## 1NC

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#### The roll of the ballot is to answer the resolutional question “whether topical action is better then the status quo or competitive option”

#### “Resolved” before a colon reflects a legislative forum

**Army Officer School 2005**

(“# 12, Punctuation – The Colon and Semicolon”, 5-12, <http://usawocc.army.mil/IMI/wg12.htm>)

The colon introduces the following: a. A list, but only after "as follows," "the following," or a noun for which the list is an appositive: Each scout will carry the following: (colon) meals for three days, a survival knife, and his sleeping bag. The company had four new officers: (colon) Bill Smith, Frank Tucker, Peter Fillmore, and Oliver Lewis. b. A long quotation (one or more paragraphs): In The Killer Angels Michael Shaara wrote: (colon) You may find it a different story from the one you learned in school. There have been many versions of that battle [Gettysburg] and that war [the Civil War]. (The quote continues for two more paragraphs.) c. A formal quotation or question: The President declared: (colon) "The only thing we have to fear is fear itself." The question is: (colon) what can we do about it? d. A second independent clause which explains the first: Potter's motive is clear: (colon) he wants the assignment. e. After the introduction of a business letter: Dear Sirs: (colon) Dear Madam: (colon) f. The details following an announcement For sale: (colon) large lakeside cabin with dock g. A formal resolution, after the word "resolved:" Resolved: (colon) That this council petition the mayor.

####  “USFG should” means the debate is solely about a policy established by governmental means

**Ericson, California Polytechnic dean emeritus, 2003**

(Jon, The Debater’s Guide, Third Edition, pg 4)

The Proposition of Policy: Urging Future Action In policy propositions, each topic contains certain key elements, although they have slightly different functions from comparable elements of value-oriented propositions. 1. An agent doing the acting ---“The United States” in “The United States should adopt a policy of free trade.” Like the object of evaluation in a proposition of value, the agent is the subject of the sentence. 2. The verb should—the first part of a verb phrase that urges action. 3. An action verb to follow *should* in the *should*-verb combination. For example, should adopt here **means to put a** program or **policy into action though governmental means**. 4. A specification of directions or a limitation of the action desired. The phrase *free trade*, for example, gives direction and limits to the topic, which would, for example, eliminate consideration of increasing tariffs, discussing diplomatic recognition, or discussing interstate commerce. Propositions of policy deal with future action. Nothing has yet occurred. The entire debate is about whether something ought to occur. What you agree to do, then, when you accept the affirmative side in such a debate is to offer sufficient and compelling reasons for an audience to perform the future action that you propose.

#### Having to taking a stance in favor of the resolution is key to deliberative reasoning and pragmatic opportunity cost assessment

**Gutmann and Thompson, former Princeton professor and Harvard political philosophy professor, 1996**

(Amy and Dennis, Democracy and disagreement, pg 1-3)

OF THE CHALLENGES that American democracy faces today, none is more formidable than the problem of moral disagreement. Neither the theory nor the practice of democratic politics has so far found an adequate way to cope with conflicts about fundamental values. We address the challenge of moral disagreement here by developing a conception of democracy that secures a central place for moral discussion in political life. Along with a growing number of other political theorists, we call this conception deliberative democracy. The core idea is simple: when citizens or their representatives disagree morally, they should continue to reason together to reach mutually acceptable decisions. But the meaning and implications of the idea are complex. Although the idea has a long history, it is still in search of a theory. We do not claim that this book provides a comprehensive theory of deliberative democracy, but we do hope that it contributes toward its future development by showing the kind of delib-eration that is possible and desirable in the face of moral disagreement in democracies. Some scholars have criticized liberal political theory for neglecting moral deliberation. Others have analyzed the philosophical foundations of deliberative democracy, and still others have begun to explore institutional reforms that would promote deliberation. Yet nearly all of them stop at the point where deliberation itself begins. None has systematically examined the substance of deliberation—the theoretical principles that should guide moral argument and their implications for actual moral disagreements about public policy. That is our subject, and it takes us into the everyday forums of democratic politics, where moral argument regularly appears but where theoretical analysis too rarely goes. Deliberative democracy involves reasoning about politics, and nothing has been more controversial in political philosophy than the nature of reason in politics. We do not believe that these controversies have to be settled before deliberative principles can guide the practice of democracy. Since on occasion citizens and their representatives already engage in the kind of reasoning that those principles recommend, deliberative democracy simply asks that they do so more consistently and comprehensively. The best way to prove the value of this kind of reasoning is to show its role in arguments about specific principles and policies, and its contribution to actual political debates. That is also ultimately the best justification for our conception of deliberative democracy itself. But to forestall possible misunderstandings of our conception of deliberative democracy, we offer some preliminary remarks about the scope and method of this book. The aim of the moral reasoning that our deliberative democracy pre-scribes falls between impartiality, which requires something like altruism, and prudence, which demands no more than enlightened self-interest. Its first principle is reciprocity, the subject of Chapter 2, but no less essential are the other principles developed in later chapters. When citizens reason reciprocally, they seek fair terms of social cooperation for their own sake; they try to find mutually acceptable ways of resolving moral disagreements. The precise content of reciprocity is difficult to determine in theory, but its general countenance is familiar enough in practice. It can be seen in the difference between acting in one's self-interest (say, taking advantage of a legal loophole or a lucky break) and acting fairly (following rules in the spirit that one expects others to adopt). In many of the controversies dis-cussed later in the book, the possibility of any morally acceptable resolution depends on citizens' reasoning beyond their narrow self-interest and considering what can be justified to people who reasonably disagree with them. Even though the quality of deliberation and the conditions under which it is conducted are far from ideal in the controversies we consider, the fact that in each case some citizens and some officials make arguments consistent with reciprocity suggests that a deliberative perspective is not Utopian. To clarify what reciprocity might demand under non-ideal conditions, we develop a distinction between deliberative and nondeliberative disa-greement. Citizens who reason reciprocally can recognize that a position is worthy of moral respect even when they think it morally wrong. They can believe that a moderate pro-life position on abortion, for example, is morally respectable even though they think it morally mistaken. (The abortion example—to which we often return in the book—is meant to be illustrative. For readers who deny that there is any room for deliberative disagreement on abortion, other political controversies can make the same point.) The presence of deliberative disagreement has important implications for how citizens treat one another and for what policies they should adopt. When a disagreement is not deliberative (for example, about a policy to legalize discrimination against blacks and women), citizens do not have any obligations of mutual respect toward their opponents. In deliberative disagreement (for example, about legalizing abortion), citizens should try to accommodate the moral convictions of their opponents to the greatest extent possible, without compromising their own moral convictions. We call this kind of accommodation an economy of moral disagreement, and believe that, though neglected in theory and practice, it is essential to a morally robust democratic life. Although both of us have devoted some of our professional life to urging these ideas on public officials and our fellow citizens in forums of practical politics, this book is primarily the product of scholarly rather than political deliberation. Insofar as it reaches beyond the academic community, it is addressed to citizens and officials in their more reflective frame of mind. Given its academic origins, some readers may be inclined to complain that only professors could be so unrealistic as to believe that moral reasoning can help solve political problems. But such a complaint would misrepresent our aims. To begin with, we do not think that academic discussion (whether in scholarly journals or college classrooms) is a model for moral deliberation in politics. Academic discussion need not aim at justifying a practical decision, as deliberation must. Partly for this reason, academic discussion is likely to be insensitive to the contexts of ordinary politics: the pressures of power, the problems of inequality, the demands of diversity, the exigencies of persuasion. Some critics of deliberative democracy show a similar insensitivity when they judge actual political deliberations by the standards of ideal philosophical reflection. Actual deliberation is inevitably defective, but so is philosophical reflection practiced in politics. The appropriate comparison is between the ideals of democratic deliberation and philosophical reflection, or between the application of each in the non-ideal circumstances of politics. We do not assume that politics should be a realm where the logical syllogism rules. Nor do we expect even the more appropriate standard of mutual respect always to prevail in politics. A deliberative perspective sometimes justifies bargaining, negotiation, force, and even violence. It is partly because moral argument has so much unrealized potential in dem-ocratic politics that we believe it deserves more attention. Because its place in politics is so precarious, the need to find it a more secure home and to nourish its development is all the more pressing. Yet because it is also already part of our common experience, we have reason to hope that it can survive and even prosper if philosophers along with citizens and public officials better appreciate its value in politics. Some readers may still wonder why deliberation should have such a prominent place in democracy. Surely, they may say, citizens should care more about the justice of public policies than the process by which they are adopted, at least so long as the process is basically fair and at least minimally democratic. One of our main aims in this book is to cast doubt on the dichotomy between policies and process that this concern assumes. Having good reason as individuals to believe that a policy is just does not mean that collectively as citizens we have sufficient justification to legislate on the basis of those reasons. The moral authority of collective judgments about policy depends in part on the moral quality of the process by which citizens collectively reach those judgments. Deliberation is the most appropriate way for citizens collectively to resolve their moral disagreements not only about policies but also about the process by which policies should be adopted. Deliberation is not only a means to an end, but also a means for deciding what means are morally required to pursue our common ends.

#### Deliberation is the best model-continual testing bolsters advocacy and inclusion-this means we create better methods of engagement to resolve the AFF but they don’t resolve this offense-only switching sides on a limited point of stasis maximizes this potential

**Talisse, Vanderbilt philosophy professor, 2005**

(Robert, “Deliberativist responses to activist challenges”, Philosophy & Social Criticism, 31.4, project muse)

