do with the risk of accident. Drones are prone to accidents and crashes. By July 2010, the US Air Force had identified approximately 79 drone accidents.140 Recently released documents have revealed that there have been a number of drone accidents and crashes in the Seychelles and Djibouti, some of which happened in close proximity to civilian airports.141 The rapid proliferation of drones worldwide will involve a risk of accident to civilian aircraft, possibly producing an international incident if such an accident were to involve an aircraft affiliated to a state hostile to the owner of the drone. Most of the drone accidents may be innocuous, but some will carry strategic risks. In December 2011, a CIA drone designed for nuclear surveillance crashed in Iran, revealing the existence of the spying programme and leaving sensitive technology in the hands of the Iranian government.142 The expansion of drone technology raises the possibility that some of these surveillance drones will be interpreted as attack drones, or that an accident or crash will spiral out of control and lead to an armed confrontation.143 An accident would be even more dangerous if the US were to pursue its plans for nuclear-powered drones, which can spread radioactive material like a dirty bomb if they crash.144 Third, lethal drones create the possibility that the norms on the use of force will erode, creating a much more dangerous world and pushing the international system back towards the rule of the jungle. To some extent, this world is already being ushered in by the United States, which has set a dangerous precedent that a state may simply kill foreign citizens considered a threat without a declaration of war. Even John Brennan has recognized that the US is ‘establishing a precedent that other nations may follow’.145 Given this precedent, there is nothing to stop other states from following the American lead and using drone strikes to eliminate potential threats. Those ‘threats’ need not be terrorists, but could be others— dissidents, spies, even journalists—whose behaviour threatens a government. One danger is that drone use might undermine the normative prohibition on the assassination of leaders and government officials that most (but not all) states currently respect. A greater danger, however, is that the US will have normalized murder as a tool of statecraft and created a world where states can increasingly take vengeance on individuals outside their borders without the niceties of extradition, due process or trial.146 As some of its critics have noted, the Obama administration may have created a world where states will find it easier to kill terrorists rather than capture them and deal with all of the legal and evidentiary difficulties associated with giving them a fair trial.147 Fourth, there is a distinct danger that the world will divide into two camps: developed states in possession of drone technology, and weak states and rebel movements that lack them. States with recurring separatist or insurgent problems may begin to police their restive territories through drone strikes, essentially containing the problem in a fixed geographical region and engaging in a largely punitive policy against them. One could easily imagine that China, for example, might resort to drone strikes in Uighur provinces in order to keep potential threats from emerging, or that Russia could use drones to strike at separatist movements in Chechnya or elsewhere. Such behaviour would not necessarily be confined to authoritarian governments; it is equally possible that Israel might use drones to police Gaza and the West Bank, thus reducing the vulnerability of Israeli soldiers to Palestinian attacks on the ground. The extent to which Israel might be willing to use drones in combat and surveillance was revealed in its November 2012 attack on Gaza. Israel allegedly used a drone to assassinate the Hamas leader Ahmed Jabari and employed a number of armed drones for strikes in a way that was described as ‘unprecedented’ by senior Israeli officials.148 It is not hard to imagine Israel concluding that drones over Gaza were the best way to deal with the problem of Hamas, even if their use left the Palestinian population subject to constant, unnerving surveillance. All of the consequences of such a sharp division between the haves and have-nots with drone technology is hard to assess, but one possibility is that governments with secessionist movements might be less willing to negotiate and grant concessions if drones allowed them to police their internal enemies with ruthless efficiency and ‘manage’ the problem at low cost. The result might be a situation where such conflicts are contained but not resolved, while citizens in developed states grow increasingly indifferent to the suffering of those making secessionist or even national liberation claims, including just ones, upon them. Finally, drones have the capacity to strengthen the surveillance capacity of both democracies and authoritarian regimes, with significant consequences for civil liberties. In the UK, BAE Systems is adapting military-designed drones for a range of civilian policing tasks including ‘monitoring antisocial motorists, protesters, agricultural thieves and fly-tippers’.149 Such drones are also envisioned as monitoring Britain’s shores for illegal immigration and drug smuggling. In the United States, the Federal Aviation Administration (FAA) issued 61 permits for domestic drone use between November 2006 and June 2011, mainly to local and state police, but also to federal agencies and even universities.150 According to one FAA estimate, the US will have 30,000 drones patrolling the skies by 2022.151 Similarly, the European Commission will spend US$260 million on Eurosur, a new programme that will use drones to patrol the Mediterranean coast.152 The risk that drones will turn democracies into ‘surveillance states’ is well known, but the risks for authoritarian regimes may be even more severe. Authoritarian states, particularly those that face serious internal opposition, may tap into drone technology now available to monitor and ruthlessly punish their opponents. In semi-authoritarian Russia, for example, drones have already been employed to monitor pro-democracy protesters.153 One could only imagine what a truly murderous authoritarian regime—such as Bashar al-Assad’s Syria—would do with its own fleet of drones. The expansion of drone technology may make the strong even stronger, thus tilting the balance of power in authoritarian regimes even more decisively towards those who wield the coercive instruments of power and against those who dare to challenge them.

### 3

#### Obama’s war powers maintain his presidential power

Rozell 12

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And yet, as Jack Goldsmith accurately details in his latest book, President Barack Obama not only has not altered the course of controversial Bush-era practices, he has continued and expanded upon many of them. On initiating war, as a candidate for the presidency in 2007, Obama said that “the president doesn’t have the power under the Constitution to unilaterally authorize a military attack,” yet that is exactly what he did in exercising the war power in Libya. He has also said that he will exercise the power to act on his own to initiate military action in Syria if it’s leader ever crosses the “red line” (i.e., use of chemical weapons). He has issued a number of signing statements that directly violate congressional intent. He has vastly expanded, far beyond Bush’s actions, the use of unconfirmed and unaccountable executive branch czars to coordinate policies and to make regulatory and spending decisions. The president has made expanded use of executive privilege in circumstances where there is no legal merit to making such a claim and he has abused the principle of the state secrets privilege. His use of the recess appointment power on many occasions has been nothing more than a blatant effort to make an end-run around the Senate confirmation process. He has continued, and expanded upon, the practice of militarily detaining persons without trial or pressing charges (on the condition that the detention is not “indefinite”). In a complete reversal of his past campaign rhetoric, the president on a number of occasions has declared his intention to act unilaterally on a variety of fronts, and to avoid having to go to Congress whenever he can do so. There are varied explanations for the president’s total reversals. The hard-core cynics of course simply resort to the “they all lie” explanation. Politicians of all stripes say things to get elected but don’t mean much of it. Recently I saw a political bumper sticker announcing “BUSH 2.0” with a picture of Obama. Many who enthusiastically supported Obama are profoundly disappointed with his full-on embrace of Bush-like unilateralism and this administration’s continuation of many of his predecessor’s policies. Goldsmith, a law professor who led the Department of Justice’s (DOJ) Office of Legal Counsel from October 2003 to June 2004, during George W. Bush’s first term, says that there were powerful forces at work in the U.S. governmental system that ensured that the president would continue many of the policies and practices of his predecessor. The president reads the daily terrorism threat reports, which has forced him to understand that things really do look differently from the inside. From this standpoint, Obama likely determined that many of Bush’s policies actually were correct and needed to be continued. “The personal responsibility of the president for national security, combined with the continuing reality of a frightening and difficult-to-detect threat, unsurprisingly led Obama, like Bush, to use the full arsenal of presidential tools,” writes Goldsmith. He further argues that Obama lacked leeway to change course in part because many of Bush’s policies “were irreversibly woven into the fabric of the national security architecture.” For example, former president Bush’s decision to use the Guantanamo detention facility created an issue for Obama that he otherwise never would have confronted. And the use of coercion on suspects made it too complicated to then employ civilian courts to try them. In perhaps the most telling example of the limits of effecting change, Obama could not end what Bush had started, even though the president issued an executive order (never carried out) to close the detention center. Here Goldsmith somewhat overstates his case. Obama was not necessarily consigned to following Bush’s policies and practices, although undoubtedly his options may have been constrained by past decisions. But consider the decision whether the government should have investigated and then taken action against illegal and unconstitutional acts by officials in the Bush Administration, particularly in the DOJ, NSA, and CIA. President Obama said it was time to look forward, not backward, thus sweeping all under the rug. Nothing “irreversibly woven” there, but rather the new president made a choice that he absolutely did not have to make. Finally, Goldsmith adds that Obama, like most of his predecessors, assumed the executive branch’s institutional perspective once he became president. If it is true about Washington that where you stand on executive powers depends on where you sit, then should it be any surprise that President Obama’s understanding differs fundamentally from Senator Obama’s? Honestly, I find that quite sad. Do the Constitution and principles of separation of powers and checks & balances mean so little that we excuse such a fundamental shift in thinking as entirely justified by switching offices? Goldsmith’s analysis becomes especially controversial when he turns to his argument that, contrary to the critiques of presidential power run amok, the contemporary chief executive is more hampered in his ability to act in the national interest than ever before. In 2002, Vice President Richard Cheney expressed the view that in his more than three decades of service in both the executive and legislative branches, he had witnessed a withering of presidential powers and prerogatives at the hands of an overly intrusive and aggressive Congress. At a time when most observers had declared a continuing shift toward presidential unilateralism and legislative fecklessness, Cheney said that something quite opposite had been taking place. Goldsmith is far more in the Cheney camp on this issue than of the critics of modern exercises of presidential powers. Goldsmith goes beyond the usual emphasis on formal institutional constraints on presidential powers to claim that a variety of additional forces also are weighing down and hampering the ability of the chief executive to act. As he explains, “the other two branches of government, aided by the press and civil society, pushed back against the Chief Executive like never before in our nation’s history”. Defenders of former president Bush decry what they now perceive as a double standard: critics who lambasted his over expansive exercises of powers don’t seem so critical of President Obama doing the same. Goldsmith makes the persuasive case that in part the answer is that Bush was rarely mindful of the need to explain his actions as necessities rather than allow critics to fuel suspicions that he acted opportunistically in crisis situations to aggrandize power, whereas Obama has given similar actions a “prettier wrapping”. Further, Obama, to be fair, on several fronts early in his first term “developed a reputation for restraint and commitment to the rule of law”, thus giving him some political leeway later on. A substantial portion of Goldsmith’s book presents in detail his case that various forces outside of government, and some within, are responsible for hamstringing the president in unprecedented fashion: Aggressive, often intrusive, journalism, that at times endangers national security; human rights and other advocacy groups, some domestic and other cross-national, teamed with big resources and talented, aggressive lawyers, using every legal category and technicality possible to complicate executive action; courts thrust into the mix, having to decide critical national security law controversies, even when the judges themselves have little direct knowledge or expertise on the topics brought before them; attorneys within the executive branch itself advising against actions based on often narrow legal interpretations and with little understanding of the broader implications of tying down the president with legalisms. Just as he describes how a seemingly once idealistic candidate for president as Barack Obama could see things differently from inside government, so too was Goldsmith at one time on the inside, and thus perhaps it is no surprise that he would perceive more strongly than other academic observers the forces that he believes are constantly hamstringing the executive. But he is no apologist for unfettered executive power and he takes to task those in the Bush years who boldly extolled theories of the unitary executive and thereby gave credibility to critics of the former president who said that his objective was not merely to protect the country from attack, but to empower himself and the executive branch. Goldsmith praises institutional and outside-of-government constraints on the executive as necessary and beneficial to the Republic. In the end, he sees the balance shifting in a different direction than many leading scholars of separation of powers. And unlike a good many presidency scholars and observers, he is not a cheerleader for a vastly powerful chief executive. Goldsmith’s work too is one of careful and fair-minded research and analysis. He gives substantial due to those who present a counter-view to his own, and who devote their skills and resources to battling what they perceive as abuses of executive power. Whereas they see dangers to an unfettered executive, Goldsmith wants us to feel safe that there are procedural safeguards against presidential overreaching, although he also wants us to be uncomfortable with what he believes now are intrusive constraints on the chief executive’s ability to protect the country. Goldsmith may be correct that there are more actors than ever involved in trying to trip up the president’s plans, but that does not mean that our chief executives are losing power and control due to these forces. Whether it is war and anti-terrorism powers, czars, recess appointments, state secrets privilege, executive privilege, signing statements, or any of a number of other vehicles of presidential power, our chief executives are using more and more means of overriding institutional and external checks on their powers. And by any measure, they are succeeding much more than the countervailing forces are limiting them.

#### The Courts are self-interested – they’ll use the aff’s precedent to expand their power vis-à-vis the President

Choper 7 -- Earl Warren Prof of Public Law @ UC Berkeley (Jesse H., 2007, "The Political Question Doctrine and the Supreme Court of the United States," Introduction, p. 1-21)

Because the prudential doctrine allows the Court to avoid deciding a case without an anchor in constitutional interpretation, it is this aspect of the political question doctrine that seems most troublesome. It would be unwise, however, to reject the entire political question doctrine because of the failings of the prudential doctrine. Indeed, the classical political question doctrine is critically important in the constitutional order, and its demise is cause for concern. In particular, the disappearance of the classical political question doctrine has a negative effect on two fronts. First, it has a direct negative impact in that it prevents the political branches from exercising constitutional judgment in those cases in which a classical political question is presented. Admittedly, this is a small category of cases that are not likely to arise very often. Electoral count disputes, judicial impeachments, and constitutional amendment ratification questions do not occur with much frequency. These questions are of fundamental importance, however, and judicial interference in these circumstances could have a negative effect on our government that transcends the scope of the particular case. Nothis provides a more poignant illustration than the Article II issue in the 2000 election cases. the doctrine strikes at the heart of separation of powers and the need for each branch to stay within its sphere to maintain the constitutional order. Second, the end of the classical political question doctrine has a much broader secondary effect. The Supreme Court is effectively left alone to police the boundaries of its power. This is, perhaps, the most difficult of all the Court's tasks, for it requires **the most extreme form of willpower**. It also dramatically displays the tension that exists beneath the surface of all the Court's decisions, That is, when the Court is protecting individual rights against congressional action, deciding whether authority resides with the states or with Congress, or resolving controversies between the executive and Congress, its own interest is not at the fore in the decision. Ostensibly, the Court is protecting one entity from another. When the Court decides whether the political question doctrine applies, however, what is merely implicit in those other decisions becomes explicit: the Court's institutional interests and strengths vis-a-vis the other branches. Thus, when the Court conducts the **threshold inquiry** of whether a matter rests exclusively with another branch, it must **inevitably** weigh the advantages and disadvantages of judicial review versus pure political analysis. This process therefore highlights for the Court its own strengths and weaknesses, as well as the upsides and downsides of giving the question to Congress of the executive. This is a healthy analysis for the Court to undertake, for it highlights the functional concerns behind the separation of powers and forces the Court to take a more modest view of its own powers and abilities. Therefore, eliminating this jurisdictional question from the Court's tasks helps **pave the way for a** much broader vision of judicial supremacy and a much more limited view of deference to the political branches. The end of the classical political question doctrine thus threaten to disrupt our constitutional order and turn the framers' vision of a constitutional conversation among three coordinate branches into a **monologue by the Supreme Court**.

#### That’s k2 solve warming

PCAP 08 (Presidential Climate Action Project, Nonpartisan Project at the University of Colorado Denver, “Climate Action Brief: The Use of Presidential Power”, 2008 is the last date cited,<http://www.climateactionproject.com/docs/briefs/Climate_Brief_Presidential_Power.pdf>)  
  
This legacy could lead the Congress, the courts and the voters to push the presidential power pendulum to the opposite extreme, handcuffing the executive branch even in areas where its powers are clear. Yet the 44th President will need all the tools he or she commands to deal with the serious problems the next administration will have to tackle, including **global climate change**. To address this issue, the Presidential Climate Action Project commissioned the Center for Energy and Environmental Security at the University of Colorado School of Law to analyze presidential powers. The result is a 200-page analysis based on a review of 140 legal cases and numerous scholarly articles. Ii In its analysis, the Center notes that America’s past presidents have interpreted their authority differently. President William Taft believed the president could not do anything without specific permission from Congress. Theodore Roosevelt was more willing to be assertive under the “stewardship theory” – the idea that presidents have an affirmative duty to pursue the common good unless prevented by a direct constitutional or legislative prohibition. Franklin D. Roosevelt’s philosophy was the most expansive. “In the event that the Congress should fail to act, and act adequately, I shall accept the responsibility and I will act,” he told Congress in his Labor Day address of 1942. As it turned out, FDR did not need to engage in a power struggle with the legislative branch. He was a popular president in a time of crisis. He asked Congress to delegate to him the new authority he felt he needed to deal with the Depression, and Congress did so. As a result, FDR became a strong and enabled leader with the full consent of the legislative branch at a time when strong leadership was critical. That is the precedent the next President should follow in dealing with energy, the climate and the economy. The President will have many traditional tools at his or her disposal, including executive orders, directives, proclamations, signing statements, national security directives, executive communications with Congress, the ability to call Congress into special session, the veto, the execution of treaties and the creation of executive agreements, a type of international agreement that falls short of a formal treaty and does not require Senate ratification. And, of course, the President has the bully pulpit. In regard to climate change, the next administration’s authority includes the power to: •Regulate greenhouse gas emissions under the Clean Air Act; •Institute a carbon cap-and-trade regime as EPA did for SO2 and NOx in 1995; •Propose and champion national goals for energy efficiency, renewable energy use, greenhouse gas reductions and other critical objectives; •Enter into executive agreements to collaborate with other nations on research and policies that will reduce energy vulnerability and greenhouse gas emissions; •Restore the federal government’s capacity for climate action by appointing highly qualified experts in climate science and policy to key government leadership positions; •Rescind Executive Order 13422, in which President Bush established political oversight of federal science; •Restore specific greenhouse gas reduction goals for federal agencies, which were eliminated in another executive order issued by President Bush. **But like FDR, the next President may need new powers to deal with climate change and the other urgent issues.** As the Center for Energy and Environmental Security notes, “One of the key actions to be taken by a future president to address climate change policy would be to work with Congress for the appropriate and necessary delegations of authority that will give him or her the power to act with flexibility, without delay and with certainty within the framework of the Constitution.” As in FDR’s era, the 44th President will be most able to lead boldly on climate change when there is a clear mandate from the voters that the time has come for strong national action. As University of Chicago Professor William Howell has noted, “Not once in the modern era have the courts overturned a president who enjoys broad-based support from Congress, interest groups and the public.” Creating that mandate for strong but legitimate use of**presidential power is** one of the **key** responsibilities facing the presidential candidates in this election season – and one of the key challenges for the many organizations working **to build grassroots support for climate action**.

#### Risks human extinction

Flournoy 12

Citing Feng Hsu, PhdD NASA Scientist @ the Goddard Space Flight Center, Don Flournoy, PhD and MA from UT, former Dean of the University College @ Ohio University, former Associate Dean at SUNY and Case Institute of Technology, Former Manager for Unviersity/Industry Experiments for the NASA ACTS Satellite, currently Professor of Telecommunications @ Scripps College of Communications, Ohio University, “Solar Power Satellites,” January 2012, Springer Briefs in Space Development, p. 10-11

In the Online Journal of Space Communication , Dr. Feng Hsu, a  NASA scientist at Goddard Space Flight Center, a research center in the forefront of science of space and Earth, writes, “The evidence of global warming is alarming,” noting the potential for a catastrophic planetary climate change is real and troubling (Hsu 2010 ) . Hsu and his NASA colleagues were engaged in monitoring and analyzing climate changes on a global scale, through which they received first-hand scientific information and data relating to global warming issues, including the dynamics of polar ice cap melting. After discussing this research with colleaxgues who were world experts on the subject, he wrote: I now have no doubt global temperatures are rising, and that global warming is a serious problem confronting all of humanity. No matter whether these trends are due to human interference or to the cosmic cycling of our solar system, there are two basic facts that are crystal clear: (a) there is overwhelming scientific evidence showing positive correlations between the level of CO2 concentrations in Earth’s atmosphere with respect to the historical fluctuations of global temperature changes; and (b) the overwhelming majority of the world’s scientific community is in agreement about the risks of a potential catastrophic global climate change. That is, if we humans continue to ignore this problem and do nothing, if we continue dumping huge quantities of greenhouse gases into Earth’s biosphere, humanity will be at dire risk (Hsu 2010 ) . As a technology risk assessment expert, Hsu says he can show with some confidence that the planet will face more risk doing nothing to curb its fossil-based energy addictions than it will in making a fundamental shift in its energy supply. “This,” he writes, “is because the risks of a catastrophic anthropogenic climate change can be potentially the extinction of human species, a risk that is simply too high for us to take any chances” (Hsu 2010 )

### 4

#### Robert and I affirm transformative legal genealogies, cartographies, and counter-archives of Nde memory and pictographs that rupture the carceral architecture of containment as a substantial increase of statutory restrictions on the war powers authority of the President of the United States to indefinitely detain.