Nonetheless, the deliberativist conception of reasonableness differs from the activist’s in at least one crucial respect. On the deliberativist view, a necessary condition for reasonableness is the willingness not only to offer justifications for one’s own views and actions, but also to listen to criticisms, objections, and the justificatory reasons that can be given in favor of alternative proposals. In light of this further stipulation, we may say that, on the deliberative democrat’s view, reasonable citizens are responsive to reasons, their views are ‘reason tracking’. Reasonableness, then, entails an acknowledgement on the part of the citizen that her current views are possibly mistaken, incomplete, and in need of revision. Reasonableness is hence a two-way street: the reasonable citizen is able and willing to offer justifications for her views and actions, but is also prepared to consider alternate views, respond to criticism, answer objections, and, if necessary, revise or abandon her views. In short, reasonable citizens do not only believe and act for reasons, they aspire to believe and act according to the best reasons; consequently, they recognize their own fallibility in weighing reasons and hence engage in public deliberation in part for the sake of improving their views.15 ‘Reasonableness’ as the deliberative democrat understands it is constituted by a willingness to participate in an ongoing public discussion that inevitably involves processes of self-examination by which one at various moments rethinks and revises one’s views in light of encounters with new arguments and new considerations offered by one’s fellow deliberators. Hence Gutmann and Thompson write: Citizens who owe one another justifications for the laws that they seek to impose must take seriously the reasons their opponents give. Taking seriously the reasons one’s opponents give means that, at least for a certain range of views that one opposes, one must acknowledge the possibility that an opposing view may be shown to be correct in the future. This acknowledgement has implications not only for the way they regard their own views. It imposes an obligation to continue to test their own views, seeking forums in which the views can be challenged, and keeping open the possibility of their revision or even rejection.16 (2000: 172) That Young’s activist is not reasonable in this sense is clear from the ways in which he characterizes his activism. He claims that ‘Activities of protest, boycott, and disruption are more appropriate means for getting citizens to think seriously about what until then they have found normal and acceptable’ (106); activist tactics are employed for the sake of ‘bringing attention’ to injustice and making ‘a wider public aware of institutional wrongs’ (107). These characterizations suggest the presumption that questions of justice are essentially settled; the activist takes himself to know what justice is and what its implementation requires. He also believes he knows that those who oppose him are either the power-hungry beneficiaries of the unjust status quo or the inattentive and unaware masses who do not ‘think seriously’ about the injustice of the institutions that govern their lives and so unwittingly accept them. Hence his political activity is aimed exclusively at enlisting other citizens in support of the cause to which he is tenaciously committed. The activist implicitly holds that there could be no reasoned objection to his views concerning justice, and no good reason to endorse those institutions he deems unjust. The activist presumes to know that no deliberative encounter could lead him to reconsider his position or adopt a different method of social action; he ‘declines’ to ‘engage persons he disagrees with’ (107) in discourse because he has judged on a priori grounds that all opponents are either pathetically benighted or balefully corrupt. When one holds one’s view as the only responsible or just option, there is no need for reasoning with those who disagree, and hence no need to be reasonable. According to the deliberativist, this is the respect in which the activist is unreasonable. The deliberativist recognizes that questions of justice are difficult and complex. This is the case not only because justice is a notoriously tricky philosophical concept, but also because, even supposing we had a philosophically sound theory of justice, questions of implementation are especially thorny. Accordingly, political philosophers, social scientists, economists, and legal theorists continue to work on these questions. In light of much of this literature, it is difficult to maintain the level of epistemic confidence in one’s own views that the activist seems to muster; thus the deliberativist sees the activist’s confidence as evidence of a lack of honest engagement with the issues. A possible outcome of the kind of encounter the activist ‘declines’ (107) is the realization that the activist’s image of himself as a ‘David to the Goliath of power wielded by the state and corporate actors’ (106) is naïve. That is, the deliberativist comes to see, through processes of public deliberation, that there are often good arguments to be found on all sides of an important social issue; reasonableness hence demands that one must especially engage the reasons of those with whom one most vehemently disagrees and be ready to revise one’s own views if necessary. Insofar as the activist holds a view of justice that he is unwilling to put to the test of public criticism, he is unreasonable. Furthermore, insofar as the activist’s conception commits him to the view that there could be no rational opposition to his views, he is literally unable to be reasonable. Hence the deliberative democrat concludes that activism, as presented by Young’s activist, is an unreasonable model of political engagement. The dialogical conception of reasonableness adopted by the deliberativist also provides a response to the activist’s reply to the charge that he is engaged in interest group or adversarial politics. Recall that the activist denied this charge on the grounds that activism is aimed not at private or individual interests, but at the universal good of justice. But this reply also misses the force of the posed objection. On the deliberativist view, the problem with interest-based politics does not derive simply from the source (self or group), scope (particular or universal), or quality (admirable or deplorable) of the interest, but with the concept of interests as such. Not unlike ‘preferences’, ‘interests’ typically function in democratic theory as fixed dispositions that are non-cognitive and hence unresponsive to reasons. Insofar as the activist sees his view of justice as ‘given’ and not open to rational scrutiny, he is engaged in the kind of adversarial politics the deliberativist rejects. The argument thus far might appear to turn exclusively upon different conceptions of what reasonableness entails. The deliberativist view I have sketched holds that reasonableness involves some degree of what we may call epistemic modesty. On this view, the reasonable citizen seeks to have her beliefs reflect the best available reasons, and so she enters into public discourse as a way of testing her views against the objections and questions of those who disagree; hence she implicitly holds that her present view is open to reasonable critique and that others who hold opposing views may be able to offer justifications for their views that are at least as strong as her reasons for her own. Thus any mode of politics that presumes that discourse is extraneous to questions of justice and justification is unreasonable. The activist sees no reason to accept this. Reasonableness for the activist consists in the ability to act on reasons that upon due reflection seem adequate to underwrite action; discussion with those who disagree need not be involved. According to the activist, there are certain cases in which he does in fact know the truth about what justice requires and in which there is no room for reasoned objection. Under such conditions, the deliberativist’s demand for discussion can only obstruct justice; it is therefore irrational. It may seem that we have reached an impasse. However, there is a further line of criticism that the activist must face. To the activist’s view that at least in certain situations he may reasonably decline to engage with persons he disagrees with (107), the deliberative democrat can raise the phenomenon that Cass Sunstein has called ‘group polarization’ (Sunstein, 2003; 2001a: ch. 3; 2001b: ch. 1). To explain: consider that political activists cannot eschew deliberation altogether; they often engage in rallies, demonstrations, teach-ins, workshops, and other activities in which they are called to make public the case for their views. Activists also must engage in deliberation among themselves when deciding strategy. Political movements must be organized, hence those involved must decide upon targets, methods, and tactics; they must also decide upon the content of their pamphlets and the precise messages they most wish to convey to the press. Often the audience in both of these deliberative contexts will be a self-selected and sympathetic group of like-minded activists. Group polarization is a well-documented phenomenon that has ‘been found all over the world and in many diverse tasks’; it means that ‘members of a deliberating group predictably move towards a more extreme point in the direction indicated by the members’ predeliberation tendencies’ (Sunstein, 2003: 81–2). Importantly, in groups that ‘engage in repeated discussions’ over time, the polarization is even more pronounced (2003: 86). Hence discussion in a small but devoted activist enclave that meets regularly to strategize and protest ‘should produce a situation in which individuals hold positions more extreme than those of any individual member before the series of deliberations began’ (ibid.).17 The fact of group polarization is relevant to our discussion because the activist has proposed that he may reasonably decline to engage in discussion with those with whom he disagrees in cases in which the requirements of justice are so clear that he can be confident that he has the truth. Group polarization suggests that deliberatively confronting those with whom we disagree is essential even when we have the truth. For even if we have the truth, if we do not engage opposing views, but instead deliberate only with those with whom we agree, our view will shift progressively to a more extreme point, and thus we lose the truth. In order to avoid polarization, deliberation must take place within heterogeneous ‘argument pools’ (Sunstein, 2003: 93). This of course does not mean that there should be no groups devoted to the achievement of some common political goal; it rather suggests that engagement with those with whom one disagrees is essential to the proper pursuit of justice. Insofar as the activist denies this, he is unreasonable.

#### Effective deliberative discourse is the lynchpin to solving existential social and political problems

**Lundberg, UNC Chapel Hill communications professor, 2010**

(Christian, Tradition of Debate in North Carolina” in Navigating Opportunity: Policy Debate in the 21st Century, pg 311-3)

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 modern political life that underwrites this critique of debate is a pessimistic view of increasingly labyrinthine and bureaucratic administrative politics, rapid scientific and technological change out pacing 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 re-articulation, it is open to re-articulation 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 Dewey in The Public and 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 sort through and evaluate the evidence for and relative merits of arguments for and against a policy in an increasingly information-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, 140) 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 multi-mediated 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 instruction/no instruction and debate topic ... that it did not matter which topic students had been assigned... students in the Instructional [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 Worthen and Gaylen 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, Worthen 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 as a technology for enhancing democratic deliberative capacities. The unique combination of critical-thinking skills, research and information-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 who 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 and to deal with systemic threats that risk our collective extinction. Democratic societies face 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 skill 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. Given the challenge of perfecting our collective political skill, and in drawing on the best of our collective creative intelligence, it is incumbent on us to both make the case for and, more important, to do the concrete work to realize an expanded commitment to debate at colleges and universities.

#### Maintaining even division of ground and contestability is key to maintain debate’s unique potential for educational dialogue-alternative interpretations-guarantee uneducational monologues.

**Hanghoj, Aarhus education assistant professor, 2008**

(Thorkild, “Playful Knowledge An Explorative Study of Educational Gaming”, <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, 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).

#### Switching sides is key

Kurr-Ph.D. student Communication, Penn State-9/5/13

Bridging Competitive Debate and Public Deliberation on Presidential War Powers

http://public.cedadebate.org/node/14

The second major function concerns the specific nature of deliberation over war powers. Given the connectedness between presidential war powers and the preservation of national security, deliberation is often difficult. Mark Neocleous describes that when political issues become securitized; it “helps consolidate the power of the existing forms of social domination and justifies the short-circuiting of even the most democratic forms.” (2008, p. 71). Collegiate debaters, through research and competitive debate, serve as a bulwark against this “short-circuiting” and help preserve democratic deliberation. This is especially true when considering national security issues. Eric English contends, “The success … in challenging the dominant dialogue on homeland security politics points to efficacy of academic debate as a training ground.” Part of this training requires a “robust understanding of the switch-side technique” which “helps prevent misappropriation of the technique to bolster suspect homeland security policies” (English et. al, 2007, p. 224). Hence, competitive debate training provides foundation for interrogating these policies in public. Alarmism on the issues of war powers is easily demonstrated by Obama’s repeated attempts to transfer detainees from Guantanamo Bay. Republicans were able to launch a campaign featuring the slogan, “not in my backyard” (Schor, 2009). By locating the nexus of insecurity as close as geographically possible, the GOP were able to instill a fear of national insecurity that made deliberation in the public sphere not possible. When collegiate debaters translate their knowledge of the policy wonkery on such issues into public deliberation, it serves to cut against the alarmist rhetoric purported by opponents. In addition to combating misperceptions concerning detainee transfers, the investigative capacity of collegiate debate provides a constant check on governmental policies. A new trend concerning national security policies has been for the government to provide “status updates” to the public. On March 28, 2011, Obama gave a speech concerning Operation Odyssey Dawn in Libya and the purpose of the bombings. Jeremy Engels and William Saas describe this “post facto discourse” as a “new norm” where “Americans are called to acquiesce to decisions already made” (2013, p. 230). Contra to the alarmist strategy that made policy deliberation impossible, this rhetorical strategy posits that deliberation is not necessary. Collegiate debaters researching war powers are able to interrogate whether deliberation is actually needed. Given the technical knowledge base needed to comprehend the mechanism of how war powers operate, debate programs serve as a constant investigation into whether deliberation is necessary not only for prior action but also future action. By raising public awareness, there is a greater potential that “the public’s inquiry into potential illegal action abroad” could “create real incentives to enforce the WPR” (Druck, 2010, p. 236). While this line of interrogation could be fulfilled by another organization, collegiate debaters who translate their competitive knowledge into public awareness create a “space for talk” where the public has “previously been content to remain silent” (Engels & Saas, 2013, p. 231). Given the importance of presidential war powers and the strategies used by both sides of the aisle to stifle deliberation, the import of competitive debate research into the public realm should provide an additional check of being subdued by alarmism or acquiescent rhetorics. After creating that space for deliberation, debaters are apt to influence the policies themselves. Mitchell furthers, “Intercollegiate debaters can play key roles in retrieving and amplifying positions that might otherwise remain sedimented in the policy process” (2010, p. 107). With the timeliness of the war powers controversy and the need for competitive debate to reorient publicly, the CEDA/Miller Center series represents a symbiotic relationship that ought to continue into the future. Not only will collegiate debaters become better public advocates by shifting from competition to collaboration, the public becomes more informed on a technical issue where deliberation was being stifled. As a result, debaters reinvigorate debate.

#### Generalities are not enough; Debating specific policies on both sides is critical to make us better advocates against government violence—criticizing war without being willing to discuss actual policy details is a bankrupt strategy for social resistance.

--we can use these categories to critique them; simulation does not undercut our potential for critique

--have to roll-play the enemy to know their language and learn their strategies

Mellor 13 (Ewan E. Mellor – European University Institute, Why policy relevance is a moral necessity: Just war theory, impact, and UAVs, Paper Prepared for BISA Conference 2013, accessed: http://www.academia.edu/Documents/in/Drones\_Targeted\_Killing\_Ethics\_of\_War)

This section of the paper considers more generally the need for just war theorists to engage with policy debate about the use of force, as well as to engage with the more fundamental moral and philosophical principles of the just war tradition. It draws on John Kelsay’s conception of just war thinking as being a social practice,35 as well as on Michael Walzer’s understanding of the role of the social critic in society.36 It argues that the just war tradition is a form of “practical discourse” which is concerned with questions of “how we should act.”37 Kelsay argues that: [T]he criteria of jus ad bellum and jus in bello provide a framework for structured participation in a public conversation about the use of military force . . . citizens who choose to speak in just war terms express commitments . . . [i]n the process of giving and asking for reasons for going to war, those who argue in just war terms seek to influence policy by persuading others that their analysis provides a way to express and fulfil the desire that military actions be both wise and just.38 He also argues that “good just war thinking involves continuous and complete deliberation, in the sense that one attends to all the standard criteria at war’s inception, at its end, and throughout the course of the conflict.”39 This is important as it highlights the need for just war scholars to engage with the ongoing operations in war and the specific policies that are involved. The question of whether a particular war is just or unjust, and the question of whether a particular weapon (like drones) can be used in accordance with the jus in bello criteria, only cover a part of the overall justice of the war. Without an engagement with the reality of war, in terms of the policies used in waging it, it is impossible to engage with the “moral reality of war,”40 in terms of being able to discuss it and judge it in moral terms. Kelsay’s description of just war thinking as a social practice is similar to Walzer’s more general description of social criticism. The just war theorist, as a social critic, must be involved with his or her own society and its practices. In the same way that the social critic’s distance from his or her society is measured in inches and not miles,41 the just war theorist must be close to and must understand the language through which war is constituted, interpreted and reinterpreted.42 It is only by understanding the values and language that their own society purports to live by that the social critic can hold up a mirror to that society to demonstrate its hypocrisy and to show the gap that exists between its practice and its values.43 The tradition itself provides a set of values and principles and, as argued by Cian O’Driscoll, constitutes a “language of engagement” to spur participation in public and political debate.44 This language is part of “our common heritage, the product of many centuries of arguing about war.”45 These principles and this language provide the terms through which people understand and come to interpret war, not in a deterministic way but by providing the categories necessary for moral understanding and moral argument about the legitimate and illegitimate uses of force.46 By spurring and providing the basis for political engagement the just war tradition ensures that the acts that occur within war are considered according to just war criteria and allows policy-makers to be held to account on this basis. Engaging with the reality of war requires recognising that war is, as Clausewitz stated, a continuation of policy. War, according to Clausewitz, is subordinate to politics and to political choices and these political choices can, and must, be judged and critiqued.47 Engagement and political debate are morally necessary as the alternative is disengagement and moral quietude, which is a sacrifice of the obligations of citizenship.48 This engagement must bring just war theorists into contact with the policy makers and will require work that is accessible and relevant to policy makers, however this does not mean a sacrifice of critical distance or an abdication of truth in the face of power. By engaging in detail with the policies being pursued and their concordance or otherwise with the principles of the just war tradition the policy-makers will be forced to account for their decisions and justify them in just war language. In contrast to the view, suggested by Kenneth Anderson, that “the public cannot be made part of the debate” and that “[w]e are necessarily committed into the hands of our political leadership”,49 it is incumbent upon just war theorists to ensure that the public are informed and are capable of holding their political leaders to account. To accept the idea that the political leadership are stewards and that accountability will not benefit the public, on whose behalf action is undertaken, but will only benefit al Qaeda,50 is a grotesque act of intellectual irresponsibility. As Walzer has argued, it is precisely because it is “our country” that we are “especially obligated to criticise its policies.”51 Conclusion This paper has discussed the empirics of the policies of drone strikes in the ongoing conflict with those associate with al Qaeda. It has demonstrated that there are significant moral questions raised by the just war tradition regarding some aspects of these policies and it has argued that, thus far, just war scholars have not paid sufficient attention or engaged in sufficient detail with the policy implications of drone use. As such it has been argued that it is necessary for just war theorists to engage more directly with these issues and to ensure that their work is policy relevant, not in a utilitarian sense of abdicating from speaking the truth in the face of power, but by forcing policy makers to justify their actions according to the principles of the just war tradition, principles which they invoke themselves in formulating policy. By highlighting hypocrisy and providing the tools and language for the interpretation of action, the just war tradition provides the basis for the public engagement and political activism that are necessary for democratic politics.52

### Case

#### Unitary executive solves international law and treaty enforcement

Abebe and Posner 11 Daniel, Assistant Professor and Eric, Kirkland & Ellis Professor, University of Chicago Law School. “The Flaws of Foreign Affairs Legalism” Virginia Journal of International Law 51(507).http://www.ericposner.com/THE%20FLAWS%20OF%20FOREIGN%20AFFAIRS%20LEGALISM.pdf

Let us now compare the judiciary's record with that of the executive. To keep the discussion short, we will focus on post-World War II activity. The executive has been the leading promoter of international law. It has negotiated and ratified (sometimes with the Senate's consent, some- times with Congress's consent, and sometimes without legislative con- sent) thousands of treaties over the last sixty years,153 including the fundamental building blocks of the modern international legal system, such as the UN Charter, the GATT/WTO, the International Covenant for Civil and Political Rights, and the Genocide Convention. Through the U.S. State Department, the executive issues annual reports criticizing foreign countries for human rights violations, and the U.S. government has fre- quently, although not with complete consistency, issued objections when foreign countries violate human rights.IM The executive has also negotiated and signed other important treaties to which the Senate has withheld consent — including the Vienna Convention on the Law of Treaties, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Law of the Sea, the Convention on the Rights of the Child, and the Convention on the Elimination of All Forms of Discrimination Against Women, among others.155 The executive has also been instrumental in creating modern international institutions, including the UN Security Council, the GATT/WTO system, the World Bank, and the IMF.156 Much of what we said might seem too obvious to mention. One can hardly imagine the judiciary deciding on its own that the United States must create or join some new treaty regime. But these obvious points have been overlooked in the debate about the role of the judiciary in foreign affairs. Virtually everything the judiciary does in this area depends on prior executive action. Only the constitutional interpretation cases seem truly judge-initiated, for in these cases, the Court sometimes cites treaties that the United States has not ratified and sometimes cites the laws of foreign nations. The claim that the judiciary can, and even does, play a primary role in the adoption of international law is puzzling. In almost all cases, the judiciary must follow the executive's lead. This also means that if the judiciary interprets treaties and other sources of international law in an aggressive way — in a way that the executive rejects — the executive may respond by being more cautious about negotiating treaties and adopting international law in the first place. This possible backlash effect has not been documented, but is plausible. As we discuss in the next section, fears of judicial enforcement of certain treaty obligations led to an effort by the Senate to ensure that those treaties would not have domestic legal effect.

#### Extinction---flips try or die

**Masciulli, St. Thomas political science professor, 2011**

(Joseph, “The Governance Challenge for Global Political and Technoscientific Leaders in an Era of Globalization and Globalizing Technologies”, Bulletin of Science, Technology & Society, February, ebsco, ldg)

What is most to be feared is enhanced global disorder resulting from the combination of weak global regulations; the unforeseen destructive consequences of converging technologies and economic globalization; military competition among the great powers; and the prevalent biases of short-term thinking held by most leaders and elites. But no practical person would wish that such a disorder scenario come true, given all the weapons of mass destruction (WMDs) available now or which will surely become available in the foreseeable future. As converging technologies united by IT, cognitive science, nanotechnology, and robotics advance synergistically in monitored and unmonitored laboratories, we may be blindsided by these future developments brought about by technoscientists with a variety of good or destructive or mercenary motives. The current laudable but problematic openness about publishing scientific results on the Internet would contribute greatly to such negative outcomes. To be sure, if the global disorder-emergency scenario occurred because of postmodern terrorism or rogue states using biological, chemical, or nuclear WMDs, or a regional war with nuclear weapons in the Middle East or South Asia, there might well be a positive result for global governance. Such a global emergency might unite the global great and major powers in the conviction that a global concert was necessary for their survival and planetary survival as well. In such a global great power concert, basic rules of economic, security, and legal order would be uncompromisingly enforced both globally and in the particular regions where they held hegemonic status. That concert scenario, however, is flawed by the limited legitimacy of its structure based on the members having the greatest hard and soft power on planet Earth. At the base of our concerns, I would argue, are human proclivities for narrow, short-term thinking tied to individual self-interest or corporate and national interests in decision making. For globalization, though propelled by technologies of various kinds, “remains an essentially human phenomenon . . . and the main drivers for the establishment and uses of disseminative systems are hardy perennials: profit, convenience, greed, relative advantage, curiosity, demonstrations of prowess, ideological fervor, malign destructiveness.” These human drives and capacities will not disappear. Their “manifestations now extend considerably beyond more familiarly empowered governmental, technoscientific and corporate actors to include even individuals: terrorists, computer hackers and rogue market traders” (Whitman, 2005, p. 104). In this dangerous world, if people are to have their human dignity recognized and enjoy their human rights, above all, to life, security, a healthy environment, and freedom, we need new forms of comprehensive global regulation and control. Such effective global leadership and governance with robust enforcement powers alone can adequately respond to destructive current global problems, and prevent new ones. However, successful human adaptation and innovation to our current complex environment through the social construction of effective global governance will be a daunting collective task for global political and technoscientific leaders and citizens. For our global society is caught in “the whirlpool of an accelerating process of modernization” that has for the most part “been left to its own devices” (Habermas, 2001, p. 112). We need to progress in human adaptation to and innovation for our complex and problematical global social and natural planetary environments through global governance. I suggest we need to begin by ending the prevalent biases of short-termism in thinking and acting and the false values attached to the narrow self-interest of individuals, corporations, and states. I agree with Stephen Hawking that the long-term future of the human race must be in space. It will be difficult enough to avoid disaster on planet Earth in the next hundred years, let alone the next thousand, or million. . . . There have been a number of times in the past when its survival has been a question of touch and go. The Cuban missile crisis in 1962 was one of these. The frequency of such occasions is likely to increase in the future. We shall need great care and judgment to negotiate them all successfully. But I’m an optimist. If we can avoid disaster for the next two centuries, our species should be safe, as we spread into space. . . . But we are entering an increasingly dangerous period of our history. Our population and our use of the finite resources of planet Earth, are growing exponentially, along with our technical ability to change the environment for good or ill. But our genetic code still carries the selfish and aggressive instincts that were of survival advantage in the past. . . . Our only chance of long term survival is not to remain inward looking on planet Earth, but to spread out into space. We have made remarkable progress in the last hundred years. But if we want to continue beyond the next hundred years, our future is in space.” (Hawking, 2010) Nonetheless, to reinvent humanity pluralistically in outer space and beyond will require securing our one and only global society and planet Earth through effective global governance in the foreseeable future. And our dilemma is that the enforcement powers of multilateral institutions are not likely to be strengthened because of the competition for greater (relative, not absolute) hard and soft power by the great and major powers. They seek their national or alliance superiority, or at least, parity, for the sake of their state’s survival and security now. Unless the global disorder-emergency scenario was to occur soon—God forbid—the great powers will most likely, recklessly and tragically, leave global survival and security to their longer term agendas.

#### And it solves terrorist attacks, WMD proliferation and Rouge State aggression

Yoo 12 (John, professor of law at the University of California, Berkeley, “War Powers Belong to the President,” http://www.abajournal.com/magazine/article/war\_powers\_belong\_to\_the\_president)