#### Net benefit is judicial restrictions bad –

#### Court rulings restricting presidential war powers spur massive court stripping – empirics

Reinhardt 6 (Stephen – Judge, U.S. Court of Appeals for the Ninth Circuit, “THE ROLE OF THE JUDGE IN THE TWENTY-FIRST CENTURY: THE JUDICIAL ROLE IN NATIONAL SECURITY”, 2006, 86 B.U.L. Rev. 1309, lexis)

Archibald Cox - who knew a thing or two about the necessity of government actors being independent - emphasized that an essential element of judicial independence is that "there shall be no tampering with the organization or jurisdiction of the courts for the purposes of controlling their decisions upon constitutional questions." n2 Applying Professor Cox's precept to current events, we might question whether some recent actions and arguments advanced by the elected branches constitute threats to judicial independence. Congress, for instance, recently passed the Detainee Treatment Act. n3 The Graham-Levin Amendment, which is part of that legislation, prohibits any court from hearing or considering habeas petitions filed by aliens detained at Guantanamo Bay. n4 The Supreme Court has been asked to rule on whether the Act applies only prospectively, or whether it applies to pending habeas petitions as well. It is unclear at this time which interpretation will prevail. n5 But if the Act is ultimately construed as applying to pending appeals, one must ask whether it constitutes "tampering with the ... jurisdiction of the courts for the purposes of controlling their decisions," which Professor Cox identified as a key marker of a violation of judicial independence. All of this, of course, is wholly aside from the question of whether Congress and the President may strip the courts of such jurisdiction prospectively. And it is, of course, also wholly apart from the Padilla case, n6 in which many critics believe that the administration has played fast and loose with the courts' jurisdiction in order to avoid a substantive decision on a fundamental issue of great importance to all Americans. Another possible threat to judicial independence involves the position taken by the administration regarding the scope of its war powers. In challenging cases brought by individuals charged as enemy combatants or detained at Guantanamo, the administration has argued that the President has "inherent powers" as Commander in Chief under Article II and that actions he takes pursuant to those powers are essentially not reviewable by courts or subject to limitation by Congress. n7 The administration's position in the initial round of Guantanamo cases was that no court anywhere had any jurisdiction to consider [\*1311] any claim, be it torture or pending execution, by any individual held on that American base, which is located on territory under American jurisdiction, for an indefinite period. n8 The executive branch has also relied on sweeping and often startling assertions of executive authority in defending the administration's domestic surveillance program, asserting at times as well a congressional resolution for the authorization of the use of military force. To some extent, such assertions carry with them a challenge to judicial independence, as they seem to rely on the proposition that a broad range of cases - those that in the administration's view relate to the President's exercise of power as Commander in Chief (and that is a broad range of cases indeed) - are, in effect, beyond the reach of judicial review. The full implications of the President's arguments are open to debate, especially since the scope of the inherent power appears, in the view of some current and former administration lawyers, to be limitless. What is clear, however, is that the administration's stance raises important questions about how the constitutionally imposed system of checks and balances should operate during periods of military conflict, questions judges should not shirk from resolving.

#### Stripping undermines democracy and an independent judiciary

Brown 10 (Rebecca – Newton Professor of Constitutional Law, USC Gould School of Law, “WILL AND PRINCIPLE”, 2010, Mich. St. L. Rev. 569, lexis)

Friedman has shown us that there is an eventual correlation between the Court's interpretations of the Constitution and some zone of approval that can be attributed to the American public. n5 The burning question, how [\*572] ever, is why. The book offers both weaker and stronger versions of an answer to this question. In the weaker version, The Will of the People suggests that the institutional structure of the Court, including political appointment and need for enforcement of its decisions by the political branches, very generally operates to ensure that decisions will be within some degree of acceptability to the larger public. But Friedman does not find this explanation sufficient. n6 In the end, he embraces the strong version of the answer, which relies on an anthropomorphism of both the Court and the public. "If [the people] simply raise a finger, the Court seems to get the message." n7 Friedman's answer suggests that individual justices have consciously made outcome-determinative decisions in cases based on their sense of the direction of public opinion. n8 Furthermore, they have done so out of self interest. The motivation for accommodating popular opinion is a fear of popular efforts to "discipline" the Court: imposing political checks on the judiciary such as impeachment, defiance of court orders, court-packing, and jurisdiction-stripping. n9 Two aspects of Friedman's account make me uneasy. Both involve a lurking concern I have that this account of judicial review minimizes what I hold to be profoundly important values in our constitutional democracy. The first of these values is the public commitment to an independent judiciary, and the second is the importance of judgment to constitutional interpretation. I will discuss each in turn.

#### Judicial independence key to Chinese economy

Killion 5 (M. Ulric Killion, Visiting Professor, International Law, Shanghai International Studies University, “China’s Amended Constitution: Quest for Liberty and Independence Judicial Review,” WASHINGTON UNIVERSITY GLOBAL STUDIES LAW REVIEW v. 4, 2005, p. 48-49.)

Given continuing peace and stability, China will ultimately realize its major economic development objectives, certainly by the first quarter of the 21st century, if not by 2015. By then China will clearly be a middle-income economy in terms of its per-capita income but its total GDP will make it the world's largest economy. 27 In terms of legal and economic reform, a potential problem for China is that the "engines that have driven China's growth in the past are losing their dynamism." 28 For China, continuing economic development and prosperity 29 depend upon a continued growth and evolution of Chinese constitutionalism, rule of law, and, in particular, independent judicial review. "The way in which the modern formal legal order that evolved in some Western countries was transplanted into other countries is a much more important determinant of legality and economic development today than the supply of a particular legal code." 30 This Article addresses the aforementioned issues by reviewing the historicity of Chinese constitutionalism, and the forces of ideology and culture that influence social values. These forces include: China's ontological base in tradition (Confucianism); its relevant laws; decisions, replies, and resolutions of the Supreme People's Court and the Standing Committee of the National People's Congress (SCNPC); and the political and constitutional relationship of the SCNPC to the National People's Congress (NPC). A review of the resolutions, decisions, and powers of the SCNPC is especially important because the 1982 Constitution grants to the [\*49] SCNPC, and not to the Supreme People's Court, the power to interpret the Constitution and laws of China (lifa jieshi quanli). 31

#### Collapse causes war

**Kaminski 7** (Antoni Z., Professor – Institute of Political Studies, “World Order: The Mechanics of Threats (Central European Perspective)”, Polish Quarterly of International Affairs, 1, p. 58)

As already argued, the economic advance of China has taken place with relatively few corresponding changes in the political system, although the operation of political and economic institutions has seen some major changes. Still, tools are missing that would allow the establishment of political and legal foundations for the modem economy, or they are too weak. The tools are efficient public administration, the rule of law, clearly defined ownership rights, efficient banking system, etc. For these reasons, many experts fear an economic crisis in China. Considering the importance of the state for the development of the global economy, the crisis would have serious global repercussions. Its political ramifications could be no less dramatic owing to the special position the military occupies in the Chinese political system, and the existence of many potential vexed issues in East Asia (disputes over islands in the China Sea and the Pacific). A potential hotbed of conflict is also Taiwan's status. Economic recession and the related destabilization of internal policies could lead to a political, or even military crisis. The likelihood of the global escalation of the conflict is high, as the interests of Russia, China, Japan, Australia and, first and foremost, the US clash in the region.

### Case

#### ---Extinction outweighs

Bok 88

(Sissela, Professor of Philosophy at Brandeis, Applied Ethics and Ethical Theory, Rosenthal and Shehadi, Ed.)

The same argument can be made for Kant’s other formulations of the Categorical Imperative: “So act as to use humanity, both in your own person and in the person of every other, always at the same time as an end, never simply as a means”; and “So act as if you were always through your actions a law-making member in a universal Kingdom of Ends.” No one with a concern for humanity could consistently will to risk eliminating humanity in the person of himself and every other or to risk the death of all members in a universal Kingdom of Ends for the sake of justice. To risk their collective death for the sake of following one’s conscience would be, as Rawls said, “irrational, crazy.” And to say that one did not intend such a catastrophe, but that one merely failed to stop other persons from bringing it about would be beside the point when the end of the world was at stake. For although it is true that we cannot be held responsible for most of the wrongs that others commit, the Latin maxim presents a case where we would have to take such responsibility seriously – perhaps to the point of deceiving, bribing, even killing an innocent person, in order that the world not perish. To avoid self-contradiction, the Categorical Imperative would, therefore, have to rule against the Latin maxim on account of its cavalier attitude toward the survival of mankind. But the ruling would then produce a rift in the application of the Categorical Imperative. Most often the Imperative would ask us to disregard all unintended but foreseeable consequences, such as the death of innocent persons, whenever concern for such consequences conflicts with concern for acting according to duty. But, in the extreme case, we might have to go against even the strictest moral duty precisely because of the consequences. Acknowledging such a rift would post a strong challenge to the unity and simplicity of Kant’s moral theory.

#### Evaluate consequences – allowing violence for the sake of moral purity is evil

Isaac 2 (Jeffrey C., Professor of Political Science – Indiana-Bloomington, Director – Center for the Study of Democracy and Public Life, Ph.D. – Yale, Dissent Magazine, 49(2), “Ends, Means, and Politics”, Spring, Proquest)

As writers such as Niccolo Machiavelli, Max Weber, Reinhold Niebuhr, and Hannah Arendt have taught, an unyielding concern with moral goodness undercuts political responsibility. The concern may be morally laudable, reflecting a kind of personal integrity, but it suffers from three fatal flaws: (1) It fails to see that the purity of one’s intention does not ensure the achievement of what one intends. Abjuring violence or refusing to make common cause with morally compromised parties may seem like the right thing; but if such tactics entail impotence, then it is hard to view them as serving any moral good beyond the **clean conscience** of their supporters; (2) it fails to see that in a world of real violence and injustice, moral purity is not simply a form of powerlessness; it is often a form of complicity in injustice. This is why, from the standpoint of politics--as opposed to religion--pacifism is always a potentially immoral stand. In categorically repudiating violence, it refuses in principle to oppose certain violent injustices with any effect; and (3) it fails to see that politics is as much about **unintended consequences** as it is about intentions; it is the effects of action, rather than the motives of action, that is most significant. Just as the alignment with “good” may engender impotence, it is often the pursuit of “good” that generates evil. This is the lesson of communism in the twentieth century: it is not enough that one’s goals be sincere or idealistic; it is equally important, always, to ask about the effects of pursuing these goals and to judge these effects in pragmatic and historically contextualized ways. Moral absolutism inhibits this judgment. It alienates those who are not true believers. It promotes arrogance. And it undermines political effectiveness.

#### ---Detention restrictions increases rendition and drone strikes—comparatively worse

**Goldsmith, 12** (Law Prof-Harvard, 6/29, Proxy Detention in Somalia, and the Detention-Drone Tradeoff, www.lawfareblog.com/2012/06/proxy-detention-in-somalia-and-the-detention-drone-tradeoff/

There has been speculation about the effect of the Obama administration’s pinched detention policy – i.e. no new detainees brought to GTMO, and no new detainees to Parwan (Afghanistan) from outside Afghanistan – on its other counterterrorism policies. I have long believed there must be some tradeoff between narrowing U.S. detention capabilities and other counterterrorism options, at least implicitly, and not necessarily for the better. As I wrote three years ago, in response to news reports that the Obama administration’s cutback on USG detentions resulted in more USG drone strikes and more outsourcing of rendition, detention, and interrogation: There are at least two problems with this general approach to incapacitating terrorists. First, it is not ideal for security. Sometimes it would be more useful for the United States to capture and interrogate a terrorist (if possible) than to kill him with a Predator drone. Often the United States could get better information if it, rather than another country, detained and interrogated a terrorist suspect. Detentions at Guantanamo are more secure than detentions in Bagram or in third countries. The second problem is that terrorist suspects often end up in less favorable places. Detainees in Bagram have fewer rights than prisoners at Guantanamo, and many in Middle East and South Asian prisons have fewer yet. Likewise, most detainees would rather be in one of these detention facilities than be killed by a Predator drone. We congratulate ourselves when we raise legal standards for detainees, but in many respects all we are really doing is driving the terrorist incapacitation problem out of sight, to a place where terrorist suspects are treated worse. The main response to this argument – especially as it applies to the detention-drone tradeoff – has been to deny any such tradeoff on the ground that there are no terrorists outside of Afghanistan (a) whom the United States is in a position to capture on the ground (as opposed to kill from the sky), and (b) whom the USG would like to detain and interrogate. Dan Klaidman’s book provides some counter-evidence, but I will save my analysis of that for a review I am writing. Here I would like to point to an important story by Eli Lake that reveals that the “United States soldiers have been hunting down al Qaeda affiliates in Somalia”; that U.S. military and CIA advisers work closely with the Puntland Security Force in Somalia, in part to redress piracy threats but mainly to redress threats from al-Shabab; that the Americans have since 2009 captured and brought to the Bosaso Central Prison sixteen people (unclear how many are pirates and how many are al-Shabab); and that American interrogators are involved in questioning al-Shabab suspects. The thrust of Lake’s story is that the conditions of detention at the Bosaso Central Prison are atrocious. But the story is also important for showing that that the United States is involved outside of Afghanistan in capturing members of terrorists organizations that threaten the United States, and does have a national security need to incapacitate and interrogate them. It does not follow, of course, that the USG can or should be in the business of detaining every al-Shabab suspect currently detained in the Bosaso Central Prison. But the Lake story does show that the alternatives to U.S. detention are invariably worse from a human rights perspective. It portends (along with last month’s WPR Report and related DOD press release) that our creeping involvement on the ground in places like Somalia and Yemen mean that the USG will in fact be in a position to capture higher-level terrorists in al Qaeda affiliates. And that in turn suggests that the factual premise underlying the denial of a detention-drone tradeoff will become harder and harder to defend.

#### ---The aff results in shipping combatants overseas

Umansky, 5 – senior editor at ProPublica (Eric, 6/17. “Closing Guantanamo prison may not be the best option.” http://onlineathens.com/stories/061805/opi\_20050618001.shtml)

Closing the U.S. prison at Guantanamo Bay has suddenly become a hot topic. Since Sen. Joseph R. Biden Jr., D-Del., broached the idea, the notion has been gaining steam. Last weekend, Sen. Mel Martinez, R-Fla., added the first Republican voice to the chorus, and there were Senate hearings Wednesday on detainee issues. Even President Bush seems to be hinting that he's game. Asked during a television interview whether Gitmo should be shut, the president said, "We're exploring all alternatives as to how best to do the main objective, which is to protect America." Gitmo has come to represent the lack of accountability and the extralegal aspects of the war on terrorism. Shuttering it would be a grand gesture. The symbolism would be important and could help improve the U.S. image. But if that is all that is done, a closure risks obscuring a more important issue and could even be counterproductive: If the U.S. is to really regain its standing as a defender of human rights, it needs to do more than mothball a single jail; it needs to change its policies. If the prison were to close, what would happen to the detainees? Most of them were judged by former commanders at Guantanamo to be merely Taliban foot soldiers. Some, presumably, would simply be released. Others might face military tribunals, and some would most likely be shipped off, to be held by other countries. The last two possibilities are not a welcome scenario from either a moral or public relations perspective. Consider the tribunals. Heavily stacked against defendants, they've been condemned by such groups as the American Bar Association and military defense lawyers, who actually sued the government over the lack of prisoners' rights. Shipping terror suspects to other countries, even their own countries, could be worse. The U.S. has been practicing a form of this: "extraordinary rendition," in which prisoners are picked up in one locale - "snatched" in CIA parlance - and find themselves incarcerated elsewhere, in countries such as Syria or Uzbekistan. A United States military boat patrols in front of Camp Delta in this 2002 file photo, in Guantanamo Bay, Cuba. The legal process in such cases isn't just flawed, it doesn't exist. Detainees get no trials or hearings before a judge. The U.S. gets pro forma promises that prisoners won't be tortured, but there is no known monitoring. And Uzbekistan, for instance, has gained some renown for reports of political prisoners being boiled alive. Rendition hasn't generated the headlines or the level of outrage as Guantanamo Bay. But stories from rendered detainees have made it out, and they do little for the U.S. image. One Australian citizen who was rendered to Egypt was reportedly hung from a wall and given electric shock. In something of a reprieve, he was transferred to Guantanamo Bay. He arrived without most of his fingernails. There's also a perverse possibility intrinsic in **closing Gitmo**: It **could end up making the U.S. less accountable. With the visible symbol of unfair treatment swept away, pressure for wider change might dissipate**. It's important to remember that Gitmo is only one of a group of U.S. prisons around the globe set up to hold "enemy combatants" captured in the war on terrorism. Far less is known about the other jails, which are reportedly run by the CIA. There's one at Bagram Air Base in Afghanistan, called the Salt Pits. As The New York Times reported, two detainees have been killed at Bagram. More obscure is the reported facility at a base in Diego Garcia in the Indian Ocean. Unlike at Guantanamo Bay, no reporters have been allowed to visit these jails.

#### That tanks any global benefits to ending detention

NYT, 13 (The New York Times, Charlie Savage, 12/5. “Two Guantánamo Detainees Are Involuntarily Repatriated to Algeria.” http://www.nytimes.com/2013/12/06/us/politics/two-guantanamo-detainees-are-involuntarily-repatriated-to-algeria.html?\_r=0)

The involuntary transfers to Algeria showed that the steps to close the prison may be criticized by liberals on humanitarian grounds as well as by conservatives for national security reasons. Lawyers for the two former detainees, who are now said to be held by the Algerian government as part of a 12-day evaluation period, denounced the move. “I think that these guys are numbers on a spreadsheet for the State Department,” said Wells Dixon, a lawyer with the Center for Constitutional Rights, a human rights firm that represents one of the men, Djamel Ameziane. “I think the State Department doesn’t care if it ruins their lives.” Ian Moss, a spokesman at the State Department for Guantánamo transfer issues, defended the decision to repatriate the two men against their will. He said the United States had previously repatriated 14 other Algerians and was “satisfied that the Algerian government would continue to abide by lawful procedures and uphold its obligations under domestic and international law in managing the return of former Guantánamo detainees.” “We understand that from time to time we will receive criticism,” Mr. Moss said, “but we are absolutely committed to moving forward with closing Guantánamo, and doing so in a responsible manner, consistent with the law, our national security interests and our longstanding humane treatment policies.” Mr. Ameziane was arrested in Pakistan in late 2001, and the other Algerian, Belkacem Bensayah, was arrested in Bosnia in 2001. Both were taken to Guantánamo in early 2002. The two men were approved for transfer, if security conditions could be met, by a 2009 Obama administration task force. “Mr. Bensayah was adamant that he would rather stay at Guantánamo than return to Algeria,” said Mark Fleming, a lawyer for Mr. Bensayah, “not only because he wanted to be reunited with his family in Bosnia after 12 years apart, which now seems increasingly difficult — if not impossible — but he also feared he would be a target for actual extremists in Algeria.” Mr. Fleming said Mr. Bensayah’s legal team had unsuccessfully sought to persuade Bosnia, which had revoked his citizenship, to take in his client because his wife and daughters live there. He said the United States should have tried harder to get another European country to take him. In a news release, the Center for Constitutional Rights called Mr. Ameziane’s involuntary transfer “as unnecessary as it is bitterly cruel,” and said he should have been sent instead to Canada — he once lived in Montreal — or to Luxembourg, which the center contended offered in 2010 to take him in.

#### The neg’s totalizing critique forecloses the possibility for political transformation – they up on the possibility for institutional transformation.

Pieterse 00 [Jan Nederveen, Institue of Social Studies, The Hague, The Netherlands, Third World Quarterly, Vol 21, No 2, “After post-development,” p. 187-188]

Post-development is caught in rhetorical gridlock. Using discourse analysis as an ideological platform invites political impasse and quietism. In the end post-development offers no politics besides the self-organising capacity of the poor, which actually lets the development responsibility of states and international institutions off the hook. Post-development arrives at development agnosticism by a different route but shares the abdication of development with neoliberalism. Since most insights in post-development sources are not specific to post-development (and are often confused with alternative development), what makes post-development distinctive is the rejection of development. Yet the rejection of development does not arise from post-development insights as a necessary conclusion. In other words, one can share post-development’s observations without arriving at this conclusion: put another way, there is no compelling logic to post-development arguments.¶ Commonly distinguished reactions to modernity are neo-traditionalism, modernisation and postmodernism (e.g. McEvilley, 1995). Post-development belongs to the era of the ‘post’—post-structuralism, postmodernism, post-colonialism, post-Marxism. It is premised on an awareness of endings, on ‘the end of modernity’ and, in Vattimo’s (1988) words, the ‘crisis of the future’. Post-development parallels postmodernism both in its acute intuitions and in being directionless in the end, as a consequence of its refusal to, or lack of interest in, translating critique into construction. At the same time it also fits the profile of the neo-traditionalist reaction to modernity. There are romantic and nostalgic strands to post-development and its reverence for community, Gemeinschaft and the traditional, and there is an element of neo-Luddism in the attitude towards science and technology. The overall programme is one of resistance rather than transformation or emancipation.¶ Post-development is based on a paradox. While it is clearly part of the broad critical stream in development, it shows no regard for the progressive potential and dialectics of modernity—for democratisation, soft-power technologies, reflexivity. Thus, it is not difficult to see that the three nodal discourses identified by Escobar—democratisation, difference and anti-development—themselves arise out of modernisation. Democratisation continues the democratic impetus of the Enlightenment; difference is a function of the transport and communication revolutions, the world becoming ‘smaller’ and societies multicultural; and anti-development elaborates the dialectics of the Enlightenment set forth by the Frankfurt School. Generally, the rise of social movements and civil society activism, North and South, is also an expression of the richness of overall development, and cannot simply be captured under the label ‘anti’. Post-development’s source of strength is a hermeneutics of suspicion, an anti-authoritarian sensibility, and hence a suspicion of alternative development as an ‘alternative managerialism’. But since it fails to translate this sensibility into a constructive position, what remains is whistling in the dark. What is the point of declaring development a ‘hoax’ (Norberg-Hodge, 1995) without proposing an alternative?¶ Alternative development thinking primarily looks at development from the point of view of the disempowered, from bottom-up, along a vertical axis. It combines this with a perspective on the role of the state. In simple terms: a strong civil society needs a strong state (Friedmann, 1992; Brohman, 1996). Post-development adopts a wider angle in looking at development through the lens of the problematic of modernity. Yet, although its angle is wide, its optics are not sophisticated and the focus is unsharp. Its view of modernity is one-dimensional and ignores different options for problematising modernity, such as ‘reworking modernity’ (Pred & Watts, 1992), or exploring modernities in the plural (Nederveen Pieterse, 1998a). Thus, reflexive modernity is more enabling as a position and reflexive development is a corollary in relation to development (Nederveen Pieterse, 1998b).¶ In my view post-development and ‘alternatives to development’ are flawed premises—flawed not as sensibilities but as positions. The problem is not the critiques, which one can sympthaize with easily enough and which are not specific to post-development, but the companion rhetoric and posturing, which intimate a politically correct position. ‘Alternatives to development’ is a misnomer because no such alternatives are offered. There is no positive programme; there is a critique but no construction. ‘Post-development’ is misconceived because it attributes to ‘development’ a single and narrow meaning, a consistency that does not match either theory or policy, and thus replicates the rhetoric of developmentalism, rather than penetrating and exposing its polysemic realities. It echoes the ‘myth of development’ rather than leaving it behind. Post-development makes engaging contributions to collective conversation and reflexivity about development and as such contributes to philosophies of change, but its contribution to politics of change is meagre. While the shift towards cultural sensibilities that accompanies this perspective is a welcome move, the plea for ‘people’s culture’ (Constantino, 1985) or indigenous culture, can lead, if not to ethno-chauvinism and ‘reverse orientalism’ (Kiely, 1999: 25), to reification of both culture and locality or people. It presents a conventional and narrow view of globalisation, equated with homogenisation. At a philosophical level we may wonder whether there are alternatives to development for homo sapiens, as the ‘unfinished animal’, ie to development writ large, also in the wide sense of evolution.