This time, President Obama has the Constitution about right. His exercise of war powers rests firmly in the tradition of American foreign policy. Throughout our history, neither presidents nor Congresses have acted under the belief that the Constitution requires a declaration of war before the U.S. can conduct military hostilities abroad. We have used force abroad more than 100 times but declared war in only five cases: the War of 1812, the Mexican-American and Spanish-American wars, and World War I and II. Without any congressional approval, presidents have sent forces to battle Indians, Barbary pirates and Russian revolutionaries; to fight North Korean and Chinese communists in Korea; to engineer regime changes in South and Central America; and to prevent human rights disasters in the Balkans. Other conflicts, such as the 1991 Persian Gulf war, the 2001 invasion of Afghanistan and the 2003 Iraq war, received legislative “authorization” but not declarations of war. The practice of presidential initiative, followed by congressional acquiescence, has spanned both Democratic and Republican administrations and reaches back from President Obama to Presidents Abraham Lincoln, Thomas Jefferson and George Washington. Common sense does not support replacing the way our Constitution has worked in wartime with a radically different system that mimics the peacetime balance of powers between president and Congress. If the issue were the environment or Social Security, Congress would enact policy first and the president would faithfully implement it second. But the Constitution does not duplicate this system in war. Instead, our framers decided that the president would play the leading role in matters of national security. Those in the pro-Congress camp call upon the anti-monarchical origins of the American Revolution for support. If the framers rebelled against King George III’s dictatorial powers, surely they would not give the president much authority. It is true that the revolutionaries rejected the royal prerogative, and they created weak executives at the state level. Americans have long turned a skeptical eye toward the growth of federal powers. But this may mislead some to resist the fundamental difference in the Constitution’s treatment of domestic and foreign affairs. For when the framers wrote the Constitution in 1787 they rejected these failed experiments and restored an independent, unified chief executive with its own powers in national security and foreign affairs. The most important of the president’s powers are commander in chief and chief executive. As Alexander Hamilton wrote in Federalist 74, “The direction of war implies the direction of the common strength, and the power of directing and employing the common strength forms a usual and essential part in the definition of the executive authority.” Presidents should conduct war, he wrote, because they could act with “decision, activity, secrecy and dispatch.” In perhaps his most famous words, Hamilton wrote: “Energy in the executive is a leading character in the definition of good government. ... It is essential to the protection of the community against foreign attacks.” The framers realized the obvious. Foreign affairs are unpredictable and involve the highest of stakes, making them unsuitable to regulation by pre-existing legislation. Instead, they can demand swift, decisive action—sometimes under pressured or even emergency circumstances—that is best carried out by a branch of government that does not suffer from multiple vetoes or is delayed by disagreements. Congress is too large and unwieldy to take the swift and decisive action required in wartime. Our framers replaced the Articles of Confederation, which had failed in the management of foreign relations because they had no single executive, with the Constitution’s single president for precisely this reason. Even when it has access to the same intelligence as the executive branch, Congress’ loose, decentralized structure would paralyze American policy while foreign threats grow. Congress has no political incentive to mount and see through its own wartime policy. Members of Congress, who are interested in keeping their seats at the next election, do not want to take stands on controversial issues where the future is uncertain. They will avoid like the plague any vote that will anger large segments of the electorate. They prefer that the president take the political risks and be held accountable for failure. Congress’ track record when it has opposed presidential leadership has not been a happy one. Perhaps the most telling example was the Senate’s rejection of the Treaty of Versailles at the end of World War I. Congress’ isolationist urge kept the United States out of Europe at a time when democracies fell and fascism grew in their place. Even as Europe and Asia plunged into war, Congress passed the Neutrality Acts designed to keep the United States out of the conflict. President Franklin Roosevelt violated those laws to help the Allies and draw the nation into war against the Axis. While pro-Congress critics worry about a president’s foreign adventurism, the real threat to our national security may come from inaction and isolationism. Many point to the Vietnam War as an example of the faults of the “imperial presidency.” Vietnam, however, could not have continued without the consistent support of Congress in raising a large military and paying for hostilities. And Vietnam ushered in a period of congressional dominance that witnessed American setbacks in the Cold War and the passage of the ineffectual War Powers Resolution. Congress passed the resolution in 1973 over President Richard Nixon’s veto, and no president, Republican or Democrat, George W. Bush or Obama, has ever accepted the constitutionality of its 60-day limit on the use of troops abroad. No federal court has ever upheld the resolution. Even Congress has never enforced it. Despite the record of practice and the Constitution’s institutional design, critics nevertheless argue for a radical remaking of the American way of war. They typically base their claim on Article I, Section 8, of the Constitution, which gives Congress the power to “declare war.” But these observers read the 18th century constitutional text through a modern lens by interpreting “declare war” to mean “start war.” When the Constitution was written, however, a declaration of war served diplomatic notice about a change in legal relations between nations. It had little to do with launching hostilities. In the century before the Constitution, for example, Great Britain—where the framers got the idea of the declare-war power—fought numerous major conflicts but declared war only once beforehand. Our Constitution sets out specific procedures for passing laws, appointing officers and making treaties. There are none for waging war because the framers expected the president and Congress to struggle over war through the national political process. In fact, other parts of the Constitution, properly read, support this reading. Article I, Section 10, for example, declares that the states shall not “engage” in war “without the consent of Congress” unless “actually invaded, or in such imminent danger as will not admit of delay.” This provision creates exactly the limits desired by anti-war critics, complete with an exception for self-defense. If the framers had wanted to require congressional permission before the president could wage war, they simply could have repeated this provision and applied it to the executive. Presidents, of course, do not have complete freedom to take the nation to war. Congress has ample powers to control presidential policy, if it wants to. Only Congress can raise the military, which gives it the power to block, delay or modify war plans. Before 1945, for example, the United States had such a small peacetime military that presidents who started a war would have to go hat in hand to Congress to build an army to fight it. Since World War II, it has been Congress that has authorized and funded our large standing military, one primarily designed to conduct offensive, not defensive, operations (as we learned all too tragically on 9/11) and to swiftly project power worldwide. If Congress wanted to discourage presidential initiative in war, it could build a smaller, less offensive-minded military. Congress’ check on the presidency lies not just in the long-term raising of the military. It can also block any immediate armed conflict through the power of the purse. If Congress feels it has been misled in authorizing war, or it disagrees with the president’s decisions, all it need do is cut off funds, either all at once or gradually. It can reduce the size of the military, shrink or eliminate units, or freeze supplies. Using the power of the purse does not even require affirmative congressional action. Congress can just sit on its hands and refuse to pass a law funding the latest presidential adventure, and the war will end quickly. Even the Kosovo war, which lasted little more than two months and involved no ground troops, required special funding legislation. The framers expected Congress’ power of the purse to serve as the primary check on presidential war. During the 1788 Virginia ratifying convention, Patrick Henry attacked the Constitution for failing to limit executive militarism. James Madison responded: “The sword is in the hands of the British king; the purse is in the hands of the Parliament. It is so in America, as far as any analogy can exist.” Congress ended America’s involvement in Vietnam by cutting off all funds for the war. Our Constitution has succeeded because it favors swift presidential action in war, later checked by Congress’ funding power. If a president continues to wage war without congressional authorization, as in Libya, Kosovo or Korea, it is only because Congress has chosen not to exercise its easy check. We should not confuse a desire to escape political responsibility for a defect in the Constitution. A radical change in the system for making war might appease critics of presidential power. But it could also seriously threaten American national security. In order to forestall another 9/11 attack, or to take advantage of a window of opportunity to strike terrorists or rogue nations, the executive branch needs flexibility. It is not hard to think of situations where congressional consent cannot be obtained in time to act. Time for congressional deliberation, which leads only to passivity and isolation and not smarter decisions, will come at the price of speed and secrecy. The Constitution creates a presidency that can respond forcefully to prevent serious threats to our national security. Presidents can take the initiative and Congress can use its funding power to check them. Instead of demanding a legalistic process to begin war, the framers left war to politics. As we confront the new challenges of terrorism, rogue nations and WMD proliferation, now is not the time to introduce sweeping, untested changes in the way we make war.

#### Rogue states multiply and cause extinction

**Johnson, Forbes contributor and Presidential Medal of Freedom winner, 2013**

(Paul, “A Lesson For Rogue States”, 5-8, <http://www.forbes.com/sites/currentevents/2013/05/08/a-lesson-for-rogue-states/>, ldg)

Although we live in a violent world, where an internal conflict such as the Syrian civil war can cost 70,000 lives over a two-year period, there hasn’t been a major war between the great powers in 68 years. Today’s three superpowers–the U.S., Russia and China–have no conflicts of interest that can’t be resolved through compromise. All have hair-trigger nuclear alert systems, but the sheer scale of their armories has forced them to take nuclear conflict seriously. Thus, in a real sense, nuclear weapons have succeeded in abolishing the concept of a winnable war. The same cannot be said, however, for certain paranoid rogue states, namely North Korea and Iran. If these two nations appear to be prospering–that is, if their nuclear threats are winning them attention and respect, financial bribes in the form of aid and all the other goodies by which petty dictators count success–other prospective rogues will join them. One such state is Venezuela. Currently its oil wealth is largely wasted, but it is great enough to buy entree to a junior nuclear club. Another possibility is Pakistan, which already has a small nuclear capability and is teetering on the brink of chaos. Other potential rogues are one or two of the components that made up the former Soviet Union. All the more reason to ensure that North Korea and Iran are dramatically punished for traveling the nuclear path. But how? It’s of little use imposing further sanctions, as they chiefly fall on the long-suffering populations. Recent disclosures about life in North Korea reveal how effectively the ruling elite is protected from the physical consequences of its nuclear quest, enjoying high standards of living while the masses starve. Things aren’t much better in Iran. Both regimes are beyond the reach of civilized reasoning, one locked into a totalitarian vise of such comprehensiveness as to rule out revolt, the other victim of a religious despotism from which there currently seems no escape. Either country might take a fatal step of its own volition. Were North Korea to attack the South, it would draw down a retribution in conventional firepower from the heavily armed South and a possible nuclear response from the U.S., which would effectively terminate the regime. Iran has frequently threatened to destroy Israel and exterminate its people. Were it to attempt to carry out such a plan, the Israeli response would be so devastating that it would put an end to the theocracy forthwith. The balance of probabilities is that neither nation will embark on a deliberate war but instead will carry on blustering. This, however, doesn’t rule out war by accident–a small-scale nuclear conflict precipitated by the blunders of a totalitarian elite. Preventing Disaster The most effective, yet cold-blooded, way to teach these states the consequences of continuing their nuclear efforts would be to make an example of one by destroying its ruling class. The obvious candidate would be North Korea. Were we able to contrive circumstances in which this occurred, it’s probable that Iran, as well as any other prospective rogues, would abandon its nuclear aims. But how to do this? At the least there would need to be general agreement on such a course among Russia, China and the U.S. But China would view the replacement of its communist ally with a neutral, unified Korea as a serious loss. Compensation would be required. Still, it’s worth exploring. What we must avoid is a jittery world in which proliferating rogue states perpetually seek to become nuclear ones. The risk of an accidental conflict breaking out that would then drag in the major powers is too great. This is precisely how the 1914 Sarajevo assassination broadened into World War I. It is fortunate the major powers appear to have understood the dangers of nuclear conflict without having had to experience them. Now they must turn their minds, responsibly, to solving the menace of rogue states. At present all we have are the bellicose bellowing of the rogues and the well-meaning drift of the Great Powers–a formula for an eventual and monumental disaster that could be the end of us all.

#### Offensive cyber doctrine critical to prevent US-China war and solve IP theft

Blumenthal 2/28/13 (Dan, the director of Asian Studies at the American Enterprise Institute, where he focuses on East Asian security issues and Sino-American relations. Mr. Blumenthal has both served in and advised the U.S. government on China issues for over a decade. From 2001 to 2004, he served as senior director for China, Taiwan, and Mongolia at the Department of Defense. Additionally, he served as a commissioner on the congressionally-mandated U.S.-China Economic and Security Review Commission since 2006-2012, and held the position of vice chairman in 2007. He has also served on the Academic Advisory Board of the congressional U.S.-China Working Group. J.D., Duke Law School M.A., School of Advanced International Studies, Johns Hopkins University B.A., Washington University Chinese language studies, Capital Normal University “How to Win a Cyberwar with China” <http://www.foreignpolicy.com/articles/2013/02/28/how_to_win_a_cyberwar_with_china>)