#### Security creates value to life.

Booth 5 [Ken, visiting researcher - US Naval War College, Critical Security Studies and World Politics, p. 22]

The best starting point for conceptualizing security lies in the real conditions of insecurity suffered by people and collectivities. Look around. What is immediately striking is that some degree of insecurity, as a life-determining condition, is universal. To the extent an individual or group is insecure, to the extent their life choices and changes are taken away; this is because of the resources and energy they need to invest in seeking safety from domineering threats – whether these are the lack of food for one’s children, or organizing to resist a foreign aggressor. The corollary of the relationship between insecurity and a determined life is that a degree of security creates life possibilities. Security might therefore be conceived as synonymous with opening up space in people’s lives. This allows for individual and collective human becoming – the capacity to have some choice about living differently – consistent with the same but different search by others. Two interrelated conclusion follow from this. First, security can be understood as an instrumental value; it frees its possessors to a greater or lesser extent from life-determining constraints and so allows different life possibilities to be explored. Second, security is not synonymous simply with survival. One can survive without being secure (the experience of refugees in long-term camps in war-torn parts of the world, for example). Security is therefore more than mere animal survival (basic animal existence). It is survival-plus, the plus being the possibility to explore human becoming. As an instrumental value, security is sought because it free people(s) to some degree to do other than deal with threats to their human being. The achievement of a level of security–and security is always relative –gives to individuals and groups some time, energy, and scope to choose to be or become, other than merely surviving as human biological organisms. Security is an important dimension of the process by which the human species can reinvent itself beyond the merely biological.

#### No impact to state of exception

**Dickinson 4** (Dr. Edward Ross, Professor of History – University of Cincinnati, “Biopolitics, Fascism, Democracy: Some Reflections on Our Discourse About ‘Modernity’”, Central European History, 37(1), p. 18-19)

In an important programmatic statement of 1996 Geoff Eley celebrated the fact that Foucault’s ideas have “fundamentally directed attention away from institutionally centered conceptions of government and the state . . . and toward a dispersed and decentered notion of power and its ‘microphysics.’”48 The “broader, deeper, and less visible ideological consensus” on “technocratic reason and the ethical unboundedness of science” was the focus of his interest.49 But the “power-producing effects in Foucault’s ‘microphysical’ sense” (Eley) of the construction of social bureaucracies and social knowledge, of “an entire institutional apparatus and system of practice” ( Jean Quataert), simply do not explain Nazi policy.50 The destructive dynamic of Nazism was a product not so much of a particular modern set of ideas as of a particular modern political structure, one that could realize the disastrous potential of those ideas. What was critical was not the expansion of the instruments and disciplines of biopolitics, which occurred everywhere in Europe. Instead, it was the principles that guided how those instruments and disciplines were organized and used, and the external constraints on them. In National Socialism, biopolitics was shaped by a totalitarian conception of social management focused on the power and ubiquity of the völkisch state. In democratic societies, biopolitics has historically been **constrained** by a rights-based strategy of social management. This is a point to which I will return shortly. For now, the point is that what was decisive was actually politics at the level of the state. A comparative framework can help us to clarify this point. Other states passed compulsory sterilization laws in the 1930s — indeed, individual states in the United States had already begun doing so in 1907. Yet they **did not proceed** tothe next steps adopted by National Socialism — mass sterilization, mass “eugenic” abortion and murder of the “defective.” Individual figures in, for example, the U.S. did make such suggestions. But **neither** the **political structures** of democratic states **nor** their **legal and political principles** **permitted** such policies actually being enacted. Nor did the scale of forcible sterilization in other countries match that of the Nazi program. I do not mean to suggest that such programs were not horrible; but in a **democratic** political **context** they did not develop the dynamic of constant radicalization and escalation that characterized Nazi policies.

#### Value to life can’t be calculated

Schwartz 2 (Lisa, M.D., Associate Professor of Medicine – Dartmouth College Medical School, et al., Medical Ethics: A Case Based Approach, www.fleshandbones.com/readingroom/pdf/399.pdf)

The first criterion that springs to mind regarding the value of life is usually the quality of the life or lives in question: The quality of life ethic puts the emphasis on the type of life being lived, not upon the fact of life. Lives are not all of one kind; some lives are of great value to the person himself and to others while others are not. What the life means to someone is what is important. Keeping this in mind it is not inappropriate to say that some lives are of greater value than others, that the condition or meaning of life does have much to do with the justification for terminating that life.1 Those who choose to reason on this basis hope that if the quality of a life can be measured then the answer to whether that life has value to the individual can be determined easily. This raises special problems, however, because the idea of quality involves a value judgment, and value judgments are, by their essence, subject to indeterminate relative factors such as preferences and dislikes. Hence, quality of life is difficult to measure and will vary according to individual tastes, preferences and aspirations. As a result, no general rules or principles can be asserted that would simplify decisions about the value of a life based on its quality.

#### Getting rid of detention reveals massive secrets – they collapse the state secrets doctrine and tank EU relations

Blazey 10 (Elizabeth – J.D. Candidate, Class of 2011, University at Buffalo School of Law, “Controlling Government Secrecy: A Judicial Solution to the Internal and External Conflicts Surrounding the State Secrets Privilege”, December, Buffalo Law Review, 58 Buffalo L. Rev. 1187, lexis)

In response to this argument, the court held that the above mentioned facts were not those central to the case. n202 Instead, these facts were just "the general terms in which El-Masri has related his story to the press." n203 For El-Masri to proceed with his claim, the court would have to determine the personal liability of each defendant. n204 Such a determination would include, for instance, "evidence that exposes how the CIA organizes, staffs, and supervises its most sensitive intelligence operations . . . how the head of the CIA participates in such operations, and how information concerning their progress is relayed to him . . . and the existence and details of CIA espionage contracts . . . ." n205 Furthermore, El-Masri would have to rely on witnesses to make these showings "whose identities . . . [\*1231] must remain confidential in the interest of national security." n206 Lastly, even if El-Masri could make out a prima facie case without state secrets, the court held that the defendants could not present a defense "without using privileged evidence." n207 The court then discussed several scenarios whereby any defense would require privileged information. Next, the court summarized several cases where claims had been dismissed pursuant to a government claim that the disclosure of CIA methods of operations, the malfunctioning of military weapons, classified operating locations of the Air Force, and sensitive CIA personnel decisions would have been required. n208 El-Masri also claimed that the district court should have reviewed the documents in camera because of their constitutional duty to review claims of egregious misconduct by the executive. n209 In response, the court first quoted the holding in Reynolds that "when 'the occasion for the privilege is appropriate, . . . the court should not jeopardize the security which the privilege is meant to protect by insisting upon an examination of the evidence, even by the judge alone, in chambers.'" n210 Also, the court countered El-Masri's assertion that this decision represents a "surrender of judicial control" by reasoning that "the court, not the Executive . . . determines whether the state secrets privilege has been properly invoked." n211 The court ultimately upheld the dismissal of El-Masri's claim based on the United States government's insertion of itself as a defendant and assertion of the state secrets privilege. n212 El-Masri highlights the difference between types of wrongdoing and methods of wrongdoing. In El-Masri, the plaintiff sought justice from wrongs inflicted by a program, the existence of which is widely publicized and acknowledged. However, the privilege was not invoked to [\*1232] protect from disclosure the facts of whether these wrongs occurred. Instead, the privilege was used to protect the identities of persons inside and outside the government who allegedly perpetrated the wrongs, the roles of those persons and organizations, and the agreements made between the government and outside organizations. Indeed, the plaintiff defined the essential facts of his case differently than the court. El-Masri focused in his claim on the consequences of alleged wrongful acts. The court, however, focused on the decision-making methods, government agreements and clandestine communications that would be required for such acts to take place. Even in relatively benign circumstances, these types of internal processes are often exempted from disclosure. For instance, under the Freedom of Information Act ("FOIA"), government agencies must disclose all requested agency records to any interested persons. n213 However, agencies can refuse to disclose records for national security reasons, as well as for reasons "related solely to the internal personnel rules and practices of an agency[,]" n214 and "inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency." n215 These exceptions allow agencies within the executive branch to freely communicate with one another, and carefully deliberate decisions without fear that materials related to their decision-making processes will become public and politicized. Additionally, under the Administrative Procedures Act ("APA") rulemaking requirements, n216 agencies are exempted from going through a public notice and comment process when they make rules that are related to military and foreign affairs functions n217 or to agency management or personnel. n218 These exceptions are in place to enable the President to perform core executive branch functions. These core [\*1233] functions involve, among other things, the enforcement of laws, the carrying out of military and foreign affairs, and the negotiation of international agreements. If the executive branch could not control information related to these core functions, it arguably could not perform the functions efficiently or effectively. Indeed, the underlying national security fear in disclosing the type of information sought by El-Masri lies in the potential for such disclosure to undermine the effectiveness of executive branch operations, the safety of government personnel and United States citizens, and the ability of the government to maintain relationships with foreign governments and other organizations. Furthermore, other countries have strong self interest in United States disclosure policies. In an article posted on the CIA's public website, Rutgers professor Warren F. Kimball explains that: "It could jeopardize lives if agents or contacts were revealed; it could jeopardize continued access to important information if special relationships with foreign agencies were acknowledged." n219 For instance, Kimball hypothesizes, "if the United States had a 'liaison' relationship with the government intelligence agency in a nation that had a strong anti-American political element . . . and the United States acknowledged that it received information from the intelligence agency in [that country,]" the government of that country "could fall." n220 The El-Masri case relies on a similar fear. The plaintiff alleged, for example, that he was first detained by the Macedonian government and then transferred to the custody of CIA operatives. n221 This suggests that the United States and Macedonia may have engaged in some sort of agreement either to detain the plaintiff or to hand him over to the United States or both. Macedonia, which is formerly part of Yugoslavia, has been trying to gain acceptance into the European Union since 2004, hindered, in part, by a disagreement with Greece over the right to use the name [\*1234] "Macedonia." n222 Macedonia is, however, a member of the Council of Europe, the well-respected European organization that stands separately from the European Union, and which deals with human rights and democratic principles. n223 The Council of Europe recently published a scathing review of the United States' extraordinary rendition program, stating, in part, that El-Masri's claims were highly credible. n224 If the United States were to announce formally any cooperation that Macedonia gave in such detentions, it could hinder Macedonia's political relationships within the Council of Europe, and give the European Union additional material to use in a decision to exclude Macedonia from membership. Therefore, Macedonia is a stakeholder in the decision to disclose or keep secret some of the information required in the El-Masri case. Furthermore, if someone within Macedonia cooperated without the formal consent of the Macedonian government, then details about the cooperation could expose that person or group to Macedonian legal consequences. If we "out" those who cooperate with us, we may dry up the flow of future cooperators and alienate those persons with whom we have already built or are cultivating relationships. El-Masri's claims also implicated cooperation between the United States government and Afghanistan and Albania, as well as cooperation between the United States government and [\*1235] private businesses who chartered the flights used to transport El-Masri. n225 Individual judges cannot be expected to have expertise on the intricacies of foreign policy relationships, so they are not in the best position to make decisions about whether certain information should be kept secret. Rather, the executive branch alone has the competency to make decisions about foreign relationships and decide when certain information must remain secret. Since judges make decisions based on what is furnished by the executive branch, mandatory judicial review does not, necessarily, effectively check abuse. It does, however, increase the risk of inappropriate dissemination of information and jeopardize the future cooperation of foreign governments, agents, and private businesses.

#### Solves WMD conflict and every other impact

Stivachtis 10 – Director of International Studies Program @ Virginia Polytechnic Institute [Dr. Yannis. A. Stivachtis (Professor of Poli Sci @ Virginia Polytechnic Institute & Ph.D. in Politics & International Relations from Lancaster University), THE IMPERATIVE FOR TRANSATLANTIC COOPERATION,” The Research Institute for European and American Studies, 2010, pg. <http://www.rieas.gr/research-areas/global-issues/transatlantic-studies/78.html>]

There is no doubt that US-European relations are in a period of transition, and that the stresses and strains of globalization are increasing both the number and the seriousness of the challenges that confront transatlantic relations. The events of 9/11 and the Iraq War have added significantly to these stresses and strains. At the same time, international terrorism, the nuclearization of North Korea and especially Iran, the proliferation of weapons of mass destruction (WMD), the transformation of Russia into a stable and cooperative member of the international community, the growing power of China, the political and economic transformation and integration of the Caucasian and Central Asian states, the integration andstabilization of the Balkan countries, the promotion of peace and stability in the Middle East, poverty, climate change, AIDS and other emergent problems and situations require further cooperation among countries at the regional, global and institutional levels. Therefore, cooperation between the U.S. and Europe is more imperative than ever to deal effectively with these problems. It is fair to say that the challenges of crafting a new relationship between the U.S. and the EU as well as between the U.S. and NATO are more regional than global, but the implications of success or failure will be global. The transatlantic relationship is still in crisis, despite efforts to improve it since the Iraq War. This is not to say that differences between the two sides of the Atlantic did not exist before the war. Actually, post-1945 relations between Europe and the U.S. were fraught with disagreements and never free of crisis since the Suez crisis of 1956. Moreover, despite trans-Atlantic proclamations of solidarity in the aftermath of 9/11, the U.S. and Europe parted ways on issues from global warming and biotechnology to peacekeeping and national missile defense. Questions such as, the future role of NATO and its relationship to the common European Security and Defense policy (ESDP), or what constitutes terrorism and what the rights of captured suspected terrorists are, have been added to the list of US-European disagreements. There are two reasons for concern regarding the transatlantic rift. First, if European leaders conclude that Europe must become counterweight to the U.S., rather than a partner, it will be difficult to engage in the kind of open search for a common ground than an elective partnership requires. Second, there is a risk that public opinion in both the U.S. and Europe will make it difficult even for leaders who want to forge a new relationship to make the necessary accommodations. If both sides would actively work to heal the breach, a new opportunity could be created. A vibrant transatlantic partnership remains a real possibility, but only if both sides make the necessary political commitment. There are strong reasons to believe that the security challenges facing the U.S. and Europe are more shared than divergent. The most dramatic case is terrorism. Closely related is the common interest in halting the spread of weapons of mass destruction and the nuclearization of Iran and North Korea. This commonality of threats is clearly perceived by publics on both sides of the Atlantic.

Actually, Americans and Europeans see eye to eye on more issues than one would expect from reading newspapers and magazines. But while elites on both sides of the Atlantic bemoan a largely illusory gap over the use of military force, biotechnology, and global warming, surveys of American and European public opinion highlight sharp differences over global leadership, defense spending, and the Middle East that threaten the future of the last century’s most successful alliance. There are other important, shared interests as well. The transformation of Russia into a stable cooperative member of the international community is a priority both for the U.S. and Europe. They also have an interest in promoting a stable regime inUkraine. It is necessary for the U.S. and EU to form a united front to meet these challenges because first, there is a risk that dangerous materials related to WMD will fall into the wrong hands; and second, the spread of conflict along those countries’ periphery could destabilize neighboring countries and provide safe havens for terrorists and other international criminal organizations. Likewise, in the Caucasus and Central Asia both sides share a stake in promoting political and economic transformation and integrating these states into larger communities such as the OSCE. This would also minimize the risk of instability spreading and prevent those countries of becoming havens for international terrorists and criminals. Similarly, there is a common interest in integrating the Balkans politically and economically. Dealing with Iran, Iraq, Lebanon, and the Israeli-Palestinian conflict as well as other political issues in the Middle East are also of a great concern for both sides although the U.S. plays a dominant role in the region. Finally, US-European cooperation will be more effective in dealing with the rising power of China through engagement but also containment. The post Iraq War realities have shown that it is no longer simply a question of adapting transatlantic institutions to new realities. The changing structure of relations between the U.S. and Europe implies that a new basis for the relationship must be found if transatlantic cooperation and partnership is to continue. The future course of relations will be determined above all by U.S. policy towards Europe and the Atlantic Alliance. Wise policy can help forge a new, more enduring strategic partnership, through which the two sides of the Atlantic cooperate in meeting the many major challenges and opportunities of the evolving world together. But a policy that takes Europe for granted and routinely ignores or even belittles European concerns, may force Europe to conclude that the costs of continued alliance outweigh its benefits. There is no doubt that the U.S. and Europe have considerable potential to pursue common security interests. Several key steps must be taken to make this potential a reality. First, it is critical to avoid the trap of ‘division of labor’ in the security realm, which could be devastating for the prospects of future cooperation. Second, and closely related to avoiding division of labor as a matter of policy, is the crucial necessity for Europe to develop at least some ‘high-end’ military capabilities to allow European forces to operate effectively with the U.S. Third, is the need for both the U.S. and Europe to enhance their ability to contribute to peacekeeping and post-conflict stabilization and reconstruction. Fourth, is the importance of preserving consensus at the heart of alliance decision-making. Some have argued that with the expansion of NATO, the time has come to reconsider the consensus role. One way to increase efficiency without destroying consensus would be to strengthen the role of the Secretary General in managing the internal and administrative affairs of the alliance, while reserving policy for the member states. Fifth is the need to make further progress on linking and de-conflicting NATO and EU capabilities. Sixth is the need for enhanced transatlantic defense industrial cooperation. Seventh, one future pillar for transatlantic cooperation is to strengthen US-European coordination in building the infrastructure of global governance through strengthening institutions such as the UN and its specialized agencies, the World Bank, the IFM, G-8, OECD and regional development banks. Finally, cooperation can also be achieved in strengthening the global economic infrastructure, sustaining the global ecosystem, and combating terrorism and international crime. To translate the potential of the transatlantic relationship into a more positive reality will require two kinds of development. First, the EU itself must take further steps to institutionalize its own capacity to act in these areas. Foreign policy and especially defense policy remain the areas where the future of a ‘European’ voice is most uncertain. Second, the U.S. and Europe need to establish more formal, effective mechanisms for consultation and even decision-making. The restoration of transatlantic relations requires policies and actions that governments on both sides of the Atlantic should simultaneously adopt and not only a unilateral change of course. Developing a new, sustainable transatlantic relationship requires a series of deliberate decisions from both the U.S. and EU if a partnership of choice and not necessity is to be established. For the U.S., this means avoiding the temptation, offered by unprecedented strength, to go it alone in pursuit of narrowly defined national interests. For the EU, the new partnership requires a willingness to accept that the EU plays a uniquely valuable role as a leader in a world where power still matters, and that a commitment to a rule-based international order does not obviate the need to act decisively against those who do not share that vision.

#### Representations don’t influence reality

Kocher 00 (Robert L., Author of “The American Mind in Denial” and Philosopher, “Discourse on Reality and Sanity”, http://freedom.orlingrabbe.com/lfetimes/reality\_sanity1.htm)

While it is not possible to establish many proofs in the verbal world, and it is simultaneously possible to make many uninhibited assertions or word equations in the verbal world, it should be considered that reality is more rigid and does not abide by the artificial flexibility and latitude of the verbal world. The world of words and the world of human experience are very imperfectly correlated. That is, saying something doesn't make it true. A verbal statement in the world of words doesn't mean it will occur as such in the world of consistent human experience I call reality. In the event verbal statements or assertions disagree with consistent human experience, what proof is there that the concoctions created in the world of words should take precedence or be assumed a greater truth than the world of human physical experience that I define as reality? In the event following a verbal assertion in the verbal world produces pain or catastrophe in the world of human physical reality or experience, which of the two can and should be changed? Is it wiser to live with the pain and catastrophe, or to change the arbitrary collection of words whose direction produced that pain and catastrophe? Which do you want to live with? What proven reason is there to assume that when doubtfulness that can be constructed in verbal equations conflicts with human physical experience, human physical experience should be considered doubtful? It becomes a matter of choice and pride in intellectual argument. My personal advice is that when verbal contortions lead to chronic confusion and difficulty, better you should stop the verbal contortions rather than continuing to expect the difficulty to change. Again, it's a matter of choice. Does the outcome of the philosophical question of whether reality or proof exists decide whether we should plant crops or wear clothes in cold weather to protect us from freezing? Har! Are you crazy? How many committed deconstructionist philosophers walk about naked in subzero temperatures or don't eat? Try creating and living in an alternative subjective reality where food is not needed and where you can sit naked on icebergs, and find out what happens. I emphatically encourage people to try it with the stipulation that they don't do it around me, that they don't force me to do it with them, or that they don't come to me complaining about the consequences and demanding to conscript me into paying for the cost of treating frostbite or other consequences. (sounds like there is a parallel to irresponsibility and socialism somewhere in here, doesn't it?). I encourage people to live subjective reality. I also ask them to go off far away from me to try it, where I won't be bothered by them or the consequences. For those who haven't guessed, this encouragement is a clever attempt to bait them into going off to some distant place where they will kill themselves off through the process of social Darwinism — because, let's face it, a society of deconstructionists and counterculturalists filled with people debating what, if any, reality exists would have the productive functionality of a field of diseased rutabagas and would never survive the first frost. The attempt to convince people to create and move to such a society never works, however, because they are not as committed or sincere as they claim to be. Consequently, they stay here to work for left wing causes and promote left wing political candidates where there are people who live productive reality who can be fed upon while they continue their arguments. They ain't going to practice what they profess, and they are smart enough not to leave the availability of people to victimize and steal from while they profess what they pretend to believe in.