The Internet is now a battlefield. China is not only militarizing cyberspace -- it is also deploying its cyberwarriors against the United States and other countries to conduct corporate espionage, hack think tanks, and engage in retaliatory harassment of news organizations. These attacks are another dimension of the ongoing strategic competition between the United States and China -- a competition playing out in the waters of the East and South China seas, in Iran and Syria, across the Taiwan Strait, and in outer space. With a number of recent high-profile attacks in cyberspace traced to the Chinese government, the cybercompetition seems particularly pressing. It is time for Washington to develop a clear, concerted strategy to deter cyberwar, theft of intellectual property, espionage, and digital harassment. Simply put, the United States must make China pay for conducting these activities, in addition to defending cybernetworks and critical infrastructure such as power stations and cell towers. The U.S. government needs to go on the offensive and enact a set of diplomatic, security, and legal measures designed to impose serious costs on China for its flagrant violations of the law and to deter a conflict in the cybersphere. Fashioning an adequate response to this challenge requires understanding that China places clear value on the cyber military capability. During the wars of the last two decades, China was terrified by the U.S. military's joint, highly networked capabilities. The People's Liberation Army (PLA) began paying attention to the role of command, control, communications, computers, intelligence, surveillance, and reconnaissance (C4ISR) assets in the conduct of war. But the PLA also concluded that the seeds of weakness were planted within this new way of war that allowed the United States to find, fix, and kill targets quickly and precisely -- an overdependence on information networks. Consider what might happen in a broader U.S.-China conflict. The PLA could conduct major efforts to disable critical U.S. military information systems (it already demonstrates these capabilities for purposes of deterrence). Even more ominously, PLA cyberwarriors could turn their attention to strategic attacks on critical infrastructure in America. This may be a highly risky option, but the PLA may view cyber-escalation as justified if, for example, the United States struck military targets on Chinese soil. China is, of course, using attacks in cyberspace to achieve other strategic goals as well, from stealing trade secrets to advance its wish for a more innovative economy to harassing organizations and individuals who criticize its officials or policies. Barack Obama's administration has begun to fight back. On Feb. 20, the White House announced enhanced efforts to fight the theft of American trade secrets through several initiatives: building a program of cooperative diplomacy with like-minded nations to press leaders of "countries of concern," enhancing domestic investigation and prosecution of theft, promoting intelligence sharing, and improving current legislation that would enable these initiatives. These largely defensive measures are important but should be paired with more initiatives that start to play offense. Offensive measures may be gaining some steam. The U.S. Justice Department, in creating the National Security Cyber Specialists' Network (NSCS) last year, recognizes the need for such an approach. The NSCS -- consisting of almost 100 prosecutors from U.S. attorneys' offices working in partnership with cyber-experts from the Justice Department's National Security Division and the Criminal Division's Computer Crime and Intellectual Property Section -- is tasked with "exploring investigations and prosecutions as viable options for deterrence and disruption" of cyberattacks, including indictments of governments or individuals working on the government's behalf. It's a good first step, but Congress could also consider passing laws forbidding individuals and entities from doing business in the United States if there is clear evidence of involvement in cyberattacks. Congress could also create a cyberattack exception to the Foreign Sovereign Immunities Act, which currently precludes civil suits against a foreign government or entity acting on its behalf in the cyber-realm. There is precedent: In the case of terrorism, Congress enacted an exception to immunity for states and their agents that sponsor terrorism, allowing individuals to sue them. Enterprising companies and intelligence personnel are already able to trace attacks with an increasing degree of accuracy. For example, the U.S. security company Mandiant traced numerous incidents going back several years to the Shanghai-based Unit 61398 of the PLA, which was first identified publicly by the Project 2049 Institute, a Virginia-based think tank. Scholars Jeremy and Ariel Rabkin have identified another way to initiate nongovernmental legal action: rekindling the 19th-century legal practice of issuing "letters of marque" -- the act of commissioning privateers to attack enemy ships on behalf of the state -- to selectively and cautiously legitimize retaliation by private U.S. actors against hacking and cyber-espionage. This would allow the U.S. government to effectively employ its own cybermilitia. Creating new laws or using current ones would force the Chinese government and the entities that support its cyberstrategy to consider the reputational and financial costs of their actions. Of course, if the United States retaliates by committing similar acts of harassment and hacking, it risks Chinese legal action. But America has a key advantage in that its legal system is respected and trusted; China's is not. Diplomatic action should bolster these efforts. The Obama administration's suggestions for pressuring China and other countries are a good start, but U.S. diplomacy must be tougher. In presenting Chinese leaders with overwhelming evidence of cyber-misdeeds (but without giving away too many details), Washington should communicate how it could respond. To control escalation, the administration should explain what it views as proportionate reprisals to different kinds of attacks. (For instance, an attack on critical infrastructure that led to deaths would merit a different response than harassment of the New York Times.) As the administration's report suggests, the United States is not the only victim and should engage in cooperative diplomacy. The United States should set up a center for cyberdefense that would bring together the best minds from allied countries to develop countermeasures and conduct offensive activities. One such center could be Taiwan, as its understanding of Chinese language, culture, business networks, and political landscape make it invaluable in the fight against cyberattacks. Of course, centers could be placed elsewhere and still utilize Taiwan's knowledge, but even the threat of placing a cyberdefense center just across the strait would be very embarrassing for China's leaders, as Taiwan is viewed as a renegade province. The point is not to be gratuitously provocative, but rather to demonstrate that the United States options that China would not favor. The U.S. military's cyber-efforts presumably already include it own probes, penetrations, and demonstrations of capability. While the leaks claiming the U.S. government's involvement in the Stuxnet operation -- the computer worm that disabled centrifuges in the Iranian nuclear program -- may have damaged U.S. national security, at least China knows that Washington is quite capable of carrying out strategic cyberattacks. To enhance deterrence, the U.S. government needs to demonstrate these sorts of capabilities more regularly, perhaps through cyber-exercises modeled after military exercises. For example, the U.S. military could set up an allied public training exercise in which it conducted cyberattacks against a "Country X" to disable its military infrastructure such as radars, satellites, and computer-based command-and-control systems. To use the tools at America's disposal in the fight for cybersecurity will require a high degree of interagency coordination, a much-maligned process. But Washington has made all the levers of power work together previously. The successful use of unified legal, law enforcement, financial, intelligence, and military deterrence against the Kim regime of North Korea during a short period of George W. Bush's administration met the strategic goals of imposing serious costs on a dangerous government. China is not North Korea -- it is far more responsible and less totalitarian. But America must target those acting irresponsibly in cyberspace. By taking the offensive, the United States can start to impose, rather than simply incur, costs in this element of strategic competition with China. Sitting by idly, however, presents a much greater likelihood that China's dangerous cyberstrategy could spark a wider conflict.

#### Cyber-espionage wrecks American leadership and global trade

**Skinner, Yale JD, 2013**

(Christina, “Economic Cyber Espionage: A Threat to U.S. National Security and Violation of International Law”, 8-9, <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2305326>, ldg)

Cyber spies are infiltrating America. While most Americans would probably say that spies, today, are found only Cold War novels and suspense films, that assumption is all too sanguine. Today, in the Internet and information-age, states have re-tooled their espionage technique for use in cyber space. And the United States is a prime target. Indeed, for the past several years, cyber espionage has been steadily wreaking havoc on the United States‘ economic and national security.1 Covert cyber intrusions, which target American industry, research, and technology, are steadily undermining the U.S. economy and America‘s global competitiveness. However, despite the damage that this spying has caused so far, these covert attacks continue, unabated, with no effective legal or policy response to date. Cyber espionage, and economic-oriented cyber espionage in particular, poses a serious threat to the United States‘ national security. This type of espionage ―affects the sources of American power,‖ namely, its comparative advantage in scientific and technological innovation and development.2 According to a report from the Office of the National Counterintelligence Executive, cyberspace, ―where most business activity and development of new ideas now takes place,‖ allows ―malicious‖ cyber-spies ―to quickly steal and transfer massive quantities of data while remaining anonymous and hard to detect.‖3 ―Cyber tools have enhanced the economic espionage threat, and the Intelligence Community (IC) judges the use of such tools is already a larger threat than more traditional espionage methods.‖4 As commentators have noted, ―the hemorrhage of intellectual property (IP)—our most important international competitive advantage—is a national crisis. Nearly every U.S. business sector—advanced materials, electronics, pharmaceuticals and biotech, chemicals, aerospace, heavy equipment, autos, home products, software and defense systems—has experienced massive theft and illegal reproduction.‖5 It comes as no surprise, then, that the 2010 National Security Strategy assessed ―[f]oreign economic collection and industrial espionage‖ as ―one of the most serious national security, public safety, and economic challenges we face as a nation.‖6 At least for now, one principal source of this threat is relatively clear: China.7 Over the past few years, China has increased and intensified its cyber theft of U.S. trade secrets. Reportedly, China has attacked nearly every sector of the U.S. economy and many agencies critical to our national security, penetrating the online systems of the Departments of State and Defense, Coca-Cola, Lockheed Martin, Dow Chemic, Adobe, Yahoo and Google, to name just a few.8 According to head of the United States Cyber Command and director of the National Security Agency, Gen. Keith B. Alexander, these cyber ―attacks have resulted in the ‗greatest transfer of wealth in history.‘‖9 It is no secret that Washington blames China for these economic cyber intrusions. The White House has officially accused China of spying on American interests.10 A Pentagon report, released in May 2013, found that China‘s cyber-espionage targeted proprietary economic (as well as government-policy) information.11 Administration officials now consider China‘s ―cyberintrusions‖ at ―the center of the United States-China relationship.‖12 Even so, no meaningful action has been taken to address this problem.13 In fact, ―years of [Chinese] intrusions have provoked little American response.‖14 As one foreign policy expert put it, ―The United States has significantly underplayed its hand in the cyber arena.‖15 Economic cyber espionage is, it seems, on the back burner.16 But this is not only a domestic concern. Just as it harms the U.S. economy, economic cyber espionage threatens ―international trade‖ as well and, over time, stands to have a massively de-stabilizing impact on the global economic order. For this reason, as top Obama Administration officials have stated, the ―international community cannot tolerate such activity from any country.‖17 Much like the United States, however, the international community has not yet cried out against it. Although many factors are likely to blame for this tepid response,18 the lack of any clear law on this issue is surely an impediment to action.

#### Key to prevent great power war

**Zhang et al., Carnegie Endowment researcher, 2011**

(Yuhan, “America’s decline: A harbinger of conflict and rivalry”, 1-22, <http://www.eastasiaforum.org/2011/01/22/americas-decline-a-harbinger-of-conflict-and-rivalry/>)

This does not necessarily mean that the US is in systemic decline, but it encompasses a trend that appears to be negative and perhaps alarming. Although the US still possesses incomparable military prowess and its economy remains the world’s largest, the once seemingly indomitable chasm that separated America from anyone else is narrowing. Thus, the global distribution of power is shifting, and the inevitable result will be a world that is less peaceful, liberal and prosperous, burdened by a dearth of effective conflict regulation. Over the past two decades, no other state has had the ability to seriously challenge the US military. Under these circumstances, motivated by both opportunity and fear, many actors have bandwagoned with US hegemony and accepted a subordinate role. Canada, most of Western Europe, India, Japan, South Korea, Australia, Singapore and the Philippines have all joined the US, creating a status quo that has tended to mute great power conflicts. However, as the hegemony that drew these powers together withers, so will the pulling power behind the US alliance. The result will be an international order where power is more diffuse, American interests and influence can be more readily challenged, and conflicts or wars may be harder to avoid. As history attests, power decline and redistribution result in military confrontation. For example, in the late 19th century America’s emergence as a regional power saw it launch its first overseas war of conquest towards Spain. By the turn of the 20th century, accompanying the increase in US power and waning of British power, the American Navy had begun to challenge the notion that Britain ‘rules the waves.’ Such a notion would eventually see the US attain the status of sole guardians of the Western Hemisphere’s security to become the order-creating Leviathan shaping the international system with democracy and rule of law. Defining this US-centred system are three key characteristics: enforcement of property rights, constraints on the actions of powerful individuals and groups and some degree of equal opportunities for broad segments of society. As a result of such political stability, free markets, liberal trade and flexible financial mechanisms have appeared. And, with this, many countries have sought opportunities to enter this system, proliferating stable and cooperative relations. However, what will happen to these advances as America’s influence declines? Given that America’s authority, although sullied at times, has benefited people across much of Latin America, Central and Eastern Europe, the Balkans, as well as parts of Africa and, quite extensively, Asia, the answer to this question could affect global society in a profoundly detrimental way. Public imagination and academia have anticipated that a post-hegemonic world would return to the problems of the 1930s: regional blocs, trade conflicts and strategic rivalry. Furthermore, multilateral institutions such as the IMF, the World Bank or the WTO might give way to regional organisations. For example, Europe and East Asia would each step forward to fill the vacuum left by Washington’s withering leadership to pursue their own visions of regional political and economic orders. Free markets would become more politicised — and, well, less free — and major powers would compete for supremacy. Additionally, such power plays have historically possessed a zero-sum element. In the late 1960s and 1970s, US economic power declined relative to the rise of the Japanese and Western European economies, with the US dollar also becoming less attractive. And, as American power eroded, so did international regimes (such as the Bretton Woods System in 1973). A world without American hegemony is one where great power wars re-emerge, the liberal international system is supplanted by an authoritarian one, and trade protectionism devolves into restrictive, anti-globalisation barriers. This, at least, is one possibility we can forecast in a future that will inevitably be devoid of unrivalled US primacy.

## 2NC

### Resolved – EXTN

#### Their card=resolve a question

#### Resolved means enact policy

**Words and Phrases 1964** 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”.

#### 1. The topic is defined by the phrase following the colon—the USFG is the agent of the resolution, not the individual debaters

**Webster’s** Guide to Grammar and Writing **2k**

Use of a colon before a list or an explanation that is preceded by a clause that can stand by itself. Think of the colon as a gate, inviting one to go one…**If the introductory phrase preceding the colon is very brief** and **the clause following the colon represents the real business of the sentence**, beginning the clause after the colon with a capital letter.

### USFG – EXTN

#### That violates the phrase USFG in the resolution which means the federal government in DC

**Dictionary of Government and Politics 1998**

(PH Collin, pg 292)

United States of America (USA) [ju:’naitid ‘steits av e’merike] noun independent country, a federation of states (originally thirteen, now fifty in North America; the United States Code = book containing all the permanent laws of the USA, arranged in sections according to subject and revised from time to time COMMENT: the federal government (based in Washington D.C.) is formed of a legislature (the Congress) with two chambers (the Senate and House of Representatives), an executive (the President) and a judiciary (the Supreme Court). Each of the fifty states making up the USA has its own legislature and executive (the Governor) as well as its own legal system and constitution

### 2NC Reasonability

#### It’s arbitrary and undermines research

Evan Resnick 1, 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.

### A/T Deliberation

#### Debate over stasis is key to developing deliberative democracy.

David McIvor 10, research associate at the Kettering Foundation, The Politics of Speed: Connolly, Wolin, and the Prospects for Democratic Citizenship in an Accelerated Polity, Polity (2011) 43, 58–83

In some ways Wolin's description of revolution seems to converge with Connolly's emphasis on speed as a means of creating a pluralistic ethos and ultimately political change. Yet Connolly, as I have argued above, has elided the intense requirements of slow time practice that support the possibility of successful, “rapid” change. Furthermore, Wolin finds that the tempos of frenetic agitation have “not vanished … [but] simply switched location.” The rise of corporate-driven capitalism has appropriated the revolutionary tempo through the “troika effect,” which unites capital, technology and science:

By enlisting technological innovation and scientific discovery and joining them with its own impulses, capital has produced an unprecedented form of power. The combination has quickened the rate of change throughout the world … . Globalized capital … may be said to monopolize agitation … thus corporate capital is the agitator, the exemplar of permanent revolution, of normalized agitation.85

Speedy agitation has been co-opted by corporate capital, which in turn “encourages change, elevates fashion to a norm, and … instructs an agitated populace that virtually every job and habitat are temporary.”86 This emphasis on flux and change disrupts the attachments that normally develop over time, including those related to vocation or community (and, by extension, those which lead to agitation). For Wolin, a hopeful politics today depends on whether or not “agitation … can find its bearings.”86 In order for this to occur the “appropriate tempo” of democratization must be identified. Since Wolin identifies this tempo as the slower one found at the local level of state, county, and municipality, we must wonder if he has not fallen into the nostalgic shackles that Connolly has already fit for him. Far from it. While recognizing the difficulty of frenetic agitation in a hurrying, racing world, Wolin thinks that such agitation can emerge from and alter the slower tempos of small-scale deliberation and debate occurring in local politics. Agitation can “educate … and energize” particularism, leading it to “challenge the center” in changed times. Democratic agitation “takes time” in that it must be nursed by patient deliberation, but it also “takes time” when, energized by such micro-political activities, it alters the status quo in powerful, lasting ways.

Again, Wolin does not look to slow time practices and local sites of action in order to flatten or exclude difference. According to Wolin, a leisurely pace and deliberation are “conditioned by the presence of differences and the attempt to negotiate them.”87 Democratic theory that emphasizes speed and dislocation, on the other hand, mimics the temporal rhythms of contemporary culture and economy at the expense of the tempos of deliberation and reflection that are important in themselves and insofar as they make possible the politics of a quicker pace. Some habits and practices are fundamental to the honoring and negotiating of plurality.

In order to develop these habits, Wolin wants to direct attention away from the state and towards localities with their particularities, peculiarities, and irregularities. On Wolin's reading, national politics is little more than a spectacle, and the citizen's role within that spectacle is often only as “a rooter limited to choosing sides.”88 Localities, on the other hand, remain venues that promise robust participation. As individuals slowly develop the habits related to participation—interpreting and coming to know one's environment and its other inhabitants, its multiple histories and overlapping concerns—their very being changes. “Politicalness” marks our capacity “to develop … into beings who know and value what it means to participate in and be responsible for the care and improvement of our common and collective life.”89 By nurturing this politicalness we begin to feel a tug of loyalty towards a common reality that had not heretofore existed. Wolin, in describing the early stages of the Free Speech Movement, referred to this experience as the “revival of a sense of shared destiny, of some common fate which can bind us into a people we have never been.”90 Of course, these assemblages are subject to the same “thousand natural shocks” to which all flesh is heir. Publics rise and fall; democratic moments remain momentary. Yet those who are honed by these experiences and who are dedicated to their recovery become what Wolin calls a “multiple civic self … one who is required to act the citizen in diverse settings: national, state, city or town, neighborhood, and voluntary association.”91 This is “perhaps the most complex conception of citizenship ever devised” yet “we have no coherent conception of it.”91 The multiple civic self is not modeled along republican or representative lines, which reduce participation to occasional ratification or refusal, and which filter popular power through elite-managed institutions. Nor, however, is it based on the radical democratic conception of citizenship as direct sharing in power. The complexities of what Wolin calls “the megastate” and the sheer size of the United States exceed what an Athens-styled radical democracy could manage. The multiple civic self is one capable of participating not simply in his/her locality but “intellectually and passionately in the controversies surrounding the megastate” in order to “reclaim” public space and insist upon “widened debate.”92 Wolin is not (only) a localist. Rather, he thinks that the skills and habits best acquired by consistent participation in our particular localities lay the groundwork for a form of citizenship attuned to the plural layers of political action and struggle in late-modern America. Moreover, the multiple civic self promotes the dispersal of power between local, state, and national bodies.93 Such diffusion re-establishes a separation of powers that forces slow-time negotiations upon the impatient megastate.94 The slowly developed habits of participation make possible a more robust form of democratic citizenship and, perhaps, fugitive democratic moments. These moments, in turn, can help to slow the world down.

Political theorists and social actors inspired by Wolin's example and worried about the inegalitarian consequences of social acceleration should look to start from his (so far underdeveloped) idea of the multiple civic self. Instead of refurbishing federal institutions or romanticizing the consequences of speed, we ought to attend primarily to what Wolin calls the “recurrent aspiration” of democracy: “to find room in which people can join freely with others to take responsibility for solving their common problems and thereby sharing the modest fate that is the lot of all mortals.”95 By pursuing solutions to mutual problems through concerted action, we as citizens can hone the craft of democratic participation—broadening our notions of self and learning to honor the differences we encounter within a shared space.96

The differences drawn above between Wolin and Connolly—and the choice that they seem to offer, Connolly or Wolin—may seem exaggerated, given the broad convergence between their normative interests and political concerns.97 Perhaps, then, a critical synthesis can be located between Wolin's efforts at nurturing democratic identity and Connolly's recent emphasis on generating a positive political resonance machine capable of promoting the use of inclusive goods while remaining attentive to difference and dissonance. For Connolly, the success of such movements will depend on cultivating the democratic virtues of what he calls “agonistic respect” and “critical responsiveness.” In fact, it is the latter two qualities, first articulated together in Neuropolitics, that form Connolly's recent conception of “bicameral citizenship,” which might be seen as a response or friendly rejoinder to Wolin's idea of the multiple civic self.98 Bicameralism comes from a “decent respect for the persistent diversity of the human condition” and results in a tolerance of ambiguity in our relationships and contestability in our creeds.99 The stubborn opacity of the world and the agonistic nature of political life can both become, on Connolly's reading, the basis for a generous acceptance of disagreement and difference. But the acceptance of such opacity would not necessarily come at the expense of a search for spaces of convergence or commonality—what Wolin calls the “sense of shared destiny.”

The dispositions of agonistic respect and critical responsiveness can clearly resonate with and reinforce the care and concern for the common that Wolin puts at the center of fugitive democracy. Yet these efforts, I would argue, need to be situated within a praxis whereby (seemingly anachronistic) habits of participation and engagement are nurtured in spite of the pressures of an accelerated society. For outside of these practices, what will inspire a commitment to the virtues relevant to democratic flourishing? What will make Connolly's virtues more compelling than resentment about the “illegible” social relations in “liquid” modernity? Connolly's under-theorization of the bonds of democratic identification and commitment seems a symptom of his sanguinity about the connection between speed and pluralism (“the acceleration of speed, though it contains counterpressures, amplifies trends towards diversity among multiple dimensions of being”).100 We ought to remain slightly skeptical, therefore, when Connolly writes, “acceleration prepares us for bicameralism” or asserts “it takes massive energy to turn us against pluralism.”101 We ought to ask whether this sanguine attitude is really justified by our understanding of the world around us. After all, since the fifteenth century, nearly 4,000 human languages have died out, and there have been similar crashes in biodiversity and methods of agricultural production since the rise of the steam engine. It seems that diversity of political, cultural, and ecological life is far from a given; one might say rather that it requires “massive energy” in order to persist.

### A2: Predictability Bad

#### Breaking down predictability is self-defeating and impossible---creativity inevitably depends upon constraints, the attempt to wish away the structure of predictability collapses the very structure their aff depends on---it’s better to retain predictability and be creative within it

**Armstrong, Dean of the College of Arts and Sciences at the State University of New York at Stony Brook, 2000**

(Paul, “The Politics of Play: The Social Implications of Iser's Aesthetic Theory,” New Literary History, 31.1, project muse)

Such a play-space also opposes the notion that the only alternative to the coerciveness of consensus must be to advocate the sublime powers of rule-breaking. 8 Iser shares Lyotard's concern that to privilege harmony and agreement in a world of heterogeneous language games is to limit their play and to inhibit semantic innovation and the creation of new games. Lyotard's endorsement of the "sublime"--the pursuit of the "unpresentable" by rebelling against restrictions, defying norms, and smashing the limits of existing paradigms--is undermined by contradictions, however, which Iser's explication of play recognizes and addresses. The paradox of the unpresentable, as Lyotard acknowledges, is that it can only be manifested through a game of representation. The sublime is, consequently, in Iser's sense, an instance of doubling. If violating norms creates new games, this crossing of boundaries depends on and carries in its wake the conventions and structures it oversteps. The sublime may be uncompromising, asocial, and unwilling to be bound by limits, but its pursuit of what is not contained in any order or system makes it dependent on the forms it opposes. [End Page 220] The radical presumption of the sublime is not only terroristic in refusing to recognize the claims of other games whose rules it declines to limit itself by. It is also naive and self-destructive in its impossible imagining that it can do without the others it opposes. As a structure of doubling, the sublime pursuit of the unpresentable requires a play-space that includes other, less radical games with which it can interact. Such conditions of exchange would be provided by the nonconsensual reciprocity of Iserian play. Iser's notion of play offers a way of conceptualizing power which acknowledges the necessity and force of disciplinary constraints without seeing them as unequivocally coercive and determining. The contradictory combination of restriction and openness in how play deploys power is evident in Iser's analysis of "regulatory" and "aleatory" rules. Even the regulatory rules, which set down the conditions participants submit to in order to play a game, "permit a certain range of combinations while also establishing a code of possible play. . . . Since these rules limit the text game without producing it, they are regulatory but not prescriptive. They do no more than set the aleatory in motion, and the aleatory rule differs from the regulatory in that it has no code of its own" (FI 273). Submitting to the discipline of regulatory restrictions is both constraining and enabling because it makes possible certain kinds of interaction that the rules cannot completely predict or prescribe in advance. Hence the existence of aleatory rules that are not codified as part of the game itself but are the variable customs, procedures, and practices for playing it. Expert facility with aleatory rules marks the difference, for example, between someone who just knows the rules of a game and another who really knows how to play it. Aleatory rules are more flexible and open-ended and more susceptible to variation than regulatory rules, but they too are characterized by a contradictory combination of constraint and possibility, limitation and unpredictability, discipline and spontaneity.