## 2NC – T

### Overview

**The aff needs to defend a judicial or statutory restriction of the president's war power authority - they do neither because they**

**only affirm a criticism of the indefinite attention authority and do not defend a governmental restriction - we have multiple impacts:**

**First - limits & predictability - the judicial and statutory restrictions serve as a universal starting point - they open up limitless frameworks that destroy pre-round prep and make clash impossible which means we could never actively engage them on making solutions - this turns their offense because it ensures their discussions are shallow as well**

**Second - decision making & Education - we're the only ones with lasting, out of round impacts--- they are for the purpose of solving human brutality, the particular form of decision making is key to take care of terminal**

**threats because it allows us to weigh costs and benefits - also specific pre-designed scenarios of government action create a domain-specific game space that allows for in depth research and information processing - their broad focus collapses meaningful discussions**

**Specifically our interpretation is key to political education - framing debate as a legal game with strict rules is our only chance to engage power institutions - it unites cultures under a common normative framework - this displaces the human brutality cycle with amoral rules capable of short-circuiting righteousness - encompasses a broad range of dialogue**

**Topical version of the aff solves - they can still garner their advantages on the archeological criticism as a justification for government action against the president’s power to indefinitely detain**

#### A topical version of the aff would solve most of their offense—it’s capable of radical change

Lobel 7 (Orly Lobel, University of San Diego Assistant Professor of Law, 2007, The Paradox of Extralegal Activism: Critical Legal Consciousness and Transformative Politics,” 120 HARV. L. REV. 937, http://www.harvardlawreview.org/media/pdf/lobel.pdf)

V. RESTORING CRITICAL OPTIMISM IN THE LEGAL FIELD

“La critique est aisée; l’art difficile.”

A critique of cooptation often takes an uneasy path. Critique has always been and remains not simply an intellectual exercise but a political and moral act. The question we must constantly pose is how critical accounts of social reform models contribute to our ability to produce scholarship and action that will be constructive. To critique the ability of law to produce social change is inevitably to raise the question of alternatives. In and of itself, the exploration of the limits of law and the search for new possibilities is an insightful field of inquiry. However, the contemporary message that emerges from critical legal consciousness analysis has often resulted in the distortion of the critical arguments themselves. This distortion denies the potential of legal change in order to illuminate what has yet to be achieved or even imagined. Most importantly, cooptation analysis is not unique to legal reform but can be extended to any process of social action and engagement. When claims of legal cooptation are compared to possible alternative forms of activism, the false necessity embedded in the contemporary story emerges — a story that privileges informal extralegal forms as transformative while assuming that a conservative tilt exists in formal legal paths. In the triangular conundrum of “law and social change,” law is regularly the first to be questioned, deconstructed, and then critically dismissed. The other two components of the equation — social and change — are often presumed to be immutable and unambiguous. Understanding the limits of legal change reveals the dangers of absolute reliance on one system and the need, in any effort for social reform, to contextualize the discourse, to avoid evasive, open-ended slogans, and to develop greater sensitivity to indirect effects and multiple courses of action. **Despite its weaknesses, however, law is an** optimistic discipline. It operates both in the present and in the future. Order without law is often the privilege of the strong. Marginalized groups have used legal reform precisely because they lacked power. Despite limitations, these groups have often successfully secured their interests through legislative and judicial victories. **Rather than experiencing a** disabling disenchantment **with the legal system, we can learn from both the** successes and failures of past models, **with the aim of** constantly redefining the boundaries of legal reform **and making visible law’s broad reach**.

### AT C/I – General

**Doesn’t solve our offense – debate games require a specific set of pre-determined rules to harness the educational value of the game and you aren’t playing by them – this opens up infinite frameworks for discussion that destroys decision-making and difficulty – this is impacted above**

### AT Rules / Limits Bad

**1. Rules are awesome and the only thing that makes the game possible – otherwise achievement becomes meaningless and there’s no education gained – that’s Hurka.**

#### This form of difficulty is an educational end in itself

Hurka 6 – philosopher who serves as the Jackman Distinguished Chair in Philosophical Studies at the University of Toronto (Thomas, 2006, "Games and the Good," Proceedings of the Aristotelian Society, Supplementary Volume 80, http://homes.chass.utoronto.ca/~thurka/docs/pass\_games.pdf)

But though Suits defines the generic concept of game-playing, this is not what he defends as the supreme intrinsic good. His argument, recall, is that in utopia, where all instrumental goods are provided, game-playing would be everyone’s primary activity. But this description of utopia implies that it would contain no professional players; since no one would need to play a game as a means to anything, all players would be amateurs who chose the game for itself. But then they would have Rashdall’s lusory attitude of accepting the rules because they make the game difficult, and Suits explicitly agrees. He describes how one utopian character decides to build houses by carpentry rather than order them up telepathically because carpentry requires more skill. And he starts his discussion of utopia by saying he will defend the value of game12 playing as a specific form of play, where he has earlier denied that playing a game necessarily involves playing: to play is to engage in an activity for its own sake, and a pure professional does not do that.10 So the activity Suits defends as supremely good is game-playing that is also play, or what I will call “playing in a game.” And that activity involves accepting the rules not just because they make the game possible, but also because they make it difficult. I will follow Suits here and narrow my thesis further: not only will I explain the value only of playing good games, I will explain the value only of playing in these games, or of playing them with an at least partly amateur attitude. But this is not in practice much of a restriction, since most people do play games at least partly for their own sakes. Consider Pete Rose, an extremely hard-nosed baseball player who was disliked for how much he would do to win. Taking the field near the end of the famous sixth game of the 1975 World Series, and excited by the superb plays that game had involved, he told the opposing team’s third base coach, “Win or lose, Popeye, we’re in the fuckin’ greatest game ever played”; after the game, which his team lost, he made a similar comment about it to his manager. Intensely as he wanted to win, Pete Rose also loved baseball for itself.11 So the game-playing whose value I will explain involves accepting the rules of the game because they make it difficult. But then the elements that define this type of game-playing are internally related: the prelusory goal and constitutive rules together give it a feature, namely difficulty, and the lusory attitude chooses it because of this feature. More specifically, if difficulty is as such good, the prelusory goal and rules give it a good-making feature and the lusory attitude chooses it because of that good-making feature. This connects the lusory attitude to an attractive view that has been held by many philosophers, namely that if something is 13 intrinsically good, the positive attitude of loving it for the property that makes it good, that is, desiring, pursuing, and taking pleasure in it for that property, is also, and separately, intrinsically good. Thus, if another person’s happiness is good, desiring, pursuing, and being pleased by her happiness as happiness is a further good, namely that of benevolence; likewise, if knowledge is good, desiring, pursuing, and being pleased by knowledge is good. Aristotle expressed this view when he said that if an activity is good, pleasure in it is good, whereas if an activity is bad, pleasure in it is bad,12 and it was accepted around the turn of the 20th century by many philosophers, including Rashdall, Franz Brentano, G.E. Moore, and W.D. Ross. And it applies directly to playing in games, which combines the good of difficulty with the further good of loving difficulty for itself. The prelusory goal and constitutive rules together give playing in games one ground of value, namely difficulty; the lusory attitude in its amateur form adds a related but distinct ground of value, namely loving something good for the property that makes it so. The second ground depends on the first; loving difficulty would not be good unless difficulty were good. But it adds a further, complementary intrinsic good. When you play a game for its own sake you do something good and do it from a motive that fixes on its good-making property.

#### 2. Debate allows for a dialogue between different voices which is uniquely empowering

Haghoj 8 – PhD, affiliated with Danish Research Centre on Education and Advanced Media Materials, asst prof @ the Institute of Education at the University of Bristol (Thorkild, 2008, "PLAYFUL KNOWLEDGE: An Explorative Study of Educational Gaming," PhD dissertation @ Institute of Literature, Media and Cultural Studies, University of Southern Denmark, http://static.sdu.dk/mediafiles/Files/Information\_til/Studerende\_ved\_SDU/Din\_uddannelse/phd\_hum/afhandlinger/2009/ThorkilHanghoej.pdf)

The previous sections sketched the outline of a dialogical game pedagogy. Thus, debate games require teachers to balance the centripetal/centrifugal forces of gaming and teaching, to be able to reconfigure their discursive authority, and to orchestrate the multiple voices of a dialogical game space in relation to particular goals. These Bakhtinian perspectives provide a valuable analytical framework for describing the discursive interplay between different practices and knowledge aspects when enacting (debate) game scenarios. In addition to this, Bakhtin’s dialogical philosophy also offers an explanation of why debate games (and other game types) may be valuable within an educational context. One of the central features of multi-player games is that players are expected to experience a simultaneously real and imagined scenario both in relation to an insider’s (participant) perspective and to an outsider’s (co-participant) perspective. According to Bakhtin, the outsider’s perspective reflects a fundamental aspect of human understanding: In order to understand, it is immensely important for the person who understands to be located outside the object of his or her creative understanding – in time, in space, in culture. For one cannot even really see one's own exterior and comprehend it as a whole, and no mirrors or photographs can help; our real exterior can be seen and understood only by other people, because they are located outside us in space, and because they are others (Bakhtin, 1986: 7). As the quote suggests, every person is influenced by others in an inescapably intertwined way, and consequently no voice can be said to be isolated. Thus, it is in the interaction with other voices that individuals are able to reach understanding and find their own voice. Bakhtin also refers to the ontological process of finding a voice as “ideological becoming”, which represents “the process of selectively assimilating the words of others” (Bakhtin, 1981: 341). Thus, by teaching and playing debate scenarios, it is possible to support students in their process of becoming not only themselves, but also in becoming articulate and responsive citizens in a democratic society.

#### 3. Games occur in a fixed space with precise rules that are the source of enhanced performance

Garris et al 2 – research psychologist with the Science and Technology Division of the Naval Air Warfare Center Training Systems Division (Rosemary, Robert Ahlers, PhD, research psychologist with the Science and Technology Division of the Naval AirWarfare Center Training Systems Division, James Driskell, PhD, president and senior scientist of Florida Maxima Corporation and adjunct professor of psychology at Rollins College, December 2002, "Games, motivation, and learning: A research and practice model," Simulation and Gaming, 33(4), http://www.thaisim.org/articles/Garris%20et%20al%20-%202002%20-%20Games,%20motivation,%20and%20learning%20-%20441.pdf)

Although game activity takes place apart from the real world, it occurs in a fixed space and time period with precise rules governing game play. Caillois (1961) noted that in a game, the rules and constraints of ordinary life are temporarily suspended and replaced by a set of rules that are operative within the fixed space and time of the game. Moreover, when play violates these boundaries, when the ball goes out of bounds or the person responds out of character, play is stopped and brought back into the agreed boundaries. The rules of a game describe the goal structure of the game. One of the most robust findings in the literature on motivation is that clear, specific, and difficult goals lead to enhanced performance (Locke & Latham, 1990). Clear, specific goals allow the individual to perceive goal-feedback discrepancies, which are seen as crucial in triggering greater attention and motivation. That is, when feedback indicates that current performance does not meet established goals, individuals attempt to reduce this discrepancy. Under conditions of high goal commitment (i.e., the individual is determined to reach the goal), this discrepancy leads to an increase in effort and performance (Kernan & Lord, 1990). Therefore, game contexts that are meaningful and that provide welldifferentiated, hierarchical goal structures are likely to lead to enhanced motivation and performance.

#### 4. Games are world-building encounters that are only maintained by mutual rules

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Goffman defines an encounter as a social occurrence where people orient to one another in face-to-face interaction. This is accomplished through a “single visual and cognitive focus”, a “mutual and preferential openness to communication”, a “heightened mutual relevance of acts”, and an “eye-to-eye ecological huddle” (Goffman, 1961a: 18). For Goffman, an encounter is the ultimate social reality where “the real work of the world is done” (Henricks, 2006: 150). Thus, games represent a particular form of focused encounters that create their own worlds: A matrix of possible events and a cast of roles through whose enactment the events occur constitute together a field for fateful dramatic action, a plane of being, an engine of meaning, a world in itself, different from all other worlds except the ones generated when the same game is played at other times… Games, then, are world-building activities (Goffman, 1961a: 25). 96 Furthermore, game encounters are characterised by three specialised rules that determine the relationship between the game world and the world beyond the game event. The first rule is termed rules of irrelevance and describes how successful games require certain issues or themes to be taken out of consideration, for example, the cost of a chess piece or of the board itself is of absolutely no importance to the course of play. Here, Goffman cites Bateson to describe how games place an interpretive “frame” around the events that determine what does and does not make sense within the game (Bateson, 1955: 44). According to this logic, games are not only dependent on the exclusion, but also the inclusion of specific elements. Thus, the second rule designates how games employ realised resources; that is, how certain elements are defined as being “in play” and help establish the micro-cosmos of the game world. For instance, if a pawn was from missing from a chess set, a bottle cap could easily be a fine replacement.33 Finally, Goffman identifies a third set of norms that he terms transformation rules. Although participants use games to create worlds of their own, games still have “boundaries” that are semi-permeable. Certain issues inevitably pass through from the exterior world into the game world in the form of, for example a ringing phone that interrupts the game or personal comments between players that refer to their social identity outside of the game. Thus, transformation rules may both “inhibit” or “facilitate” the way external issues are “given expression inside the encounter” (Goffman, 1961a: 31). For Goffman, game encounters are principally enacted and maintained through mutual rules of relevance and irrelevance. As tempting as it may be to view games as ontological worlds of their own, the possibility always exists that exterior events or issues may sneak in and change the game. To emphasise this point, Goffman makes a useful distinction between playing and gaming, which can be used to open the “black box” or break the “magic circle” of games (cf. chapter 2). While playing a game only describes “the process of move-taking” in a game-strategic sense, gaming describes “activity that is not strictly relevant to the outcome of the play and cannot be defined in terms of the game” (Goffman, 1961a: 33). Correspondingly, Goffman also distinguishes between players and participants. In doing so, he criticises the rational approach taken in game theory, which only focuses on the moves taken by players in narrowly defined contests and settings (von Neumann & Morgenstern, 1944).34 As Goffman argues: “while it is as players that we can win, it is only as participants that we can get fun out of this winning” (Goffman, 1961a: 34).

### AT Fairness Rigged / Delgado

**1. All of our internal links to education still apply – cross-apply from above.**

**2. Not about debate – their ev argues that in sexual asssault and tobacco cases, superior parties are able to force their doctrines onto others – they have to prove that specific aspects of debate are structurall unfair.**

#### 3. Games occur in clearly framed and transparent spaces with amoral rules – this provides the incentive for perpetual curiosity

Carter 8 – prof @ The Colorado College, research support from the Rockefeller Foundation and the staff of the Villa Serbelloni, Bellagio, Italy, the Institute of Governmental Studies at the University of California, Berkeley, and the Benezet Foundation at The Colorado College (Lief H, 2008, "LAW AND POLITICS AS PLAY," Chicago-Kent Law Review, 83(3), http://www.cklawreview.com/wp-content/uploads/vol83no3/Carter.pdf)

6. Game Transparency Games take place in clearly framed spaces and in bounded times. This framing process makes information flow to players and spectators manage-able. Although the sheer speed of the game’s action may momentarily con-fuse players and spectators, a good game is, nearly all of the time, transparent to players and observers alike. Bill Bradley wrote of basket-ball’s transparency: As a form of human endeavor it is understandable and pure. The per-formance demands maximum effort, as one sees clearly at courtside. Un-encumbered by masks, pads, or hats, the players reveal their bodies as well as their skills. People come and see and know that what they see is real.122 Sports rules do not condemn athletes who enhance their performances through surgical repair of torn knees and shoulders. These procedures are transparently reported in the press. But they do condemn concealed dop-ing.123 The drive to ensure that players and fans unquestionably experience games as they “really are” led to the lifetime exclusion of Pete Rose from baseball for gambling on games in spite of the fact that he was not accused of deliberately altering the outcomes of games in which he participated.124 The very existence of the wager prevents people from knowing, as Bradley put it, “that what they see is real.” 7. Deception Competitive games are amoral in all respects. “Anything goes” unless a rule prohibits it and a player gets caught violating it. Games capitalize on the human tendency to better oneself by deceiving others. Games permit all things not prohibited by rule. Clock-stopping instances of faked injuries by players on teams playing from behind in the last stages of close college football games and the art of “diving” in international football, for exam-ple, are presumed permissible. Squads of basketball referees routinely de-cide how physically they will permit the teams to play, and they communicate their expectations, how closely or loosely they will call fouls, to the coaches and players prior to the game. Illegal deceptions on the field are, moments after the fact, transparently evident to players and spectators. If referees do not catch them, suddenly-angry coaches and the aggrieved crowd will let the errant referees know soon enough. 8. Minimization of Chance Good sports and games minimize the effects of purely random acci-dents on outcomes.125 The chance elements that remain are either highly transparent, such as starting a game with a coin flip; randomly distributed, like a crazy bounce of the ball; or impact both teams equally, as does a sudden rainstorm. 9. Curiosity and Institutionalized Error Correction The transparency of games, the precision of their framing in time and space, the minimization of chance elements, and the desire to win provide players with every incentive to perceive mistakes in their play and to cor-rect them. Because players and teams define themselves as “skilled,” but never “just” or “entitled to win,” they constantly seek to discard habits and strategies that do not work. To avoid overconfidence, coaches regularly exhort their players to take the worth and merit of their opponents, even apparently weak ones, seriously. In competitive gaming, teams and players imagine that when they lose, they can improve, play again, and hope to win another day. The game context thus overcomes the human impulse to keep their fears of death at bay by believing in their own righteousness. Like the scientific method, competition teaches the benefits of perpetual curiosity. Through games people come to know the satisfactions that flow from em-bracing life’s endlessly surprising novelty.

#### 4. Good games create curiosity that replaces the human tendency to brutality – competitors are able to merge identities which displaces racism

Carter 8 – prof @ The Colorado College, research support from the Rockefeller Foundation and the staff of the Villa Serbelloni, Bellagio, Italy, the Institute of Governmental Studies at the University of California, Berkeley, and the Benezet Foundation at The Colorado College (Lief H, 2008, "LAW AND POLITICS AS PLAY," Chicago-Kent Law Review, 83(3), http://www.cklawreview.com/wp-content/uploads/vol83no3/Carter.pdf)

Good games neutralize turf and, by legitimizing losing, reduce or eliminate the irrational and often self-defeating effects of Kahneman’s loss aversion, specifically the urge to double down and send good money after bad.127 Like legal education and legal practice, and like Vico’s rhetorical debating games, competitive games over time construct for players and fans a continuing civic education. The desire to win a competition moti-vates players to become keenly curious about the rules of the game, the conditions on the field of play, the skills of the opponent, and so on. In games people return to and practice the “thought of sense.”128 In games, players must base their calculations on what is real, not on what they imag-ine or hope for. Games thus rewire the remarkably plastic human brain in the direction of the classical rationality of “economic man” like no other social context. People come to belie Franklin’s belief that men only use reason to justify everything they have a mind to do. Through the behavior of playing, people reconfigure their brains to be more conventionally ra-tional. In play people create the sense that Faulkner thought they lacked.129 Curiosity necessarily humanizes opponents instead of “despeciating” them, as so often happens in the brutality cycle.130 Kahneman observes that each opponent in a conventional conflict believes that the other side acts out of malice and hostile motives,131 but just the opposite happens in games. Competitors merge identities. Each knows that the other experi-ences the same world, “thinks the way I think,” “wants what I want,” and “needs to know me as much as I need to know her.” Opponents do not “take it personally.”132 Competitive games, without any help from post-modern philosophers, convert believers into pragmatists. In games people delight in the particulars of concrete situations. Good play helps realize Whitman’s wise urging to turn from curiosity about God to curiosity about each other.133 The curiosity that players must develop to play well dis-places ethnocentrism, xenophobia, moral superiority, and the other brutaliz-ing tendencies of the human mind described by Hood, Milgram, Zimbardo, Pinker, Damasio, and Frith, and noted in Part I. Curiosity overcomes, or very much reduces, the impulse to hate.134 Good play has the same effect on players as does the naming of a doll or an animal. It creates a kind of love.

### AT State Bad

**1. Even if the state is bad, that just proves debating about it is good – learning the inner-workings of the dark arts is critical to challenge those dogmatic perspectives in the first place**

#### 2. Educational gaming through dramatic rehearsal of specific institutions is simply our inquiry as social actors – we develop socially in relation to a generalized other

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According to the pragmatist philosophy of John Dewey, the meaning-making processes of learning, thinking, deliberating, and playing games all involve inquiry as social actors must be able question and explore situated problems in order to construct and reconstruct different aspects of knowledge (Dewey, 1916). For Dewey, the outcomes or “warranted assertions” of an inquiry are contingent as they – in principle – are constantly open to new inquiries (Dewey, 1938a: 9). In this way, no final criteria exist for validating knowledge. Moreover, the process of inquiry is holistic as it both involves logical thinking and creative imagination as well as individual and social dimensions. Dewey also describes the process of inquiry as a “dramatic rehearsal” of “various competing possible lines of action”, which refers to the tension between acts “tried out in imagination” and actual events (Dewey, 1922: 132-3). This means that educational games represent problem-based scenarios as they allow participants to actively imagine, explore and project the problems, knowledge aspects and contingent outcomes of a particular game world in relation to real-world phenomena. By combining Barth and Dewey’s perspectives, the assertions of educational game scenarios can also be described as epistemological models intended (designed) to be realised through meaningful interaction – both in relation to a teacher perspective (facilitation) and a student perspective (participation). Arguing along similar lines, the interactionist perspectives offered by Erving Goffman and George Herbert Mead describe and illuminate the social organisation of educational games. Mead assumes that the self is developed socially by adopting and playing with roles in relation to a “generalized other” (Mead, 1934: 154). Thus, in order to learn from educational games, students must be able to relate their roles to a more generalised perspective, i.e. that of a politician. Partly building upon Mead, Goffman’s dramaturgical sociology assumes that individuals “perform” and present themselves through different forms of “impression management”, i.e. in order to avoid losing “face” as a professional politician (Goffman, 1959). Moreover, Goffman analyses games as “focused gatherings” where game participants are expected to mutually sustain the rules and validate the on-going social interaction in relation to the interpretive “frames” of a particular game encounter (Goffman, 1961a, 1974). In this way, the process of playing games – and educational gaming in particular – cannot be reduced to an end in itself since game encounters are always open 23 to the possibility that exterior issues may transform the meaning of the game. Seen from this interactionist perspective, the social organisation of educational gaming represents an on-going negotiation between everyday teacher-student roles and the assigned roles of a particular game scenario. Finally, Barth’s focus on communicative knowledge can be further developed through the dialogical philosophy of Mikhail Bakhtin. According to Bakhtin, human communication is dialogical in the sense that it presupposes mutual understanding and responsiveness (Bakhtin, 1981). Furthermore, Bakhtin assumes that we always communicate through various speech genres where speakers and listeners position themselves in relation to different aspects of referentiality, expressivity and addressivity, i.e. the semantic “content” of political ideologies, the expressive language of political discourse, and modes of addressing an audience in a parliamentary debate (Bakhtin, 1986). Thus, educational games challenge the speaker-hearer relationships of an educational setting as teachers and students are expected to position themselves in relation to the particular speech genres, ideological voices and semiotic resources of a given game scenario. In this way, educational games are able to create dialogical spaces (Wegerif, 2007) involving both ideological tensions and discursive criteria for validating the knowledge communicated between the game participants.

#### 3. Policy relevance doesn’t cause cooption – it can be used to challenge the status quo

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Before looking at some of the intellectual challenges that have come to grip, let me consider one objection that I find less convincing. One proffered reason to object to relevance is that when political scientists have pursued relevance they have often ended up putting their research into the hands of established power holders and simply acted to provide so-called expert judgement to underwrite partisan policymaking (Norton, 2004; Piven, 2004). There is the kernel of a truth in this observation, as an engaged political science is inherently connected to the play of power. The political scientist in pursuit of relevance, however, does not need to be a technician of the state working for power and against the powerless. There are some cases in which political scientists have sided with power and some in which they have not. A careful and detailed empirical study by a variety of American academics (Macedo, 2005) into the failings of the political system of the United States – a study under the auspices of the American Political Science Association – has produced a set of reform measures that are sufficiently radical not to be seen as a defence of the status quo. There are difficulties and challenges that social scientists have dealing with power. Political scientists, in particular, should be sensitive to these issues but this objection to relevance is not one of the strongest.

#### 4. The state can still be redeemed through political engagement

Brubaker 4

Rogers Brubaker, Department of Sociology, UCLA, 2004, In the Name of the Nation: Reflectionson Nationalism and Patriotism, Citizenship Studies, Vol. 8, No. 2, [www.sailorstraining.eu/admin/download/b28.pdf](http://www.sailorstraining.eu/admin/download/b28.pdf)

This, then, is the basic work done by the category ‘nation’ in the context of nationalist movements—movements to create a polity for a putative nation. In other contexts, the category ‘nation’ is used in a very different way. It is used not to challenge the existing territorial and political order, but to create a sense of national unity for a given polity. This is the sort of work that is often called nation-building, of which we have heard much of late. It is this sort of work that was evoked by the Italian statesman Massimo D’Azeglio, when he famously said, ‘we have made Italy, now we have to make Italians’. It is this sort of work that was (and still is) undertaken—with varying but on the whole not particularly impressive degrees of success—by leaders of post-colonial states, who had won independence, but whose populations were and remain deeply divided along regional, ethnic, linguistic, and religious lines. It is this sort of work that the category ‘nation’ could, in principle, be mobilized to do in contemporary Iraq—to cultivate solidarity and appeal to loyalty in a way that cuts across divisions between Shi’ites and Sunnis, Kurds and Arabs, North and South.2 In contexts like this, the category ‘nation’ can also be used in another way, not to appeal to a ‘national’ identity transcending ethnolinguistic, ethnoreligious, or ethnoregional distinctions, but rather to assert ‘ownership’ of the polity on behalf of a ‘core’ ethnocultural ‘nation’ distinct from the citizenry of the state as a whole, and thereby to define or redefine the state as the state of and for that core ‘nation’ (Brubaker, 1996, p. 83ff). This is the way ‘nation’ is used, for example, by Hindu nationalists in India, who seek to redefine India as a state founded on Hindutva or Hinduness, a state of and for the Hindu ethnoreligious ‘nation’ (Van der Veer, 1994). Needless to say, this use of ‘nation’ excludes Muslims from membership of the nation, just as similar claims to ‘ownership’ of the state in the name of an ethnocultural core nation exclude other ethnoreligious, ethnolinguistic, or ethnoracial groups in other settings. In the United States and other relatively settled, longstanding nation-states, ‘nation’ can work in this exclusionary way, as in nativist movements in America or in the rhetoric of the contemporary European far right (‘la France oux Franc¸ais’, ‘Deutschland den Deutshchen’). Yet it can also work in a very different and fundamentally inclusive way.3 It can work to mobilize mutual solidarity among members of ‘the nation’, inclusively defined to include all citizens—and perhaps all long-term residents—of the state. To invoke nationhood, in this sense, is to attempt to transcend or at least relativize internal differences and distinctions. It is an attempt to get people to think of themselves— to formulate their identities and their interests—as members of that nation, rather than as members of some other collectivity. To appeal to the nation can be a powerful rhetorical resource, though it is not automatically so. Academics in the social sciences and humanities in the United States are generally skeptical of or even hostile to such invocations of nationhood. They are often seen as de´passe´, parochial, naive, regressive, or even dangerous. For many scholars in the social sciences and humanities, ‘nation’ is a suspect category. Few American scholars wave flags, and many of us are suspicious of those who do. And often with good reason, since flag-waving has been associated with intolerance, xenophobia, and militarism, with exaggerated national pride and aggressive foreign policy. Unspeakable horrors—and a wide range of lesser evils—have been perpetrated in the name of the nation, and not just in the name of ‘ethnic’ nations, but in the name of putatively ‘civic’ nations as well (Mann, 2004). But this is not sufficient to account for the prevailingly negative stance towards the nation. Unspeakable horrors, and an equally wide range of lesser evils, have been committed in the name of many other sorts of imagined communities as well—in the name of the state, the race, the ethnic group, the class, the party, the faith. In addition to the sense that nationalism is dangerous, and closely connected to some of the great evils of our time—the sense that, as John Dunn (1979, p. 55) put it, nationalism is ‘the starkest political shame of the 20th-century’— there is a much broader suspicion of invocations of nationhood. This derives from the widespread diagnosis that we live in a post-national age. It comes from the sense that, however well fitted the category ‘nation’ was to economic, political, and cultural realities in the nineteenth century, it is increasingly ill-fitted to those realities today. On this account, nation is fundamentally an anachronistic category, and invocations of nationhood, even if not dangerous, are out of sync with the basic principles that structure social life today.4 The post-nationalist stance combines an empirical claim, a methodological critique, and a normative argument. I will say a few words about each in turn. The empirical claim asserts the declining capacity and diminishing relevance of the nation-state. Buffeted by the unprecedented circulation of people, goods, messages, images, ideas, and cultural products, the nation-state is said to have progressively lost its ability to ‘cage’ (Mann, 1993, p. 61), frame, and govern social, economic, cultural, and political life. It is said to have lost its ability to control its borders, regulate its economy, shape its culture, address a variety of border-spanning problems, and engage the hearts and minds of its citizens. I believe this thesis is greatly overstated, and not just because the September 11 attacks have prompted an aggressively resurgent statism.5 Even the European Union, central to a good deal of writing on post-nationalism, does not represent a linear or unambiguous move ‘beyond the nation-state’. As Milward (1992) has argued, the initially limited moves toward supranational authority in Europe worked—and were intended—to restore and strengthen the authority of the nation-state. And the massive reconfiguration of political space along national lines in Central and Eastern Europe at the end of the Cold War suggests that far from moving beyond the nation-state, large parts of Europe were moving back to the nation-state.6 The ‘short twentieth century’ concluded much as it had begun, with Central and Eastern Europe entering not a post-national but a post-multinational era through the large-scale nationalization of previously multinational political space. Certainly nationhood remains the universal formula for legitimating statehood. Can one speak of an ‘unprecedented porosity’ of borders, as one recent book has put it (Sheffer, 2003, p. 22)? In some respects, perhaps; but in other respects—especially with regard to the movement of people—social technologies of border control have continued to develop. One cannot speak of a generalized loss of control by states over their borders; in fact, during the last century, the opposite trend has prevailed, as states have deployed increasingly sophisticated technologies of identification, surveillance, and control, from passports and visas through integrated databases and biometric devices. The world’s poor who seek to better their estate through international migration face a tighter mesh of state regulation than they did a century ago (Hirst and Thompson, 1999, pp. 30–1, 267). Is migration today unprecedented in volume and velocity, as is often asserted? Actually, it is not: on a per capita basis, the overseas flows of a century ago to the United States were considerably larger than those of recent decades, while global migration flows are today ‘on balance slightly less intensive’ than those of the later nineteenth and early twentieth century (Held et al., 1999, p. 326). Do migrants today sustain ties with their countries of origin? Of course they do; but they managed to do so without e-mail and inexpensive telephone connections a century ago, and it is not clear—contrary to what theorists of post-nationalism suggest—that the manner in which they do so today represents a basic transcendence of the nation-state.7 Has a globalizing capitalism reduced the capacity of the state to regulate the economy? Undoubtedly. Yet in other domains—such as the regulation of what had previously been considered private behavior—the regulatory grip of the state has become tighter rather than looser (Mann, 1997, pp. 491–2). The methodological critique is that the social sciences have long suffered from ‘methodological nationalism’ (Centre for the Study of Global Governance, 2002; Wimmer and Glick-Schiller, 2002)—the tendency to take the ‘nation-state’ as equivalent to ‘society’, and to focus on internal structures and processes at the expense of global or otherwise border-transcending processes and structures. There is obviously a good deal of truth in this critique, even if it tends to be overstated, and neglects the work that some historians and social scientists have long been doing on border-spanning flows and networks. But what follows from this critique? If it serves to encourage the study of social processes organized on multiple levels in addition to the level of the nation-state, so much the better. But if the methodological critique is coupled— as it often is—with the empirical claim about the diminishing relevance of the nation-state, and if it serves therefore to channel attention away from state-level processes and structures, there is a risk that academic fashion will lead us to neglect what remains, for better or worse, a fundamental level of organization and fundamental locus of power. The normative critique of the nation-state comes from two directions. From above, the cosmopolitan argument is that humanity as a whole, not the nation- state, should define the primary horizon of our moral imagination and political engagement (Nussbaum, 1996). From below, muticulturalism and identity politics celebrate group identities and privilege them over wider, more encompassing affiliations. One can distinguish stronger and weaker versions of the cosmopolitan argument. The strong cosmopolitan argument is that there is no good reason to privilege the nation-state as a focus of solidarity, a domain of mutual responsibility, and a locus of citizenship.8 The nation-state is a morally arbitrary community, since membership in it is determined, for the most part, by the lottery of birth, by morally arbitrary facts of birthplace or parentage. The weaker version of the cosmopolitan argument is that the boundaries of the nation-state should not set limits to our moral responsibility and political commitments. It is hard to disagree with this point. No matter how open and ‘joinable’ a nation is—a point to which I will return below—it is always imagined, as Benedict Anderson (1991) observed, as a limited community. It is intrinsically parochial and irredeemably particular. Even the most adamant critics of universalism will surely agree that those beyond the boundaries of the nation-state have some claim, as fellow human beings, on our moral imagination, our political energy, even perhaps our economic resources.9 The second strand of the normative critique of the nation-state—the multiculturalist critique—itself takes various forms. Some criticize the nation-state for a homogenizing logic that inexorably suppresses cultural differences. Others claim that most putative nation-states (including the United States) are not in fact nation-states at all, but multinational states whose citizens may share a common loyalty to the state, but not a common national identity (Kymlicka, 1995, p. 11). But the main challenge to the nation-state from multiculturalism and identity politics comes less from specific arguments than from a general disposition to cultivate and celebrate group identities and loyalties at the expense of state-wide identities and loyalties. In the face of this twofold cosmopolitan and multiculturalist critique, I would like to sketch a qualified defense of nationalism and patriotism in the contemporary American context.10 Observers have long noted the Janus-faced character of nationalism and patriotism, and I am well aware of their dark side. As someone who has studied nationalism in Eastern Europe, I am perhaps especially aware of that dark side, and I am aware that nationalism and patriotism have a dark side not only there but here. Yet the prevailing anti-national, post-national, and trans-national stances in the social sciences and humanities risk obscuring the good reasons—at least in the American context—for cultivating solidarity, mutual responsibility, and citizenship at the level of the nation-state. Some of those who defend patriotism do so by distinguishing it from nationalism.11 I do not want to take this tack, for I think that attempts to distinguish good patriotism from bad nationalism neglect the intrinsic ambivalence and polymorphism of both. Patriotism and nationalism are not things with fixed natures; they are highly flexible political languages, ways of framing political arguments by appealing to the patria, the fatherland, the country, the nation. These terms have somewhat different connotations and resonances, and the political languages of patriotism and nationalism are therefore not fully overlapping. But they do overlap a great deal, and an enormous variety of work can be done with both languages. I therefore want to consider them together here. I want to suggest that patriotism and nationalism can be valuable in four respects. They can help develop more robust forms of citizenship, provide support for redistributive social policies, foster the integration of immigrants, and even serve as a check on the development of an aggressively unilateralist foreign policy. First, nationalism and patriotism can motivate and sustain civic engagement. It is sometimes argued that liberal democratic states need committed and active citizens, and therefore need patriotism to generate and motivate such citizens. This argument shares the general weakness of functionalist arguments about what states or societies allegedly ‘need’; in fact, liberal democratic states seem to be able to muddle through with largely passive and uncommitted citizenries. But the argument need not be cast in functionalist form. A committed and engaged citizenry may not be necessary, but that does not make it any less desirable. And patriotism can help nourish civic engagement. It can help generate feelings of solidarity and mutual responsibility across the boundaries of identity groups. As Benedict Anderson (1991, p. 7) put it, the nation is conceived as a ‘deep horizontal comradeship’. Identification with fellow members of this imagined community can nourish the sense that their problems are on some level my problems, for which I have a special responsibility.12 Patriotic identification with one’s country—the feeling that this is my country, and my government—can help ground a sense of responsibility for, rather than disengagement from, actions taken by the national government. A feeling of responsibility for such actions does not, of course, imply agreement with them; it may even generate powerful emotions such as shame, outrage, and anger that underlie and motivate opposition to government policies. Patriotic commitments are likely to intensify rather than attenuate such emotions. As Richard Rorty (1994) observed, ‘you can feel shame over your country’s behavior only to the extent to which you feel it is your country’.13 Patriotic commitments can furnish the energies and passions that motivate and sustain civic engagement.

### AT Inequality / Exclusion

**1. We’re solely defending the game in the abstract – even if the activity has had problems, we agree those should be corrected because the rules of a debate game are grounded in equality – that’s Carter.**

#### 2. Competitive game model would reform the state to help resolve inequality – only maintained by rules clearly defined by the judge

Carter 8 – prof @ The Colorado College, research support from the Rockefeller Foundation and the staff of the Villa Serbelloni, Bellagio, Italy, the Institute of Governmental Studies at the University of California, Berkeley, and the Benezet Foundation at The Colorado College (Lief H, 2008, "LAW AND POLITICS AS PLAY," Chicago-Kent Law Review, 83(3), http://www.cklawreview.com/wp-content/uploads/vol83no3/Carter.pdf)

If the United States approached domestic politics the way sports league commissioners, team owners, and rules committees work to equalize competition, Americans would, for the same self-interested motives, seek to level the political and social playing fields. They would insure that less-advantaged children received the same quality of education and health care as do otherwise more-advantaged children. They would no more perpetuate the tax policies and social programs that profoundly skew wealth distribu-tion toward the rich than sports leagues would allow winning teams to face only weak opponents on their schedules.141 A society that aspired to noth-ing more than good competitive legal and political games among its people would not question the propriety of taxing large wealth transfers by those whose wealth greatly exceeds the average.142 In international trade, wealthy nations, for their own self-interest, would treat developing nations as the Marshall Plan sought to bring the economies of Europe, devastated after World War II, effectively into the competitive economic game.143 A community that sought no more than to promote good economic competi-tion among producing nations would not at the same time prevent develop-ing countries from competing to sell their agricultural products at lower costs in world markets by wastefully subsidizing the more costly produc-tion of the same commodities at home. Precision of rules and unquestioned authority of judges: Substantive legal rules can seem notoriously ambiguous when compared to the codified rules of organized sports, but this is misleading.144 By the principle that “you can’t play the game without agreeing on the rules,” Roberts’ Rules of Order and the sometimes arcane accumulation of rules of procedure in legislative chambers precisely structure legislative tactics and debate just as The Bluebook: A Uniform System of Citation structures formal written legal advocacy and the rules of evidence and procedure govern formal litigation. More significantly, political and social play, like organized sports, requires regulatory and judicial independence from the “democratic game” itself. Fareed Zakaria recently reviewed for a general audience the horror sto-ries—the election of Hitler, for example—produced by popular democracy and suggests that other dynamics, and particularly “the rule of law,” con-tribute more to progressive government than does popular democracy it-self.145 Just as umpires, referees, and rules committees act outside competitive play, so a good political game depends on popular trust in the impartiality of judicial and regulatory decision making. The Federal Re-serve Board, the independent regulatory commissions, and ideally the judi-ciary itself, play the critical role of political and economic rules committees effectively only if they do not operate democratically but rather off the playing field altogether. Indeed, given the indeterminacy of substantive principles of morality and justice, rules committees—a category that includes courts of law in common law legal systems—can only be said to act sensibly when they rule (using the good-game criteria noted above) so as to make the game a better game, and not by “seeking justice.” Good political games, hence, require something like the wrongly ma-ligned practice of “judicial activism,” where judges, like calls of umpires and referees, make the rules of the game clear in the moment of play. South Dakotan voters presumably sensed the importance of independent judicial authority when they rejected, by a ratio of nearly nine to one, the proposal on their 2006 ballots to allow a person to sue judges for rendering decisions that he or she didn’t like.146 When the United States Supreme Court issued its deeply flawed result in Bush v. Gore,147 the loser, Gore, and most Americans, accepted the result and moved on.148 The Bush administra-tion’s attempt to justify a “unitary executive” power to operate independent of legal checks from the other political branches is the equivalent of a bat-ter insisting that he, having the power to define the strike zone and dis-agreeing with the umpire’s called third strike on a 3–2 count, trots to first base. The administration’s unitary executive claim, and its patterned disre-gard of legality more generally, ignores an unbroken line of precedents balancing Article I’s legislative powers with those of the executive in Arti-cle II going back to 1804.149

#### 3. Good games create curiosity that merge competitors to solve inequality through competition

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Good games neutralize turf and, by legitimizing losing, reduce or eliminate the irrational and often self-defeating effects of Kahneman’s loss aversion, specifically the urge to double down and send good money after bad.127 Like legal education and legal practice, and like Vico’s rhetorical debating games, competitive games over time construct for players and fans a continuing civic education. The desire to win a competition moti-vates players to become keenly curious about the rules of the game, the conditions on the field of play, the skills of the opponent, and so on. In games people return to and practice the “thought of sense.”128 In games, players must base their calculations on what is real, not on what they imag-ine or hope for. Games thus rewire the remarkably plastic human brain in the direction of the classical rationality of “economic man” like no other social context. People come to belie Franklin’s belief that men only use reason to justify everything they have a mind to do. Through the behavior of playing, people reconfigure their brains to be more conventionally ra-tional. In play people create the sense that Faulkner thought they lacked.129 Curiosity necessarily humanizes opponents instead of “despeciating” them, as so often happens in the brutality cycle.130 Kahneman observes that each opponent in a conventional conflict believes that the other side acts out of malice and hostile motives,131 but just the opposite happens in games. Competitors merge identities. Each knows that the other experi-ences the same world, “thinks the way I think,” “wants what I want,” and “needs to know me as much as I need to know her.” Opponents do not “take it personally.”132 Competitive games, without any help from post-modern philosophers, convert believers into pragmatists. In games people delight in the particulars of concrete situations. Good play helps realize Whitman’s wise urging to turn from curiosity about God to curiosity about each other.133 The curiosity that players must develop to play well dis-places ethnocentrism, xenophobia, moral superiority, and the other brutaliz-ing tendencies of the human mind described by Hood, Milgram, Zimbardo, Pinker, Damasio, and Frith, and noted in Part I. Curiosity overcomes, or very much reduces, the impulse to hate.134 Good play has the same effect on players as does the naming of a doll or an animal. It creates a kind of love.