#### Predictability maintains meaningful politics and empathy even if somewhat rigid

**Massaro, Florida law professor, 1989**

(Toni, “Legal Storytelling: Empathy, Legal Storytelling, And The Rule Of Law: New Words, Old Wounds?”, August, 87 Mich. L. Rev. 2099, lexis)

Yet despite their acknowledgment that some ordering and rules are necessary, empathy proponents tend to approach the rule-of-law model as a villain. Moreover, they are hardly alone in their deep skepticism about the rule-of-law model. Most modern legal theorists question the value of procedural regularity when it denies substantive justice. 52 Some even question the whole notion of justifying a legal [\*2111] decision by appealing to a rule of law, versus justifying the decision by reference to the facts of the case and the judges' own reason and experience. 53 I do not intend to enter this important jurisprudential debate, except to the limited extent that the "empathy" writings have suggested that the rule-of-law chills judges' empathic reactions. In this regard, I have several observations. My first thought is that the rule-of-law model is only a model. If the term means absolute separation of legal decision and "politics," then it surely is both unrealistic and undesirable. 54 But our actual statutory and decisional "rules" rarely mandate a particular (unempathetic) response. Most of our rules are fairly open-ended. "Relevance," "the best interests of the child," "undue hardship," "negligence," or "freedom of speech" -- to name only a few legal concepts -- hardly admit of precise definition or consistent, predictable application. Rather, they represent a weaker, but still constraining sense of the rule-of-law model. Most rules are guidelines that establish spheres of relevant conversation, not mathematical formulas. Moreover, legal training in a common law system emphasizes the indeterminate nature of rules and the significance of even subtle variations in facts. Our legal tradition stresses an inductive method of discovering legal principles. We are taught to distinguish different "stories," to arrive at "law" through experience with many stories, and to revise that law as future experience requires. Much of the effort of most first-year law professors is, I believe, devoted to debunking popular lay myths about "law" as clean-cut answers, and to illuminate law as a dynamic body of policy determinations constrained by certain guiding principles. 55 As a practical matter, therefore, our rules often are ambiguous and fluid standards that offer substantial room for varying interpretations. The interpreter, usually a judge, may consult several sources to aid in decisionmaking. One important source necessarily will be the judge's own experiences -- including the experiences that seem to determine a person's empathic capacity. In fact, much ink has been spilled to illuminate that our stated "rules" often do not dictate or explain our legal results. Some writers even have argued that a rule of law may be, at times, nothing more than a post hoc rationalization or attempted legitimization [\*2112] of results that may be better explained by extralegal (including, but not necessarily limited to, emotional) responses to the facts, the litigants, or the litigants' lawyers, 56 all of which may go unstated. The opportunity for contextual and empathic decisionmaking therefore already is very much a part of our adjudicatory law, despite our commitment to the rule-of-law ideal. Even when law is clear and relatively inflexible, however, it is not necessarily "unempathetic." The assumed antagonism of legality and empathy is belied by our experience in rape cases, to take one important example. In the past, judges construed the general, open-ended standard of "relevance" to include evidence about the alleged victim's prior sexual conduct, regardless of whether the conduct involved the defendant. 57 The solution to this "empathy gap" was legislative action to make the law more specific -- more formalized. Rape shield statutes were enacted that controlled judicial discretion and specifically defined relevance to exclude the prior sexual history of the woman, except in limited, justifiable situations. 58 In this case, one can make a persuasive argument not only that the rule-of-law model does explain these later rulings, but also that obedience to that model resulted in a triumph for the human voice of the rape survivor. Without the rule, some judges likely would have continued to respond to other inclinations, and admit this testimony about rape survivors. The example thus shows that radical rule skepticism is inconsistent with at least some evidence of actual judicial behavior. It also suggests that the principle of legality is potentially most critical for people who are least understood by the decisionmakers -- in this example, women -- and hence most vulnerable to unempathetic ad hoc rulings. A final observation is that the principle of legality reflects a deeply ingrained, perhaps inescapable, cultural instinct. We value some procedural regularity -- "law for law's sake" -- because it lends stasis and structure to our often chaotic lives. Even within our most intimate relationships, we both establish "rules," and expect the other [\*2113] party to follow them. 59 Breach of these unspoken agreements can destroy the relationship and hurt us deeply, regardless of the wisdom or "substantive fairness" of a particular rule. Our agreements create expectations, and their consistent application fulfills the expectations. The modest predictability that this sort of "formalism" provides actually may encourage human relationships. 60

### Decision making

#### Simulated national security law debates preserve agency and enhance decision-making---avoids cooption

Laura K. Donohue 13, 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.

#### Simulation is effective in developing knowledge and decision making-no other technique creates the exploration of possible alternative futures

**Eijkman, New South Wales visiting fellow, 2012**

(Henk, “The role of simulations in the authentic learning for national security policy development Implications for practice”, May, <http://nsc.anu.edu.au/documents/occasional-4-eijkman.pdf>)

However, whether as an approach to learning, innovation, persuasion or culture shift, policy simulations derive their power from two central features: their combination of simulation and gaming (Geurts et al. 2007). 1. The simulation element: the unique combination of simulation with role-playing.The unique simulation/role-play mix enables participants to create possible futures relevant to the topic being studied. This is diametrically opposed to the more traditional, teacher-centric approaches in which a future is produced for them. In policy simulations, possible futures are much more than an object of tabletop discussion and verbal speculation. ‘No other technique allows a group of participants to engage in collective action in a safe environment to create and analyse the futures they want to explore’ (Geurts et al. 2007: 536). 2. The game element: the interactive and tailor-made modelling and design of the policy game. The actual run of the policy simulation is only one step, though a most important and visible one, in a collective process of investigation, communication, and evaluation of performance. In the context of a post-graduate course in public policy development, for example, a policy simulation is a dedicated game constructed in collaboration with practitioners to achieve a high level of proficiency in relevant aspects of the policy development process. To drill down to a level of finer detail, policy development simulations—as forms of interactive or participatory modelling— are particularly effective in developing participant knowledge and skills in the five key areas of the policy development process (and success criteria), namely: Complexity, Communication, Creativity, Consensus, and Commitment to action (‘the five Cs’). The capacity to provide effective learning support in these five categories has proved to be particularly helpful in strategic decision-making (Geurts et al. 2007). Annexure 2.5 contains a detailed description, in table format, of the synopsis below.

#### Policy simulation key to creativity and decisionmaking—the cautious detachment that they criticize is key to its revolutionary benefits

**Eijkman, New South Wales visiting fellow, 2012**

(Henk, “The role of simulations in the authentic learning for national security policy development Implications for practice”, May, <http://nsc.anu.edu.au/documents/occasional-4-eijkman.pdf>)

Policy simulations stimulate Creativity Participation in policy games has proved to be a highly effective way of developing new combinations of experience and creativity, which is precisely what innovation requires (Geurts et al. 2007: 548). Gaming, whether in analog or digital mode, has the power to stimulate creativity, and is one of the most engaging and liberating ways for making group work productive, challenging and enjoyable. Geurts et al. (2007) cite one instance where, in a National Health Care policy change environment, ‘the many parties involved accepted the invitation to participate in what was a revolutionary and politically very sensitive experiment precisely because it was a game’ (Geurts et al. 2007: 547). Data from other policy simulations also indicate the uncovering of issues of which participants were not aware, the emergence of new ideas not anticipated, and a perception that policy simulations are also an enjoyable way to formulate strategy (Geurts et al. 2007). Gaming puts the players in an ‘experiential learning’ situation, where they discover a concrete, realistic and complex initial situation, and the gaming process of going through multiple learning cycles helps them work through the situation as it unfolds. Policy gaming stimulates ‘learning how to learn’, as in a game, and learning by doing alternates with reflection and discussion. The progression through learning cycles can also be much faster than in real-life (Geurts et al. 2007: 548). The bottom line is that problem solving in policy development processes requires creative experimentation. This cannot be primarily taught via ‘camp-fire’ story telling learning mode but demands hands-on ‘veld learning’ that allow for safe creative and productive experimentation. This is exactly what good policy simulations provide (De Geus, 1997; Ringland, 2006). In simulations participants cannot view issues solely from either their own perspective or that of one dominant stakeholder (Geurts et al. 2007). Policy simulations enable the seeking of Consensus Games are popular because historically people seek and enjoy the tension of competition, positive rivalry and the procedural justice of impartiality in safe and regulated environments. As in games, simulations temporarily remove the participants from their daily routines, political pressures, and the restrictions of real-life protocols. In consensus building, participants engage in extensive debate and need to act on a shared set of meanings and beliefs to guide the policy process in the desired direction

### Fw solves

Researching militarization of culture has broad implications for domestic structural inequality

Kershner 11 (Seth Kershner is a counter-recruiter and freelance writer based in Western Massachusetts, “Just Say No: Organizing Against Militarism in Public Schools,” http://www.wmich.edu/hhs/newsletters\_journals/jssw\_institutional/institutional\_subscribers/38.2.Harding.pdf)

Counter-recruitment has been criticized for its narrow focus and lack of engagement with the larger aims of U.S. militarism abroad and structural inequality at home (Tannock, 2005). Nonetheless, though it only has limited support from some national peace organizations, properly understood, CR remains a viable method of addressing U.S. foreign policy and a culture of militarism. In what amounts to a division of labor among antiwar activists, Travieso (2008) identified counter-re- cruitment as one of three strategic interests to develop out of the U.S. peace movement following the invasion of Iraq (along with targeting multi-national corporations like Halliburton, and lobbying members of Congress to cut off war funding.) Ultimately, he suggested, this "professionalization" of strategy represents a marked improvement over the non-hierarchical and largely ineffective peace movement represented in the run-up to the war in Iraq. Where does this leave the future of counter-recruitment?

### 2nc hangjoh

#### Linking the ballot to a should question in combination with USFG simulation teaches the skills to organize pragmatic consequences and philosophical values into a course of action

**Hanghoj, Aarhus education assistant professor, 2008**

(Thorkild, “Playful Knowledge An Explorative Study of Educational Gaming”, <http://static.sdu.dk/mediafiles/Files/Information_til/Studerende_ved_SDU/Din_uddannelse/phd_hum/afhandlinger/2009/ThorkilHanghoej.pdf>))

 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 meansends- schemes (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). 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 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.

## 1NR

### O/V

#### Turns the case – weak presidents are more dangerous- They’ll attack to look strong at home, but won’t have enough power to prevent escalatory wars

Koh, International Law Professor at Director of the Center for International Human Rights at Yale Law, 1995 (Harold Hongju, “WAR AND RESPONSIBILITY: A SYMPOSIUM ON CONGRESS, THE PRESIDENT, AND THE AUTHORITY TO INITIATE HOSTILITIES: War and Responsibility in the Dole-Gingrich Congress,” University of Miami Law Review, October, 50 U. Miami L. Rev. 1)

Both precedents have obvious parallels today, not to mention a third possibility: that temptation might draw the executive branch into a "splendid little war" - like Grenada or Panama - with an eye toward a possible presidential bounce in the polls. That possibility raises Maxim Two: that **weak presidents are more dangerous than strong ones**. Jimmy Carter, for example, in the last two years of his presidency, engaged in perhaps the most dramatic nonwartime exercise of emergency foreign power ever seen, not because he was strong but because he was so politically weak. n43 In foreign policy, weak presidents all too often have **something to prove**. n44 In a gridlock situation, the president's difficulty exhibiting strength in domestic affairs - where Congress exercises greater oversight and must initiate funding proposals - makes it far easier for him to show leadership in foreign affairs. At the same time, weak presidents may underreact to looming crises that demand strong action, for fear that they cannot muster the legislative support necessary to generate the appropriate response. But when these weak presidents do finally respond, they tend to overreact: either to compensate for their earlier underreaction, or because by that time, the untended problem has escalated into a **full-blown crisis**, Bosnia and Haiti being the two prime Clinton Administration examples. n45 When private parties bring suits to challenge these presidential policies, courts tend to defer to weak presidents, because they view them not as willful, so much as stuck in a jam, [\*12] lacking other political options.