### AT Games =/= Change

**1. Bites both ways – this round probably won’t absolve the problems they criticize either, but we’ve created a model for debate based on competitive gaming that is superior.**

#### 2. Competitive political gaming is the only means capable of solving human brutality

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Inspired by Vico’s model of thinking grandly—and by conclusions that three hundred years of additional knowledge and experience strongly confirm—this essay has proposed its own universal theory: if political institutions seek, above all other goals, to reduce human brutality, then the structure of competitive play provides the best framework humans have yet invented for doing so. Because it claims universality, this argument, like the various measurements of the circumference of Australia, could generate an infinite regress of documentation, elaboration, and debate.161 But exhaustively documenting and elaborating the argument would convert this project into the sort of Cartesian academic exercise that Vico abhorred—an exercise that “bulls [its] way through the torturous paths of life.”162 As Vico understood, successful arguments don’t succeed because they prove themselves objectively correct; they succeed by persuading readers and listeners—“indirectly,” as Vico believed—that they, too, experience the same things. In that spirit, here are three possible paths that readers can, but hardly need to, follow in support of the proposition that good competitive play is, in contrast to fundamentalism, a peacemaking cultural practice that nearly all humans can see under their noses. A. History163 The articulation of the elements of good games, outlined in Part III, emerged in nineteenth century Great Britain. Rugby owes its name to the school whose boys reportedly first played it in 1823. Students at the Harrow School invented squash in 1830. In 1867 the Marques of Queensberry rules for boxing replaced the Broughton rules of 1743. It is no coincidence that these games developed in the same cultural moment when, inspired in no small part by Dickens’s devastating imagery of the British legal system, common law reform, and social reform more generally, took hold in Great Britain. Pre-modern thinkers have acknowledged the social benefits of competitive play. The Babylonian Talmud endorses intellectual competition. “Jealousy among scholars increases wisdom.”164 In the eighth century the revered Islamic jurist Imam Abu Hanifa wrote, “Difference of opinion in the Community is a token of Divine mercy.”165 Having institutionalized competitive games in the common law model, the British Empire sought to reap the benefits of these forms of play in political life. Virtually all the sports we know today—tennis, soccer, rugby, cricket, and so on—became codified during the colonial period. J.A. Mangan has collected a number of essays that together describe how the British deliberately employed sports and games to extend their colonial hegemony. This Victorian and then Edwardian construction of sport, according to Mangan, “lay close to the heart of Britain imperial culture.”166 Far from an “intellectually insignificant recreational pleasure,” sports were “arguably . . . far more meaningful at home and abroad than literature, music, art or religion.”167 Sports did not simply help occupying colonials bond among themselves to ward off loneliness or cope with stress. Teaching sports to the natives became the pedagogical device of choice whereby the British believed they spread the habits of civil society. Thus one poem of the time, by Norman Gale, included the lines: There will be a perfect planet Only when the Game shall enter Every country, teaching millions How to ask for Leg or Centre. 168Memoirs of the times recount how sports build civic character. Sir Theodore Cook, for example, wrote: English cricketers are playing against Parsees and Mohammedans at Karachi while a team of Maoris are testing the best of our Rugby footballers at home. By such threads are the best bonds of union woven. For the constitution of the British Empire, unexpressed and inexpressible, does not depend on force and cannot by the sword alone be guarded. It is the visible, intangible impersonation of spiritual sympathies and associations. 169 Mangan’s collection of essays leaves no doubt that the British sought “in purposive fashion to engineer the conformity of subordinate groups through sport,” but he notes that the widespread adoption of sports in subordinate cultures may have simultaneously served native purposes; in some cases, it empowered native solidarity and resistance.170 Thus, history records a period in which people shared a political language of peace-making and civility that explicitly embraced the language and practice of games. The subsequent development of international football shows that games, structured as the British originally did, have universal appeal. Humans have not deliberately designed games in order to create a peaceful alternative to righteousness and brutality. They have merely sensed the elemental joy of play and then tinkered over time with ways to make them more joyful. Since games can tip over into brawling when “good game” conditions break down, e.g., when rabid football fans revert to the more primitive group psychology of tribal righteousness, games may merely mark one step along a path of social adaptation. Vico, however, would say the reverse: in play humans recover their elemental, i.e., better, nature. Either way, games may shift the human impulse behind the title of Chris Hedges’s book, War is a Force that Gives Us Meaning,171 just one or two degrees away from righteousness. Those degrees, however, cross a line that separates mindless group-think from personal and group agency and from recognizing that, because people (not gods) make their world, people must take responsibility for it.

### AT No ! to Education

**1. Debate education strengthens decision-making and allows for achievement, both of which are intrinsic goods – that’s above.**

#### 2. Game education has no aims but provides an end in itself

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One of Gee and Shaffer’s main arguments for teaching with games is that this form of education represents a valuable alternative to the political and empirical reality of an American educational context. Thus, Gee and Shaffer’s work is strongly driven by a critique of educational policies that demand that the organisation and assessment of student learning rely on standardised testing. In a joint article, Gee and Shaffer argue that political discussions on educational goals suffer from a dichotomy between the discourse of “liberals” and “conservatives” (Gee & Shaffer, 2005). Thus, liberals advocate “pedagogies that immerse children in rich activities and focus on the learners’ own goals and backgrounds” (Gee & Shaffer, 2005: 11). Even though these pedagogies are “empowering”, they are also difficult to master for children who lack resources and are unable to “pick up the rules of the game at home and use liberal schooling as fruitful and empowering practice ground”. In contrast to the liberals, conservatives tend to advocate “back to the basics” and “standardized testing”, which fails to build “expertise and innovation” (Gee & Shaffer, 2005: 11). Gee and Shaffer then argue that educational games can be used to overcome both the liberalists’ “progressive reform” and the conservatives’ “back to the basics”. Epistemic frameworks provide meaningful goals and structures that can be used to develop “post-progressive pedagogies of practice”. In this way, they assume that students are able to become “innovators” and meet the demands of the post-industrial knowledge society: Epistemic games of all kinds make it possible for students of all ages to learn by working as innovators. In playing epistemic games, students learn basic skills, to be sure. They learn the “facts” and “content” that we currently reward. But in epistemic games students learn facts and content in the context of innovative ways of thinking and working. They learn in a way that sticks, because they learn in the process of doing things that matter (Gee & Shaffer, 2005: 24). As this quote shows, Gee and Shaffer’s view of educational games is remarkably close to Dewey’s assumption that play and games can be used to create meaningful and valuable learning 39 environments. Furthermore, their attempt to overcome the dichotomy between “liberalists” and ”conservatives” echoes Dewey’s attempts to reconcile the debate between progressive education, which is focused on “development from within”, and traditional forms of education, which is guided by “formation from without” (Dewey, 1938b: 5). However, Dewey’s pragmatism differs markedly from Gee and Shaffer in relation to the aims of education. For Gee and Shaffer, teaching with games enables students to become “innovators”, which may help solve the American economic crisis (Gee & Shaffer, 2005). But for Dewey, the aims of education cannot be narrowed down to solving a specific political problem: “education as such has no aims. Only persons, parents, and teachers, etc. have aims, not an abstract idea like education” (Dewey, 1916: 114). Instead, the overall aim of education is defined as “growth”: Since growth is the characteristic of life, education is all one with growing; it has no end beyond itself. The criterion of the value of school education is the extent in which it creates a desire for continued growth and supplies means for making the desire effective in fact (Dewey, 1916: 58). Following Dewey’s pragmatist philosophy, it is meaningless to stake out universal political goals for education and educational gaming as these phenomena are highly variable in relation to particular teachers, games, students and educational contexts. Similarly, this study does not attempt to answer the overall question of why we should teach with games as it requires not one but a multitude of different answers. Instead, the aim is a critical investigation of the mutual relationship between the “ends” and “means” of educational gaming; between what is desirable and what is achievable by focusing empirically on a particular game in a particular school context (Biesta & Burbules, 2003: 76-81).

### AT Poetry

#### Poetry is fluid and has no criteria for evaluation

Bleiker 2k (Roland, Senior Lecturer – U Queensland, Popular Dissent, Human Agency, and Global Politics, p. 271)

But how can something as inaudible as transversal poetic dissent possibly be evaluated? How can a form of resistance that engages linguistic and discursive practices be judged or merely be understood, by the very nexus of power and knowledge it seeks to distance itself from? These difficult questions beg for complex answers. I do not claim to have solved them here, nor do I believe that they can actually be solved, at least not in an absolute and definitive way. The impact of discursive dissent on transversal social and political dynamics is mediated through tactical and temporal processes. A poem, for instance, does not directly cause particular events, it does not visualize an opponent in space and time. A linguistic expression of dissent works by insinuating itself into its target—the population at large—without taking it over, but also without being separated from it. Even the agent becomes gradually blurred. The effect of a poem cannot be reduced to its author or even to the poem itself. Those who have read it my have passed altered knowledge on to other people, and thus influenced the transversal constitution of societal values.

No offense – our framework allows the use of poetry. It’s simply another form of evidence – they can say that their poetry provides a justification for the federal government acting. Just because it isn’t commonly used doesn’t mean it’s theoretically incompatible with policy debate.

## 1NR – Case

### OV

**They conceded an independent criticism to their advocacy by grouping all of the arguments on case**

**Their arguments were assertions of native relationships and the oppression that indigenous persons experience but they didn't answer one of the best arguments that we made against the aff in the 1NC - its our Pieterse evidence that says that assuming that modernity is a Western phenomenon is extremely selective, limiting, and justifies worse forms of what they talk about - orientalism and colonialism can only exist when they believe that the indigenous are forever trapped in the straightjacket of western \thinking - this not only functions as a case turn but is an independent critism of their argument and turns the case**

McClure 99 (Mary Ann, John Jay College of Criminal Justice, "Responding to Difference:

Engaging Multicultural/Postcolonial Concerns and Revisiting an Ethic of Care," http://www.apa.udel.edu/apa/archive/newsletters/v98n2/feminism/mcclure.asp)

Uma Narayan ("Essence of Culture and A Sense of History") presented a feminist critique of cultural essentialism. She problematized the multicultural injunction to attend to differences among women by pointing out that once we acknowledge that women are not alike, it is not difficult to start essentializing them by their culture. Narayan argued that feminist efforts to avoid gender essentialism have led to a cultural essentialism that depicts as homogeneous groups that are actually heterogeneous. **Cultural essentialism also reinforces colonial stereotypes**. The colonial encounter depended on insistence on difference that created totalizing categories of First World and Third World and constructed a binary between Western and Non-western that parallels in many ways masculine/feminine binaries. At the same time, anticolonialism has also contributed to this essentialism. In an effort to achieve self-definition, anticolonialists seek to emphasize their difference from Western cultures. But what gets marked as "this is what we have always done and this is who we are" is determined by the dominant group within a culture. Thus culturally dominate norms of femininity and practices that are inimical to the interests of women are often chosen as essential to a culture. Women are frequently saddled with the primary responsibility for cultural preservation, and practices that adversely affect women are depicted as anticolonialist "virtues," while Third World feminists are placed in the vulnerable position of being seen as enemies of their own people.¶ Essentialist notions thereby come to pose a serious danger for anti-imperialist and Third world feminist agendas. In advocating strategies to overcome cultural essentialism, Narayan urged that **we look at history politically, and with suspicion**, remembering that the neat boundaries between cultures are constructed by those in power through a process of "selective labeling," in which certain changes are allowed and others are not. Thus, by drawing parallels between gender and cultural essentialism, Narayan sent a warning to postcolonial feminists to be wary of essentialist contrasts between Western and Third World cultures.

**A couple of important distinctions:**

**First - this isn't an example of Western scholarhip becuase it critiques it as well**

**Second - their "no strcutre" arguemnts don't answer this because they will worked within the time limits of the speech and should have answered this argument then**

**And third - it also acts as a solvency takeout because it proves that they diminish the individual agency of the indigenous by simply resisting without an attempt at modern transformation**

#### ---Modernity is NOT an exclusively Western phenomenon – their wholesale indictment of modernity portrays non-Western people as passive recipients of Western domination who are incapable of cultivating modernity and reason.

Gidwani 2 [Vinay, Department of Geography, Institute for Global Studies, University of Minnesota, Progress in Planning 58, “The unbearable modernity of `development'? Canal irrigation and development planning in Western India,” p. 11-13]

In other words, the critique of development elaborated by the new critics is, ultimately, a critique of modern reason. In his recent book, Seeing Like a State, James C. Scott offers a formidable catalogue of schemes hatched under the guiding eye of reason that have failed and oppressed. His critique, like that of Escobar and his compatriots, builds in the distinguished traditions of the Frankfurt School and the French poststructuralists, who also set themselves the task of exposing the dark underbelly of Enlightenment reason. But each of these critiques oddly presupposes that reason (in its various forms: instrumental, substantive, communicative) is a property of the West; and that modernity, as we conventionally understand it (vide Touraine's synopsis), is a Western phenomenon.2 In a recent article in the The New York Review of Books, Amartya Sen questions the plausibility of the premise that “reliance on reasoning and rationality is a particularly `Western' way of approaching social issues” (Sen, 2000: 35). Through an examination of the Mughal emperor Akbar's edicts and policies Sen attempts to show that reason – as the foil of passion, prejudice, and particularism – has transcended cultures; that, in fact, the mental and geographic separation of reason and culture is based on a selective and subordinating interpretation of non-western societies by western writers. The `West' as the (secure) home of Reason and the `East' as the (unruly) den of culture awaiting the stamp of ordering reason is orientalism at its discursive best (Said, 1978; Gellner, 1992; Appadurai, 1996; Clifford, 1997).¶ I make this point not to defend the virtues of reason (indeed, I think it is vitally important to understand the limits of reason, as `critical theory' urges upon us); nor do I necessarily wish to re-claim its universality (although this seems inevitable once we `provincialize' Europe and its exclusive claim to modernity).3 My modest point is merely that post-development scholarship, despite its attacks on Eurocentrism and modernization theory, remains trapped within the straightjacket of Eurocentric, modernist thinking.¶ There is a corollary point: namely, that in reading development as the symptom of a Eurocentric modernity, the new critics not only assume implicitly that notions of development – as popularly understood in the industrialized West – had no precursors in non- European contexts (a point to which I am largely persuaded); but also that modernity had no non-European cognates (a prospect I am far less willing to concede). In fact, there is considerable archival evidence to indicate that the rationalizing processes within economy and society that we typically associate with modernity (trends toward capitalist production, division of labour, contractual exchange, bureaucratic administration, the mapping of people and places, the disjuncture between state and civil society, the practice of `historicizing', and the purposive application of `science' – without assuming that any of these processes is culture-neutral) have sprouted at different times, over different scales, and in different cultural forms in various regions of the world, quite autonomously of European influence (Gidwani and Sivaramakrishnan, 2001).2¶ Scholars of different theoretical persuasion have recognized, for instance, the distinctive historical processes contributing to the construction of Indian modernities. Chatterjee (1997: 198) has recently illustrated this point in his discussion of nation-states and modernity where he says: “[T]here cannot be just one modernity irrespective of geography, time, environment and social conditions. The forms of modernity will have to vary among different countries depending upon specific circumstances and social practices.”3 Similarly, development as a process of directed social change with a moral subtext (to improve the general welfare and habits of target publics) has a long history. In the Indian context it is not just a colonial history (on colonial `regimes of development', see Ludden, 1992, 1999), but a precolonial one as well (cf. Sen's article, Habib, 1997, and Alam and Subrahmanyam, 1998). The new critics could quibble about the genealogical differences, the discursive coherence, and the impact of non-European regimes of development as compared to the European (and I would concede that there were in fact no non-European semiotic equivalents to `Enlightenment reason' and `progress' that anchor the western notion of `development'), but surely this would miss the larger point: namely, that modernity and development manifest themselves in time-space as modernities and developments.¶ To summarize, while PD scholars perform a valuable service in urging us to provincialize the West and cast a critical gaze on Western-led processes of development (projects that I am entirely in sympathy with); but they remain trapped within Eurocentric critiques of modernity and development that ironically reinforce the orientalist discourse they want to expose. When we add to this the polyvalent understandings, disparate impacts, and varied abductions of precolonial, colonial, and postcolonial development programs across and within areas, we have a far more complex and uneven picture of societal modernization. To say less consigns us – contra the anti-development other constructed by the new critics of development – to peculiar accounts of subaltern agency. The subjects of development come to us in their narratives as `indigenous' groups, `peasants', and `subalterns' – problematical categories that are never problematized by the new critics – who either inertly accept (as `victims of development') or openly reject (as `defenders of tradition') the rationalizing onslaughts of modernity and development. Are these the only two political spaces the subjects of development can inhabit, and can they only inhabit them as subjectivated subjects? Curiously, Escobar seems aware of the need for middle ground; he approvingly cites study of development (Pigg, 1992) (bikas) in Nepal, where, in words of Escobar (1995: 49), Pigg demonstrates:¶ how the culture of development works within and through local cultures1⁄4[and argues that the] development encounter1⁄4should be seen not so much as the clash of two cultural systems but as an intersection that creates situations in which people come to see each other in certain ways.¶ Escobar then discusses study of Kulick (1992) of development (kamap) in the village of Gapun in Papua New Guinea. The people of Gapun encounter development as a `religious metamorphosis', and have gathered its elements – such as the introduction of tarred high- ways, rice cultivation, canned mackerel, and Nescafe coffee – into `a sort of sophisticated cargo cult.' (Escobar, 1995: 50). While this apparent reification of externally introduced `development' by Gapuners may leave us uneasy about the prospects of survival of some of their older traditions and customs, because – and let us be clear on this – we, not they, suffer from fear of loss, there is little evidence to suggest that Gapuners are victims of modernity. In fact, Escobar's conclusion on Kulick's findings are that `Gapuners have a clear idea about what development means and where it leads, even if couched in a strikingly different language and different cultural practices' (Escobar, 1995: 50).¶ Since Escobar obviously recognizes the complexity of development, and argues that we need to better understand the `cultural productivity' of the hybrid social forms that emerge through the interpenetration of development practices with local practices (Escobar, 1995: 50, 219) it is puzzling, then, why he and his colleagues (a) reject development altogether; (b) attribute to the western discourse of development a hegemonic potency that exceeds other historical forces of domination (such as tradition or colonialism); and (c) identify anti-development (selectively portrayed as the defense of cultural difference and resistance to the market) as the only desirable alternative. Development in any cultural shape and form merits scrutiny, but the normative stance of the new critics threatens to diminish the imaginations and capacity for agency that subjects of developments can exercise – their abilities to creatively impede, appropriate and reinvent programs that are imposed upon them.

#### ---Our argument is NOT that all forms of modernity are good, but rather that a wholesale rejection of modernity repeats the error of coloniality, framing the world in totalizing binaries.

Gidwani 2 [Vinay, Department of Geography, Institute for Global Studies, University of Minnesota, Progress in Planning 58, “The unbearable modernity of `development'? Canal irrigation and development planning in Western India,” p. 2-6]

In recent years, we have witnessed a minor tidal wave of books and articles that have cast aspersion on the concept and practice of `development'. Development is viewed as an extension of colonialism, backed by an institutional apparatus nearly as hegemonic as colonialism in its control of resources, and perhaps more so in its control of imaginations. According to the new critics of development – henceforth, the `post-development' (PD) scholars – ideas such as `progress', `growth', `poverty' and `underdevelopment', which now possess a normative and taken-for-granted salience in popular consciousness as goals worthy of engagement through targeted policy interventions, are artifacts of a discourse of development that has imposed its normalizing and teleological vision on the world (for representative summaries of `post-development', see the edited collections by Sachs, 1992; Rahnema and Bawtree, 1997). Discourse is understood, vide Foucault, as an ensemble of social institutions, semiotic categories, and practices that regulate the realms of thought, subjectivity, and action. It is a continuous process of demarcating what is possible and what is not: of positing the sense of limits that constitute social reality. But discourse is simultaneously a mode of productive – as opposed to merely repressive – power that enables desire and longing: in other words, the aspirations and normativity that underlie actions.¶ It is precisely this limiting and enabling aspect of `discourse' that motivates PD scholars to speak of development as discourse. Development is, after all, about longing and aspiring for a better way of life. More tellingly, who could not want development? The question itself seems to defy common sense. From the perspective of Arturo Escobar (1995) – one of the most visible of the new critics – the organizing premises of the discourse of `development' were established in the 1940s and 1950s, with the formation of international organizations like the United Nations, with its array of technical agencies; and the Bretton Woods institutions, most prominently, the International Monetary Fund and the International Bank for Reconstruction and Development (now the World Bank). According to Escobar, these agencies were charged with prosecuting the notion that only through industrialization and urbanization could countries achieve overall modernization; that capital investment was the key ingredient for economic growth; that, hence, ability to mobilize ample supplies of capital and the entrepreneurship to deploy it were the primary societal constraints to be overcome. Development was effectively reduced to growth in per capita income or consumption.2¶ Given the pervasive influence at the time of the Hicks and Harrod-Domar models of savings, investment, and growth; Hoselitz's (1952) and Leibenstein's (1963) famous declarations on cultural barriers to economic growth in `backward societies'; the Lewis (1954) and Jorgensen (1961) (and, later, Ranis/Fei) dual economy models, with their identification of industry as the urban/modern/dynamic sector and agriculture as the rural/traditional/stagnant sector;2 Rostow's (1960) stages-of-growth taxonomy, with an industrialized, mass-consumption society (suspiciously like the United States) representing the apex of development; and the balanced and unbalanced growth models, respectively, of Rosenstein-Rodan (1943) and Hirschman (1958) that advocated the creation of strategic linkages between dynamic and lagging sectors as the primary mandate of development planning, it is no surprise that Escobar and his fellow PD critics (such as Gustavo Esteva, Ivan Illich, Madhu Suri Prakash, Majid Rahnema, Wolfgang Sachs, and Vandana Shiva) pinpoint the 1940s and 1950s as the historical watershed in the emergence of an institutionally backed development orthodoxy – the period when a systematic ensemble of `objects, concepts, and strategies' congealed into, what they evocatively term, `the discourse of development'.3¶ I intend this essay as a provisional – and, in many ways, an admiring – critique of `post- development' theory. But let there be no mistake: it is a critique. I plan to show, with the help of a detailed case study of irrigation and development planning from Gujarat, India, that while the general critique of post-World War II development presented by PD scholars is substantially correct in many respects, the criticisms they launch are neither novel; nor, more damagingly, are their understandings of development processes particularly nuanced. Morever, PD critics are presumptive in their discussions of modernity and reason, which are implicitly and erroneously posited as phenomena peculiar to and centered in Europe. Since the primary purpose of `post-development' theory is to expose the Eurocentrism of development discourse and its pernicious operations as a power/ knowledge complex, it is, to say the least, ironic that the new critics:¶ - never entertain the possibility that modernity, managerial rationality, historicism, and institutional practices that we collectively and commonsensically anoint as the constitutive elements of `development' may not only exist in the plural, in geographically and temporally varied forms; but, more profoundly, that¶ - what we understand, from a Western standpoint epistemology, as a singular and European `modernity' and a `discourse of development' rooted in that modernity – may have emerged – as recent scholarship suggests (Wolf, 1982; Blaut, 1993; Coronil, 1997; Dussel, 1999; Mignolo, 2000; Chakrabarty, 2000) from the relational dynamics (cultural traf®candasymmetricrelationsofextractionandregulation) between, what after the 15th century morphed into, a world system structured as a western European `core' and a non- European `periphery' (Wallerstein, 1974; Dussel, 1999). This view, which stresses the interaction and mutually constitutive nature of `center' and `margin' (indeed, the very emergence of `history' as a category for the West's self-understanding of its modernity and superiority) renders the PD analysis of `development' – and, particularly, the focus on 1945±1955 as a watershed in development practice – incomplete at best.¶ I address these theoretical issues in greater detail in Chapter 1, enroute to my argument that the outcomes of development should be interpreted (vide Parkin, 1995; Arce and Long, 2000) as `counterwork': the syncretic product of interactions between dominant actors and those in positions of subalternity.2 I want to be clear: I am not asserting in opposition to PD theorists that development is unambiguously `good' (a positive signi®er); but I am asserting, contrary to PD theorists, that development is not unambiguously `bad' (a negative signifier), or that it is always a process of embattled resignation for people who encounter it. Rather, I maintain that development is always anchored to a moral geography of place-making (Sack, 1992); and that its evaluation is, therefore, inseparable from the freedoms it either enables or curtails.¶ I further contend that `development' can – and should be – principally understood as a placeholder concept that denotes regulatory ideals about a `better life' (or freedoms) within specific time-space contexts.3 It may transpire that the development norms that congeal in particular contexts through the hegemonizing efforts of socially powerful actors happen to coincide with the progressivist modernization doctrines promoted by western institutions like the World Bank, and which the PD scholars so relentlessly critique. However, it seems only prudent to recognize that the World Bank's regulatory ideals of the `better life', while undoubtedly dominant – hence, defining of development `orthodoxy' – are far from `doxic' (Bourdieu, 1977).§ There are competing development ideologies, which revise, re-imagine, or reject development orthodoxy without discarding the placeholder concept of `development'. Indeed, I would argue that:¶ 1. It is precisely the existence of a development heterodoxy that furnishes the conditions of possibility for a normative critique of development orthodoxy; and that,¶ 2. To proceed, as PD scholars do, on the assumption that `development' is a self-evident process, everywhere the same and always tainted by its progressivist European provenance – rather than a placeholder concept with multiple accents – is to succumb to the same kind of epistemological universalism that PD theorists, with their celebration of a `politics of difference', are at such pains to reject.¶ This, then, is the theoretical dilemma of `post-development'. The normative and empirical predicament of `post-development' scholars is their uncritical equation of the `local', the `popular', and the `anti-market' with the `democratic' and the `progressive'; and their selective, rather limited, presentation of empirical evidence – whether historical, ethnographic, or quantitative in support of their sweeping claims. I am not the first to point this out. Schuurman (1993b), Gardner and Lewis (1996), Grillo and Stirrat (1997), Lehmann (1997), Simon (1997), Corbridge (1998), Edelman (1999), Blaikie (2000), Moore (2000) and Pieterse (2001) have previously rebuked PD scholars for their general lack of concern about spatial and semantic disjunctures in processes of change; their stilted interpretations of world historical events; their undiscriminating affirmation of so-called `new social movements'; their stylized representations of development, and failure to recognize it as a differentiated, multifaceted, and ambivalent phenomenon.¶ However, it also bears mention that most critiques of PD – and certainly mine here – proceed in the spirit of admiration and disappointment: admiration for the theoretical insights and political convictions of PD scholars; disappointment that despite their acuity of thought they have arrived at the surprisingly simplistic conclusion that to move beyond development orthodoxy is to hoist the banner of `anti-development' (Escobar 1995, Chapter 7; Esteva and Prakash 1996; Rahnema 1997). Isn't this rejection based on the assumption that `development' is a singular process, and isn't the anti-universalism that follows from this problematic assumption merely another universalism in the guise of difference?

### Link Debate

**I shouldn't have to prove a link here bc there was not a BREATH here because they essentialized all of our arguments as the same thing without looking into the arguments of our specific pieces of evidence - but they destroy the agency of indigenous communities - first by speaking for them but second by replicating the reality that the West has put on them - by placing a single and narrow meaning on modernity that necessarily excludes the possibility of indigenous communities haaving their own form of modernity**

#### Their criticism of development relies on a narrative of victimization – it constructs other countries as passive recipients of Western domination who exercise no agency in the desire for development.

de Vries 7 [Pieter, Department of Rural Development Sociology at Wageningen University, Third World Quarterly, Vol. 28, No. 1, “Don’t Compromise Your Desire for Development! A Lacanian/Deleuzian rethinking of the anti-politics machine”, p. 27-30]

In the literature we find manifold explanations for the shortcomings of development and the disjuncture between goals and expectations, and real outcomes. Those who follow a modernisation perspective take a benevolent position towards the project of development, arguing that, for all its shortcomings and disappointing results, academics and practitioners should keep united in their search for better strategies of intervention. In this view there is simply no alternative for alleviating the fate of the poor. The very existence of a body of international agencies working on the promotion of new forms of expertise is viewed as a heroic (if quixotic) modernist endeavour, or as the expression of the culture of modernity as manifested in the belief in planning and its symbolic paraphernalia.1 In this view it is important to acknowledge that there is no alternative to development, that development in spite of its failures is the only game in town. Here we see a predilection for the identification of constantly new approaches, as manifested in the popularity of notions such as social capital, civil society development, participation, good governance, etc. This is the position of institutions such as the World Bank, which are ready to engage in thoroughgoing forms of self-criticism and to reinvent themselves by embracing new approaches and methodologies so as to salvage the idea of development.¶ Radical political economists, on the other hand, see donor-funded development projects as vehicles for the penetration of capitalist relations of production through the imposition of structures that enhance market dependence via commoditisation processes.2 They argue that the rationales put forward by liberal academics for development interventions—in the sense of programmes aiming at the opening up of local economies to larger markets—are nothing but ideological justifications for the process whereby non-capitalist modes of production are subordinated to global economic forces, thus making their autonomous reproduction unfeasible. Commoditisation leads to the destruction of traditional livelihoods, and their subsumption to the logic of capital for the sake of global forms of capitalist accumulation. Planned development without thoroughgoing forms of socio-economic transformation cannot but operate as a handmaiden to facilitate such processes of capitalist penetration. According to this view, development interventions are not good or bad in themselves but must be analysed in terms of their role in wider processes of social change, the question being what kinds of interests they stand for. Are they those of transnational corporations, national capitalists, an emerging rural bourgeoisie, or those of popular social classes, such as the peasantry, urban working classes, the landless, etc? Development in this way is an arena of political negotiation between different social classes, leading to different types of political economy.¶ Since the late 1980s modernisation theory and radical political economy have been joined by several other perspectives, which have in common a critical stance towards development. The post-structuralist perspective of ‘post-development’ criticises development by demonstrating its dependence on patriarchal, positivist and ethnocentric principles which derive from the modernist project of the Enlightenment.3 Modernity, according to post- structuralist thinkers, is predicated on the idea that objects and subjects of knowledge are constituted through the will to power as materialised through practices of classification and representation (mappings of territory, classifications of nature, of sexuality, etc). Putting it in a somewhat charged way, in this view development is seen as a constellation of power-knowledge. This constellation is geared at controlling Third World populations through forms of governmentality in which what is at stake is nothing less than the disciplining of bodies through the imposition of epistemic structures that condition the ways in which ‘the Other’ (in this case Third World people) relate to their own bodies and to nature. Many of these authors have developed their analysis following a Foucauldian perspective.¶ Finally, the reflexive modernisation perspective rejects what it labels as the utopianism/vanguardism of past notions of progress and development.4 Reflexive modernisation is a social theory that purports to engage in wider social debates about the future of society while breaking with notions of development as an emancipatory collective project aimed at making an end to poverty and injustice at a planetary level. The argument here is that, in an era of post-scarcity, social struggles revolve around the acknowledgement of all sorts of risks brought about by modernity. What modern citizens therefore have in common is not a collective, transformative social project but an awareness of shared vulnerability to low-probability, high consequences types of risk. Reflexivity, then, is about the perceptions, fears and expectations that the consequences of modernity produce in individuals. The questions posed in theories of reflexive modernisation can be posed as: how does reflexivity look like in societies that have never made a transition from a first to a second modernisation, that exhibit a ‘lack’ rather than an excess of development? How does it look in societies that experience both all the disadvantages of development (environmental degradation, all sorts of risks, ranging from the emergence of new types of wars to AIDS, to droughts, etc), without enjoying their erstwhile advantages (material well-being, health services, stable bureaucracies, the existence of a public sphere, etc)? From having been a promise, modernity becomes a risky challenge and accordingly a matter of risk management. This is basically a European social-democratic perspective purporting to design a ‘third way’ between dogmatic socialism and savage neoliberalism, which is gaining currency among policy makers within the Third World.5 Later I explain the role that a reflexive modernisation stance can play in the reinvention of development as a radical programme for dealing with the irrationalities of the South.¶ Though poles apart, from my point of view, all these approaches suffer from a serious shortcoming. They all focus on the actuality of development, on the effects of development interventions on people’s lives. My argument, however, is that the actuality of development is supplemented by a virtual dimension, as manifested in the desire for, and imagination of, development. Of course, current debates have produced diverse and interesting positions, some taking extreme anti-development positions, others weighing the merits and disadvantages of ‘development alternatives’ or alternatives for development’. The literature on this debate is huge and this is not the place to review it, but it suffices to point out that it all revolves around the question of the extent to which development is a foreign and ethnocentric construct. Labels such as ‘alternative’, ‘endogenous’, ‘bottom-up’, ‘grassroots’ or ‘autonomous’ development are but different ways of answering this question. There is also a vast body of work on indigenous and local knowledge that sets out to propose ‘bottom-up’ or ‘grassroots’ development alternatives. Much recent work on ‘globalisation from below’ is reminiscent of these discussions. However, they rarely touch upon the work of imagination involved in the thinking on development, and if they do they centre on individual aspirations or expectations, not on collective dreams and desires as manifestations of a collective unconscious. As I argue later, this is not merely a theoretical question, as it raises important ethical issues.¶ A case in point is the debate among post-structural critiques of development, especially concerning the right of development thinkers to legislate on the relevance of development to poor people’s lives. Many authors have pointed out that it is poor people themselves who want development and that arguing against it amounts to assuming that they are under the spell of ‘false consciousness’. Much of the debate has thus come to revolve around semantic questions about the diverse meanings of development for various actors. Of course, post-structuralists may answer that the task of the critical thinker is that of deconstructing the discourse of development and of developing new languages for thinking about ‘alternative modernities’.6 Such a reconstructive agenda involves redeeming subaltern people’s notions and practices of community solidarity and hope. Although it strongly concur with these views, the argument I develop here is that the desires for, and imaginations of , development stand for an ‘impossible’, utopian world. My point is that the utopian promise of development involves a negative dialectics that goes further than imagining (a) different world(s)— or for that matter alternative modernities—in the precise sense that it points to the possibility of a radical break with the present. I argue in the concluding section of the article that such utopian, ‘impossible’, desire for development has important ethical implications, as it harbours the promise of such a radical break.¶ Thus my point is that development has a virtual or fantastic side, as manifested in particular ways of desiring that are part of the collective unconscious. Thus the above-mentioned perspectives do not acknowledge the fact that development generates the kinds of desires that it necessitates to perpetuate itself, that it is a self-propelling apparatus that produces its own motivational drives, that the development industry is parasitic on the beliefs and dreams of the subjects it creates. In other words, development lies at the same plane of immanence as the subjects it produces.7¶ As argued, the idea of development relies on the production of desires, which it cannot fulfil. In other words—following a Lacanian perspective— there is a certain ‘excess’ in the concept of development that is central to its functioning. Development thus points to a utopian element that is always already out of place. Since it is constitutively impossible, it functions as its own critique. The question to be answered therefore is why people in the Third World persist in desiring development in spite of all its failures. My answer to this question is that the desire for development fills the gap between the promises and their meagre actual realisations, thus giving body to a desiring machine that also operates in between the generation and banalisation of hope.

#### Communities have their own capability to break down this Western consciousness

de Vries 7 [Pieter, Department of Rural Development Sociology at Wageningen University, Third World Quarterly, Vol. 28, No. 1, “Don’t Compromise Your Desire for Development! A Lacanian/Deleuzian rethinking of the anti-politics machine”, p. 35-36]

Although I agree to a large extent with Escobar’s analysis, I differ with respect to the role of the desire for development. This also leads us to question whether his emphasis on the dissemination of other knowledges is a political programme that corresponds with the desires and dreams of the subjects of development. Let’s go back to the example of Andean villagers, who, rather than ‘development alternatives’ or ‘alternatives for development’ would opt for the ‘real’ thing since, as they themselves put it, they have learnt to desire development. Is Escobar’s post-structuralist programme not again a disavowal of the promises of development, and of the utopian fantasies it generates? Is there not a danger that such a programme ends up colluding in the banalisation of such promises? As argued, this ‘reality’ of development, is evoked by those small objects (what Andeans call obritas). In my view the challenge for a leftist critique of development is that of engaging with this constitutive lack in development, hence assuming the radical position of taking its promise seriously.¶ Of course, post-structuralist critiques of development would argue that individuals and communities can imagine themselves in other ways and devise strategies for combating or undermining the hegemony of development. Such strategies are usually presented or formulated in terms of alternative modernities. But one could argue that this is just another way of disavowing the very fact that the subject constituted by development is a split entity, a void concealed through the ongoing promises of modernity. In other words, Foucauldian post-structuralist theory fails to interrogate the very lack in development itself, its inability to engage with the dreams and fantasies it triggers.

### Knowledge

#### The modernity arguemnts don’t link to their Western epistomolgy claims – they are a criticism of the claims that the West is the only modern entity

#### We are not science, we use science – our method is the same one everyone inevitably uses on a day-to-day basis, just more rigorous

Jean Bricmont 1, professor of theoretical physics at the University of Louvain, “Defense of a Modest Scientific Realism”, September 23, <http://www.physics.nyu.edu/faculty/sokal/bielefeld_final.pdf>

So, how does one obtain evidence concerning the truth or falsity of scientific assertions? By the same imperfect methods that we use to obtain evidence about empirical assertions generally. Modern science, in our view, is nothing more or less than the deepest (to date) refinement of the rational attitude toward investigating any question about the world, be it atomic spectra, the etiology of smallpox, or the Bielefeld bus routes. Historians, detectives and plumbers indeed, all human beings use the same basic methods of induction, deduction and assessment of evidence as do physicists or biochemists.18 Modern science tries to carry out these operations in a more careful and systematic way, by using controls and statistical tests, insisting on replication, and so forth. Moreover, scientific measurements are often much more precise than everyday observations; they allow us to discover hitherto unknown phenomena; and scientific theories often conflict with "common sense'\*. But [he con f I id is al the level of conclusions, nol (he basic approach. As Susan Haack lucidly observes: Our standards of what constitutes good, honest, thorough inquiry and what constitutes good, strong, supportive evidence are not internal to science. In judging where science has succeeded and where it has failed, in what areas and at what times it has done better and in what worse, we are appealing to the standards by which we judge the solidity of empirical beliefs, or the rigor and thoroughness of empirical inquiry, generally.1'1 Scientists' spontaneous epistemology the one that animates their work, regardless of what they may say when philosophizing is thus a rough-and-ready realism: the goal of science is to discover (some aspects of) how things really are. More The aim of science is to give a true (or approximately true) description of reality. I'll is goal is realizable, because: 1. Scientific theories are either true or false. Their truth (or falsity) is literal, not metaphorical; it does not depend in any way on us, or on how we test those theories, or on the structure of our minds, or on the society within which we live, and so on. 2. It is possible to have evidence for the truth (or falsity) of a theory. (Tt remains possible, however, that all the evidence supports some theory T, yet T is false.)20 Tin- most powerful objections to the viability of scientific realism consist in various theses showing that theories are underdetermined by data.21 In its most common formulation, the underdetermination thesis says that, for any finite (or even infinite) set of data, there are infinitely many mutually incompatible theories that are "compatible'' with those data. This thesis, if not properly understood22, can easily lead to radical conclusions. The biologist who believes that a disease is caused by a virus presumably does so on the basis of some "evidence" or some "data'\*. Saying that a disease is caused by a virus presumably counts as a "theory'' (e.g. it involves, implicitly, many counlerfactual statements). But if there are really infinitely many distinct theories that are compatible with those "data", then we may legitimately wonder on what basis one can rationally choose between those theories. In order to clarify the situation, it is important to understand how the underdetermination thesis is established; then its meaning and its limitations become much clearer. Here are some examples of how underdeterminatiou works; one may claim that: The past did not exist: the universe was created five minutes ago along with all the documents and all our memories referring to the alleged past in their present state. Alternatively, it could have been created 100 or 1000 years ago. The stars do not exist: instead, there are spots on a distant sky that emit exactly the same signals as those we receive. All criminals ever put in jail were innocent. For each alleged criminal, explain away all testimony by a deliberate desire to harm the accused; declare that all evidence was fabricated by the police and that all confessions were obtained bv force.2'1 Of course, all these "theses'1 may have to be elaborated, but the basic idea is clear: given any set of facts, just make up a story, no matter how ad hoc, to "account" for the facts without running into contradictions.2,1 It is important to realize that this is all there is to the general (Quinean) underdetermination thesis. Moreover, this thesis, although it played an important role in the refutation of the most extreme versions of logical positivism, is not very different from the observation that radical skepticism or even solipsism cannot be refuted: all our knowledge about the world is based on some sort of inference from the observed to the unobserved, and no such inference can be justified by deductive logic alone. However, it is clear that, in practice, nobody ever takes seriously such "theories" as those mentioned above, any more than they take seriously solipsism or radical skepticism. Let us call these "crazy theories'\*2'1 (of course, it is not easy to say exactly what it means for a theory to be non-crazy). Xote that these theories require no work: they can be formulated entirely a priori. On the other hand, the difficult problem, given some set of data, is to find even one non-crazy theory that accounts for them. Consider, for example, a police enquiry about some crime: it is easy enough to invent a story that "accounts for the facts'" in an ad hoc fashion (sometimes lawyers do just that); what is hard is to discover who really committed the crime and to obtain evidence demonstrating that beyond a reasonable doubt. Reflecting on this elementary example clarifies the meaning of the underdelermination thesis. Despite the existence of innumerable "crazy theories'\* concerning any given crime, it sometimes happens in practice that there is a unique theory (i.e. a unique story about who committed the crime and how) that is plausible and compatible with the known facts; in that case, one will say that the criminal has been discovered (with a high degree of confidence, albeit not with certainty). It may also happen that no plausible theory is found, or that we are unable to decide which one among several suspects is really guilty: in these cases, the underdetermination is real.-'' One might next ask whether there exist more subtle forms of underdetermination than the one revealed by a Duhem Quine type of argument. In order to analyze this question, let us consider the example of classical electromagnetism. This is a theory that describes how particles possessing a quantifiable property called "electric charge" produce "electromagnetic fields" that "propagate in vacuum" in a certain precise fashion and then "guide" the motion of charged particles when they encounter them.2' Of course, no one ever "sees" directly an electromagnetic field or an electric charge. So, should one interpret this theory "realistically'', and if so, what should it be taken to mean? Classical electromagnetic theory is immensely well supported by precise experiments and forms the basis for a large part of modern technology. It is "confirmed'' every time one of us switches on his or her computer and finds that it works as designed.'8 Does this overwhelming empirical support imply that there are "really"' electric and magnetic fields propagating in vacuum? In support of the idea that thenare, one could argue that electromagnetic theory postulates the existence of those fields and that there is no known non-crazy theory that accounts equally well for the same data; therefore it is reasonable to believe that electric and magnetic fields really exist. But is it in fact true that there are no alternative non-crazy theories? Here is one possibility: Let us claim that there are no fields propagating "in vacuum", but that, rather, there are only "forces" acting directly between charged particles.29 Of course, in order to preserve the empirical adequacy of the theory, one lias to use exactly the same Maxwell Lorentz system of equations as before (or a mathematically equivalent system). But one may interpret the fields as a mere "calculational device" allowing us to compute more easily the net effect of the "real" forces acting between charged particles.30 Almost every physicist reading these lines will say that this is some kind of metaphysics or maybe even a play on words that this "alternative theory" is really just standard electromagnetic theory in disguise. Xow, although the precise meaning of "metaphysics" is hard to pin down 31, there is a vague sense in which, if we use exactly the same equations (or a mathematically equivalent set of equations) and make exactly the same predictions in the two theories, then they are really the same theory as far as "physics" is concerned, and the distinction between the two if any lies outside of its scope. The same kind of observation can be made about most physical theories: In classical mechanics, are there really forces acting on particles, or are the particles instead following trajectories defined by variational principles? In general relativity, is space-time really curved, or are there, rather, fields that cause particles to move as if space-time were curved?'2 Let us call this kind of underdetermination "genuine'\*, as opposed to the "crazy" underdeterminations of the usual Duhem Quine thesis. By "genuine'\*, we do not mean that these underdeterminations are necessarily worth losing sleep over, but simply that there is no rational way to choose (at least on empirical grounds alone) between the alternative theories if indeed they should be regarded as different theories.

#### Epistomolgy shouldn’t be the sole first consideration

**Owens 2002** (David – professor of social and political philosophy at the University of Southampton, Re-orienting International Relations: On Pragmatism, Pluralism and Practical Reasoning, Millenium, p. 655-657)

Commenting on the ‘philosophical turn’ in IR, Wæver remarks that ‘[a] frenzy for words like “epistemology” and “ontology” often signals this philosophical turn’, although he goes on to comment that these terms are often used loosely.4 However, loosely deployed or not, it is clear that debates concerning ontology and epistemology play a central role in the contemporary IR theory wars. In one respect, this is unsurprising since it is a characteristic feature of the social sciences that periods of disciplinary disorientation involve recourse to reflection on the philosophical commitments of different theoretical approaches, and there is no doubt that such reflection can play a valuable role in making explicit the commitments that characterise (and help individuate) diverse theoretical positions. Yet, such a philosophical turn is not without its dangers and I will briefly mention three before turning to consider a confusion that has, I will suggest, helped to promote the IR theory wars by motivating this philosophical turn. The first danger with the philosophical turn is that it has an inbuilt tendency to prioritise issues of ontology and epistemology **over explanatory** and/or interpretive **power** as if the latter two were merely a **simple function** of the former. But while the explanatory and/or interpretive power of a theoretical account is not wholly independent of its ontological and/or epistemological commitments (otherwise criticism of these features would not be a criticism that had any value), **it is by no means clear that it is**, in contrast, wholly dependent **on these philosophical commitments**. Thus, for example, one need not be sympathetic to rational choice theory to recognise that it can provide powerful accounts of certain kinds of problems, such as the tragedy of the commons in which dilemmas of collective action are foregrounded. It may, of course, be the case that the advocates of rational choice theory cannot give a good account of why this type of theory is powerful in accounting for this class of problems (i.e., how it is that the relevant actors come to exhibit features in these circumstances that approximate the assumptions of rational choice theory) and, if this is the case, it is a philosophical weakness—but **this does not undermine** the point that, for a certain class of problems, rational choice theory may provide the best account available to us. In other words, while the critical judgement of theoretical accounts in terms of their ontological and/or epistemological sophistication is one kind of critical judgement, **it is not the only or even necessarily the** most important kind. The second danger run by the philosophical turn is that because prioritisation of ontology and epistemology promotes theory-construction from philosophical first principles, it cultivates a theory-driven rather than problem-driven approach to IR. Paraphrasing Ian Shapiro, the point can be put like this: since it is the case that there is always a plurality of possible true descriptions of a given action, event or phenomenon, the challenge is to decide which is the most apt in terms of getting a perspicuous grip on the action, event or phenomenon in question given the purposes of the inquiry; yet, from this standpoint, ‘theory-driven work is part of a reductionist program’ in that it ‘dictates always opting for the description that calls for the explanation that flows from the preferred model or theory’.5 The justification offered for this strategy rests on the mistaken belief that it is necessary for social science because general explanations are required to characterise the classes of phenomena studied in similar terms. However, as Shapiro points out, this is to misunderstand the enterprise of science since ‘whether there are general explanations for classes of phenomena is a **question for social-scientific inquiry**, not to be prejudged before conducting that inquiry’.6 Moreover, this strategy easily slips into the promotion of the pursuit of generality over that of empirical validity. The third danger is that the preceding two combine to encourage the formation of a particular image of disciplinary debate in IR—what might be called (only slightly tongue in cheek) ‘the Highlander view’—namely, an image of warring theoretical approaches with each, despite occasional temporary tactical alliances, dedicated to the strategic achievement of sovereignty over the disciplinary field. It encourages this view because the turn to, and prioritisation of, ontology and epistemology stimulates the idea that there can only be one **theoretical approach which gets things right**, namely, the theoretical approach that gets its ontology and epistemology right. This image feeds back into IR exacerbating the first and second dangers, and so a potentially vicious circle arises.

### The Rest of the Case

**Our Isaacs evidence is still relevant given the modernity K as well as with the arguments about the state being okay - they make assumptions that don't hold them accountable to political respinsility - this justifies death in every instance and ignores what could be unintended consequences - we have to weigh things in order to determine what is a good moral judgment**

#### ----Defending the state doesn’t require oppressing indigenous communities – opposition and compromise with the settler state are both essential for indigenous resistance.

Weaver 7 (Jace WEAVER Director of the Inst. of Native American Studies Franklin Professor of Native American Studies and Religion @ Georgia **‘7** “More Light Than Heat The Current State of Native American Studies” *American Indian Quarterly* 31 (2) p.248-251 \*\*\*NAS = Native American Studies)

In our histories, we know numerous warriors who took up arms to defend their people. Yet we also have ample and equal examples of diplomacy. For every Red Cloud there is a Red Jacket. For every Geronimo there is a Deskaheh. The two are not mutually exclusive; sometimes an individual is warrior at one moment and diplomat at another. As Daniel Justice reminds us, the Chickamauga consciousness is counterbalanced by the Beloved Path. Dragging Canoe and Nancy Ward are two sides of the same coin.35 nas must involve a commitment to Native community. This does not necessarily mean, however, that every scholar must be a “bomb-thrower.” In nas, for every Vine Deloria Jr. there is a Robert Warrior. For every Harold Cardinal there is a Phil Deloria. For every Taiaiake Alfred, there is a Sid Larson. As Larson writes in his provocatively titled monograph Captured in the Middle, I have American Indian academic colleagues and nonacademic friends who are cultural nationalists, which means they are oftentimes militant and confrontational. Certainly there is much cause for such activism in the American Indian world, and I am grateful there are those willing to do the necessary work of demanding redress of the theft and cultural genocide committed against American Indians. In fact, their good work allows me to emphasize the things different cultural peoples can have in common36 Both warrior and diplomat are necessary for the survival of the People. Both exist, bound together in a choreography that is not a minuet in which partners separate and come back together but a stomp dance in which everyone is always an integral part of the circle. During the last academic year at the University of Georgia, we organized a speakers’ series on the topic “A Traditional Future.” The four speakers were Principal Chief of the Cherokee Nation of Oklahoma Chad Smith, distinguished Cheyenne artist Edgar Heap of Birds, Choctaw historian Homer Noley, and Andy Smith, each of whom addressed the theme from their varying fields of achievement. What exactly is a traditional future? While we were the first to organize a program on this important topic, we did not coin the phrase. It derives from “Globalisation and Indigenous Peoples: Threat or Empowerment?” by Smith, Burke, and Ward, the introduction to Smith and Ward’s Indigenous Cultures in an Interconnected World. In turn, their introduction draws, in particular, upon the essay “History, Representation, Globalisation and Indigenous Cultures: A Tasmanian Perspective” by native Tasmanian artist Julie Gough in the same volume. In her piece, Gough writes, “We were written out of the future in an act of manageable closure by the writers, artists and poets of the nineteenth century.” While most of our peoples were not deemed extinct, as were Gough’s, most Indigenes of the Western hemisphere can nonetheless relate to her words.37 Native peoples do not want to “conjure up a past and crawl into it.” They live in the present and want to move into the future while maintaining what is best in their traditions. What does it mean to live out tradition in the modern world? Smith, Burke, and Ward note, Globalisation constitutes an unprecedented threat to the autonomy of Indigenous cultures as well as an unprecedented opportunity for Indigenous empowerment. [We] highlight not only the new possibilities for Indigenous peoples that are emerging from the development of global communication networks but also the strategies they are using to deal with the pressures of globalisation.38 In discussing the Navajo Nation’s effort to bring wireless Internet to the Navajo reservation, President Joe Shirley invokes the Diné creation story of the sacred twins who, in ancient times, slew the monsters threatening the People. He then declares, Today there are still monstrosities among us. Hunger, thirst, poverty, greed, ignorance, apathy, and all manner of diseases that are blind to race, color, and age. Today’s indigenous peoples must use the arrows of zeros and ones and satellites. Information is a way to overcome today’s monsters.39 Our problems today are wider and greater than globalization, as Shirley’s remarks illustrate. And though technology will be an essential tool, it is not a self-sufficient solution to the problems that Shirley outlines or to others like language loss or the cultural Alzheimer’s that strikes in our communities not the aged but the young. The Native American Studies Program at the University of Georgia, as do other programs across the United States and Canada, sees itself as a place where cutting-edge ideas in nas are discussed first. Of course, only in the academy would the concept of a “traditional future” be considered cutting-edge. In Indian Country—on the ground—it is simply a reality. Native peoples have been living out an ever-changing traditional present and future in this hemisphere for countless generations. Smith, Burke, and Ward conclude their ruminations: As Indigenous peoples reposition themselves in their struggle for recognition and self-determination, so too must others in an interconnected world. The players in the struggles are Indigenous peoples on the one hand and the embedded social and political constructs of colonialism on the other. Researchers (both Indigenous and non-Indigenous) are often the scribes and intermediaries, but the audience is global. The Indigenous Ainu people of Japan have a word, ureshipamoshiri, to describe the world as an interrelated community of all living things. Changes in any part of this community cause ripples and adjustments throughout. Moreover, as [Bruce] Trigger has commented, change is not a violation of culture but a realization of a potential.40 If we in nas are committed to Native community, if we want to be relevant to Native peoples on the ground, if we want to understand and explain the world as it really is, we must deal with these realities. Only then will we stand a chance of consistently generating more light than heat.

#### ---Any critique is a false-choice that doesn’t recognize the complexity of indigenous politics. Negotiating the use of the USFG is a key element in indigenous activism. Their colonialism impacts don’t link.

Bruyneel 7 (Kevin BRUYNEEL Politics @ Babson **‘7** *The Third Space of Sovereignty* p. 217-223)

In writing this book, a question often popped into my mind, the one famously posed by postcolonial theorist Gayatri Spivak: "Can the subaltern speak?" Spivak's question is not about the vocal cords of the colonized; it is about the colonizer's ear drums; "Can the subaltern speak?" really means, "Are the colonizers deaf?" not ''Are the colonized mute?" This study has demonstrated ways in which the American settler-state and nation have sought, often successfully, to impose temporal and spatial limitations on indigenous political life. In resistance, indigenous political actors speak against and across the boundaries of colonial rule by articulating and fighting for a third space: a space of sovereignty and/or citizenship that is inassimilable to the modern liberal democratic settler-state and nation. The settler polity is often deaf to the indigenous claim for a third space because this claim refuses to accommodate itself to the political choices framed by the imperial binary: assimilation or secession, inside or outside, modern or traditional, and so on. Looked at in this way, indigenous political resistance is refusal of a false choice. Among other things, this book has been an effort to expose to clearer light the presence and politics around the third space, defined by colonial impositions and postcolonial resistances. To conclude the book, I look at how the third space concept could positively reshape the language and therefore the terms of and possibilities for indigenous-settler-society relations in the future, and I also suggest its applicability to the wider political discourse and politics around sovereignty. REFUSING THE FALSE CHOICE: SEEING THE THIRD SPACE In their introduction to the important collection Political1heory and the Rights of Indigenous People, the volume's editors, Duncan Ivison, Paul Patton, and Will Sanders, note that for some of their contributors, such as James Tully as well as Will Kymlicka and J. G. A. Pocock, "there can be no equal standing for indigenous peoples until they are acknowledged as equal sovereigns within a postcolonial constitutional arrangement," while "for others, such as [Iris] Young and [Augie] Flores and [Roger] Maaka, it is the very nature of the sovereign state that must be rethought." 1 While these descriptions flatten the complex views of each of these scholars, there is something worth drawing from the two approaches implied here. The first approach seeks to rethink governance from below by seeking to secure and "arrange" multiple nodes of sovereignty in a multilayered political system wherein settler and indigenous polities can coexist, overlap, and interweave jurisdictions. The second approach, by contrast, rethinks governance from above by arguing that the hegemonic "sovereign state," and thus state sovereignty, is inherently incompatible, and in fact hostile, to the secured existence of indigenous political autonomy. What I find compelling and significant here is the general direction in which these thinkers are going on this issue, which is to see and argue that the viability of political autonomy for indigenous tribes will not come through accommodation of the settler-state's political system, boundaries, and culture. Rather, it will require some degree of meaningful change in the settler-society's institutional organization and ideational approach and the concomitant solidification of a location and form of indigenous sovereignty that is self-determined and thus not dependent on the settlersociety. Missing from these formulations, however, is a precise concept as well as a vocabulary that can pin down the alternatives represented in this "postcolonial arrangement" and/or "rethinking of the sovereign state." I propose that the "third space" may well provide the vocabulary that both captures and helps to constitute a viable, increasingly sought-after location of indigenous postcolonial political autonomy that refuses the choices set out by the settler-society. But cultivating this discourse and seeing its constitutive possibilities is easier said than done, so one of the first steps toward moving in this direction will involve refusing the false choice set out by the settler-state. In a 1998 Law Review article, Julie Cassidy set out and critiqued rhe terms of the false choice presented to those advocating sovereignty for indigenous nations and tribes: "The resolution relating to Aboriginal sovereignty is often mistakenly perceived as only involving two possibilities: (r) acknowledgement of Aboriginal sovereignty and the consequent desrruction of the "occupying" state's sovereignty; § Marked 17:34 § or (2) continuation of the past denial of Aboriginal sovereignty. However, it is possible for both entities to enjoy concurrent sovereignty."2 The false choice here is that either indigenous tribes and nations must become sovereign states, thereby destroying the settler-states within which they reside, or their citizens must accept unambiguous inclusion in the settler polity, thereby denying their collective claim to sovereignty. This false choice of either destruction or denial is built on colonialist and statist presumptions. The colonialist presumption is that the settler polity and its institutions represent the ideal of modern political development, while indigenous political society and institutions are, at best, underdeveloped or, at worst, primitive, and thus incapable of real independence in our time. The statist presumption is that legitimate, viable sovereignty can be secured and expressed only through statist institutions, the purview of which is singular and plenary over political space marked by unambiguous boundaries. When articulated in tandem, these colonial-statist presumptions form the foundation of the imposition of colonial rule over indigenous people within liberal democratic settler-states such as the United States. We saw this during and especially after the Civil War when, in their own way, each of the three branches of the American federal government sought to clearly define and secure the reunified boundaries of the American nation-state by domesticating indigenous tribes to them, which included ending the formal process of treaty-making and codifYing U.S. plenary power. During the Progressive era, these colonial-statist imperatives drove U.S. policies that sought to break up what Teddy Roosevelt called the "tribal mass" through various means, including allotment of indigenous territory, the unilateral conferral or imposition of U.S. citizenship on people who were already citizens of their tribes, and the closure of U.S. political boundaries to indigenous people not residing within what America deemed its political space. This imperative persisted in different ways throughout the twentieth century, such as in the midcentury termination policy, and has taken its most notable contemporary form in the antitribal sentiment evident in mainstream American electoral politics, citizen groups' discourse in the civil society, and U.S. Supreme Court decisions. Over the course of American political history, indigenous sovereignty has been deemed something that needed to be denied-for example, through the codification of U.S. plenary power-and/or something that threatened the destruction of U.S. state sovereignty, as expressed, for instance, by contemporary antitribalism. The enduring presence of colonial ambivalence has maintained the parameters of this false choice, putting indigenous sovereignty and political life in a seemingly impossible colonial bind that has positioned indigenous tribes as "domestic to the United States in a foreign sense." In fact, this ambivalence has served to forestall the complete imposition of any particular thrust in the vacillating history of U.S. Indian policy. The ambivalence inherent to the false choice is also, in part, a product of and opens room for what I have referred to as indigenous postcolonial resistance. This is a resistance that defies American colonial imperatives and seeks to, reframe the boundaries that purport to bind indigenous political life. Like the approaches offered by the scholars noted earlier, Julie Cassidy's alternative of "concurrent sovereignty" refuses the idea that the only options available result in either the destruction of state sovereignty or the denial of indigenous sovereignty. Her refusal echoes the efforts of indigenous political actors and movements discussed in this book. John Ross and his Cherokee colleagues refused the treaty terms that they thought would destroy their nation. In so doing, although they likely lost more than they won in the 1866 treaty negotiations, they nevertheless maintained the unity of the Cherokee nation and in important ways shaped its sovereign purview in the Indian Territory. During the Progressive era, Clinton Rickard and his compatriots, among others, fought to refuse the imposition of U.S. citizenship and the rigid American political boundaries that they saw as inimical to citizenship in their own nations. Their efforts amounted to a defense of the independent political life of those nations, and they resonate to this day in, among other things, the annual traditions enacted at the U.S.- Canadian border that symbolically and physically express an indigenous refusal to abide settler-state boundaries. In the 196os and 1970s, the politics of indigenous refusal gained its greatest notoriety when the Red Power movement refused the false choice of either the assimilatory aims of the civil rights movement or the nationalist separatism of third world anticolonialism. Instead, Red Power fought for a right to self-determination as a proactive challenge to and even "recolonization" of American colonial boundaries, symbolized by the occupation of Alcatraz Island and by Vine Deloria's notion of the modern "tribe as a nation ex- tending in time and occupying space." Deloria's vision was that of tribes whose identity and expression of sovereignty transcend the boundaries of colonial time-that feeling of being "unreal and ahistorical," as he called it-and by so doing are better able to secure and expand the location of indigenous people in postcolonial space, across the boundaries of colonial rule. The political history of indigenous people's refusals of the false choice set out for them indicate a persistent effort both to self-determine what sovereignty means to them and to expose the uncertainty and even impossibility of U.S. sovereignty as a totalizing claim to supreme, legitimate authority. In this regard, indigenous and U.S. or settler claims to sovereignty face the challenge of dealing with the instability of the term itself. Recall Roxanne Doty's point, noted in chapter 1: "The social construction of sovereignty is always in process, and is a never completed project." This process can be seen in the political interchange between American colonial impositions, colonial ambivalence, and indigenous postcolonial resistance, which continually struggle over the precise meaning and purview of the political authority claimed by the settler-state and the many indigenous tribes. While the American perspective cleaves to a statist notion of sovereignty as a source of domination, indigenous politics in its many forms refuses to be contained by the limits of the boundaries of the settler-state and the nation. These refusals demonstrate that indigenous political identity, agency, and autonomy reside in postcolonial time and space, always already across the temporal and spatial boundaries marked out by the settler-state and the colonialist political culture. By articulating this postcolonial fact, indigenous political actors and institutions reveal that settler-state boundaries are just one way-a colonialist way-to map out a people's relationship to time and space in North America, and they can offer the third space of sovereignty as a politically and discursively locatable alternative. In this regard, it is my hope that the idea of the third space also contributes to the general aims pursued by the scholars noted earlier as well as by scholars of indigenous politics such as Tom Biolsi, who builds his contemporary analysis on the premise that "the nation-state, it turns out, is only one among several (perhaps many) political geographies imagined, lived, and even institutionalized under modernity by American Indians."3 The "imagining" of alternative "political geographies" is a fundamental part of the effort to see viable alternatives to the statist or colonialist conception of sovereignty. To be sure, this antistatist or anticolonial effort does not exist in a vacuum, relevant only to indigenous political concerns, bur is connected to and possibly even constitutive of the effort to reimagine the role and meaning of sovereignty in the political world generally. In a genealogy of the concept of sovereignty, international relations scholar Jens Bartelson urges us to consider "the question of sovereignty [as a] question of the unthought foundations of our political knowledge and how they relate to the concept of sovereignty, when stripped of all predetermined content and opened to definitional change over time."4 Bartelson is encouraging us to imagine various possibilities for conceptualizing the relationship between people, power, and space over time, and, just as important, to take heed of what we lose by not opening ourselves up to at least a consideration of alternatives. For example, what are the implications of allowing hegemonic political space as defined by the state system to remain an "unthought epistemological foundation of sovereignty"? A major political implication, according to Alexander Murphy, is that by constituting and accepting "sovereignty as a territorial ideal ... the modern territorial state has co-opted our spatial imaginations."5 Refusing this co-optation-this false choice-requires a decolonization of our spatial imaginations to reveal forms of political space that cannot simply be mapped onto the boundary lines of the international state system. It is in this regard that indigenous politics can inform and be informed by the reconsiderations of sovereignty occurring more generally because they refuse to say simply Yes or No to state sovereignty, but instead imagine a postcolonial supplemental remapping of sovereign relationships that can include but will not be dictated to or contained by state boundaries. Therefore, I suggest that the third space may also prove of worth as a conceptualization of antistatist autonomy that can be an alternative to the polar imaginaries that either see state sovereignty as the unavoidably exclusive font of legitimate political space or postulate a political world in which we have somehow moved beyond state sovereignty altogether. In accord with this aim of decolonizing our spatial imaginations and thereby drawing out postcolonial supplemental alternatives to state sovereignty, I rurn to the ideas of two contemporary indigenous political voices, one of whortl is looking to reconsider governance from below and one from above. In reconsidering contemporary governance from the ground up, we should consider the decolonization plan proposed by Chief Justice Robert Porter of the Supreme Court of the Sac and Fox nation of Kansas and Missouri. Porter argues for a form of decolonization that I deem postcolonial in nature because it is based on an understanding that "a decolonized relationship does not mean that there is no relationship at all. The United States remains committed by treaty and legal obligations."6 To this end, he proposes specific forms of decolonization that directly reshape the boundaries of U.S.-indigenous legal jurisdiction, such as a change in "federal law to recognize the power of Indian nations over misdemeanors committed by non-Indians within tribal borders."7 1his proposal works across the boundaries in an effort to decolonize them so that instead of representing colonial impositions on indigenous sovereignty they come to represent sites for the fuller expression of tribal sovereignty. Porter's postcolonial decolonization strategy is similar, in a general sense, to what the Oneida nation of New York sought in repurchasing land for their historic reservation: to assert indigenous authority over some components of the overlapping, checkerboarded legal and political jurisdictions of historic indigenous territory. This unilateral assertion of authority would not be seamless or comprehensive, for just as the Oneida were seeking only to be exempt from state and local taxation, Porter's claim is only for tribal jurisdiction over less serious offenses committed in indigenous territory. The intention of both efforts was to express and cultivate a third space of sovereignty, and one cannot fully comprehend either effort without appreciating the role of boundary-crossing here. Nevertheless, as we saw in chapter 6, the Supreme Court's decision in the Oneida case clearly indicates that American colonial impositions continue to seek to defuse and delimit indigenous sovereign expression. Although this was a disappointing decision for the Oneida nation and for indigenous tribes generally, the actions of the Oneida nation that led to this case point to the direction that future expressions of and struggles for indigenous sovereignty may well take across the boundaries of colonial rule.