### 1NR A2: Executive Ineffective

#### Their uniqueness claim is wrong-institutions and the executive are effectively dealing with social acceleration now

**GSN 2013**

(Global Solutions Networkm “Global Problem Solving in an Era of Big Data”, <http://gsnetworks.org/global-problem-solving-in-an-era-of-big-data>, ldg)

With the right tools and the right training, global solution networks can also harness this vast cloud of data to develop more analytical approaches to problem solving. For example, GSNs can use pervasive computing and the data it generates to revolutionize our ability to model the world and all of its systems, giving us new insights into social and natural phenomena and the ability to forecast trends like climate change with greater accuracy. The DC-based World Resources Institute (WRI), for example, maintains Global Forest Watch (GFW), a global watchdog network that improves transparency and accountability in forest management decisions by increasing the public’s access to information on forestry developments around the world. Within minutes, an interested researcher can detect changes in forest coverage, see the location and duration of a forestry company’s logging concessions, look up local forestry laws and regulations, and check whether the logging companies have paid their taxes. Most information can be easily navigated using a visual map interface that taps into a combination of satellite imagery, national forest data sets and “on-the-ground” reports. More advanced users can download geographical data from their warehouse and manipulate it for their own analyses using third party apps like Google Earth. The big data will revolutionize the practice of global problem solving and even alter the basic skill set required to participate effectively in global public policy debates. A collection of data scientists working with the UN Global Pulse team in New York, for example, is convinced that data driven analysis and real-time reporting is on the cusp of transforming the way solution networks and development institutions respond to a wide range of critical issues. Analyzing Twitter messages, for instance, can give an early warning of a spike in unemployment, price rises and disease. In fact, research found that surges in online mentions of rice prices accurately captured price increases several months before official reports. If the Global Pulse team is successful in building effective tools for collecting, analyzing and visualizing data, their contributions could allow UN projects and policies to move faster, adapt to changing circumstances and be more effective, helping to lift more communities out of poverty and even save lives. Indeed, for global solution networks, the big data revolution will create tremendous opportunities to develop new knowledge and inform action with credible data. But there will also be deep challenges in coming to grips with the infrastructure and tools required to take advantage of big data.

#### The executive is currently making the world better and can fight war better even with an abundance of data – social acceleration is fine in the status quo

**Cukier and Schönberger et al., Economist data editor, 2013**

(Kenneth, “The Rise of Big Data”, Foreign Affairs, May/June, ebsco, ldg)

Big data will have implications far beyond medicine and consumer goods: it will profoundly change how governments work and alter the nature of politics. When it comes to generating economic growth, providing public services, or fighting wars, those who can harness big data effectively will enjoy a significant edge over others. So far, the most exciting work is happening at the municipal level, where it is easier to access data and to experiment with the information. In an effort spearheaded by New York City Mayor Michael Bloomberg (who made a fortune in the data business), the city is using big data to improve public services and lower costs. One example is a new fire-prevention strategy. Illegally subdivided buildings are far more likely than other buildings to go up in flames. The city gets 25,000 complaints about overcrowded buildings a year, but it has only 200 inspectors to respond. A small team of analytics specialists in the mayor's office reckoned that big data could help resolve this imbalance between needs and resources. The team created a database of all 900,000 buildings in the city and augmented it with troves of data collected by 19 city agencies: records of tax liens, anomalies in utility usage, service cuts, missed payments, ambulance visits, local crime rates, rodent complaints, and more. Then, they compared this database to records of building fires from the past five years, ranked by severity, hoping to uncover correlations. Not surprisingly, among the predictors of a fire were the type of building and the year it was built. Less expected, however, was the finding that buildings obtaining permits for exterior brickwork correlated with lower risks of severe fire. Using all this data allowed the team to create a system that could help them determine which overcrowding complaints needed urgent attention. None of the buildings' characteristics they recorded caused fires; rather, they correlated with an increased or decreased risk of fire. That knowledge has proved immensely valuable: in the past, building inspectors issued vacate orders in 13 percent of their visits; using the new method, that figure rose to 70 percent -- a huge efficiency gain. Of course, insurance companies have long used similar methods to estimate fire risks, but they mainly rely on only a handful of attributes and usually ones that intuitively correspond with fires. By contrast, New York City's big-data approach was able to examine many more variables, including ones that would not at first seem to have any relation to fire risk. And the city's model was cheaper and faster, since it made use of existing data. Most important, the big-data predictions are probably more on target, too. Big data is also helping increase the transparency of democratic governance. A movement has grown up around the idea of "open data," which goes beyond the freedom-of-information laws that are now commonplace in developed democracies. Supporters call on governments to make the vast amounts of innocuous data that they hold easily available to the public. The United States has been at the forefront, with its Data.gov website, and many other countries have followed.

### Link – Speed Key

#### Prez speed and flexibility is key to quick action and intel

**Sulmasy, US Coast Guard Academy law faculty, 2009**

(Glenn, “Anniversary Contributions: Use of Force: Executive Power: the Last Thirty Year”, 30 U. Pa. J. Int'l L. 1355, lexis, ldg)

Since the attacks of 9/11, the original concerns noted by Hamilton, Jay, and Madison have been heightened. Never before in the young history of the United States has the need for an energetic executive been more vital to its national security. The need for quick action in this arena requires an executive response - particularly when fighting a shadowy enemy like al Qaeda - not the deliberative bodies opining on what and how to conduct warfare or determining how and when to respond. The threats from non-state actors, such as al Qaeda, make the need for dispatch and rapid response even greater. Jefferson's concerns about the slow and deliberative institution of Congress being prone to informational leaks are even more relevant in the twenty-first century. The advent of the twenty-four hour media only leads to an increased need for retaining enhanced levels of executive [\*1362] control of foreign policy. This is particularly true in modern warfare. In the war on international terror, intelligence is vital to ongoing operations and successful prevention of attacks. Al Qaeda now has both the will and the ability to strike with the equivalent force and might of a nation's armed forces. The need to identify these individuals before they can operationalize an attack is vital. Often international terror cells consist of only a small number of individuals - making intelligence that much more difficult to obtain and even more vital than in previous conflicts. The normal movements of tanks, ships, and aircrafts that, in traditional armed conflict are indicia of a pending attack are not the case in the current "fourth generation" war. Thus, the need for intelligence becomes an even greater concern for the commanders in the field as well as the Commander-in-Chief.¶ Supporting a strong executive in foreign affairs does not necessarily mean the legislature has no role at all. In fact, their dominance in domestic affairs remains strong. Additionally, besides the traditional roles identified in the Constitution for the legislature in foreign affairs - declaring war, ratifying treaties, overseeing appointments of ambassadors, etc. - this growth of executive power now, more than ever, necessitates an enhanced, professional, and apolitical oversight of the executive. An active, aggressive oversight of foreign affairs, and warfare in particular, by the legislature is now critical. Unfortunately, the United States - particularly over the past decade - has witnessed a legislature unable to muster the political will necessary to adequately oversee, let alone check, the executive branch's growing power. Examples are abundant: lack of enforcement of the War Powers Resolution abound the executive's unchecked invasions of Grenada, Panama, and Kosovo, and such assertions as the Authorization for the Use of Military Force, the USA Patriot Act, military commissions, and the updated Foreign Intelligence Surveillance Act ("FISA"). There have been numerous grand-standing complaints registered in the media and hearings over most, if not all, of these issues. However, in each case, the legislature has all but abdicated their constitutionally mandated role and allowed the judicial branch to serve as the only real check on alleged excesses of the executive branch. This deference is particularly dangerous and, in the current environment of foreign affairs and warfare, tends to unintentionally politicize the Court.¶ The Founders clearly intended the political branches to best serve the citizenry by functioning as the dominant forces in [\*1363] guiding the nation's foreign affairs. They had anticipated the political branches to struggle over who has primacy in this arena. In doing so, they had hoped neither branch would become too strong. The common theme articulated by Madison, ambition counters ambition, n17 intended foreign affairs to be a "give and take" between the executive and legislative branches. However, inaction by the legislative branch on myriad policy and legal issues surrounding the "war on terror" has forced the judiciary to fulfill the function of questioning, disagreeing, and "checking" the executive in areas such as wartime policy, detentions at Guantanamo Bay, and tactics and strategy of intelligence collection. The unique nature of the conflict against international terror creates many areas where law and policy are mixed. The actions by the Bush administration, in particular, led to outcries from many on the left about his intentions and desire to unconstitutionally increase the power of the Presidency. Yet, the Congress never firmly exercised the "check" on the executive in any formal manner whatsoever.¶ For example, many policymakers disagreed with the power given to the President within the Authorization to Use Military Force ("AUMF"). n18 Arguably, this legislation was broad in scope, and potentially granted sweeping powers to the President to wage the "war on terror." However, Congress could have amended or withdrawn significant portions of the powers it gave to the executive branch. This lack of withdrawal or amendment may have been understandable when Republicans controlled Congress, but as of November 2006, the Democrats gained control of both houses of the Congress. Still, other than arguing strongly against the President, the legislature did not necessarily or aggressively act on its concerns. Presumably this inaction was out of concern for being labeled "soft on terror" or "weak on national security" and thereby potentially suffering at the ballot box. This virtual paralysis is understandable but again, the political branches were, and remain, the truest voice of the people and provide the means to best represent the country's beliefs, interests, and national will in the arena of foreign affairs. It has been this way in the past but the more recent (certainly over the past thirty years and even more so in the past decade) intrusions of the judicial branch into what [\*1364] was intended to be a "tug and pull" between the political branches can properly be labeled as an unintended consequence of the lack of any real legislative oversight of the executive branch.¶ Unfortunately, now nine unelected, life-tenured justices are deeply involved in wartime policy decision making. Examples of judicial policy involvement in foreign affairs are abundant including Rasul v. Bush; n19 Hamdi v. Rumsfeld; n20 Hamdan v. Rumsfeld; n21 as well as last June's Boumediene v. Bush n22 decision by the Supreme Court, all impacting war policy and interpretation of U. S. treaty obligations. Simply, judges should not presumptively impact warfare operations or policies nor should this become acceptable practice. Without question, over the past thirty years, this is the most dramatic change in executive power. It is not necessarily the strength of the Presidency that is the change we should be concerned about - the institutional search for enhanced power was anticipated by the Founders - but they intended for Congress to check this executive tendency whenever appropriate. Unfortunately, this simply is not occurring in twenty-first century politics. Thus, the danger does not necessarily lie with the natural desire for Presidents to increase their power. The real danger is the judicial branch being forced, or compelled, to fulfill the constitutionally mandated role of the Congress in checking the executive.¶ 4. PRESIDENT OBAMA AND EXECUTIVE POWER¶ The Bush presidency was, and continues to be, criticized for having a standing agenda of increasing the power of the executive branch during its eight-year tenure. Numerous articles and books have been dedicated to discussing these allegations. n23 However, as argued earlier, the reality is that it is a natural bureaucratic tendency, and one of the Founders presciently anticipated, that each branch would seek greater powers whenever and wherever possible. As the world becomes increasingly interdependent, technology and armament become more sophisticated, and with [\*1365] the rise of twenty-first century non-state actors, the need for strong executive power is not only preferred, but also necessary. Executive power in the current world dynamic is something, regardless of policy preference or political persuasions, that the new President must maintain in order to best fulfill his constitutional role of providing for the nation's security. This is simply part of the reality of executive power in the twenty-first century. n24

### AT: No Impact to WF

#### The United States is stable now because the US has the ability to respond to threats – Obama has adopted the Bush doctrine of ASD---key to solve terrorism, rouge states and prolif---it has international precedent, limiting it will forgo necessary first strikes

Berkowitz 12 (Peter Berkowitz is a senior fellow at the Hoover Institution, Stanford University, “A Misreading of Law and History on Preemptive Strikes,” http://www.realclearpolitics.com/articles/2012/03/11/a\_misreading\_of\_law\_and\_history\_on\_preemptive\_strikes\_113442-full.html)

Liberalism these days seems to encourage an illiberal and anti-democratic tendency to turn hard questions of morality and politics into easy questions of law. In accordance with this tendency -- and timed to coincide with the major White House meeting on Iran last week between President Obama and Israeli Prime Minister Benjamin Netanyahu -- Bruce Ackerman, a Yale law professor and political scientist, took to the pages of the Los Angeles Times to appeal to the authority of law to end debate about the use of military force to destroy or disable Iran’s nuclear program.¶ Ackerman maintains that American support for a preemptive strike “would be a violation of both international law and the U.S. Constitution.” Article 51 of the U.N. Charter, according to Ackerman, is unambiguous: “This provision allows states to use military force in self-defense only when responding to an ‘armed attack.’ Preemptive attacks are another matter.”¶ Preemption, he argues, is foreign to the American constitutional tradition. Apart from the “aberration” of the George W. Bush administration, America has adhered “to a tradition of U.S. statesmanship that began with Secretary of State Daniel Webster,” according to which a state may respond with force only if it confronts, in Webster’s words, “a necessity of self-defense, instant, overwhelming, leaving no choice of means, and no moment for deliberation.”¶ Ackerman cites Ronald Reagan as a prime example. According to Ackerman, Reagan affirmed the Webster test in 1981 when “the United States joined in the U.N. Security Council’s unanimous condemnation of Israel’s preemptive assault on an Iraqi nuclear reactor.”¶ The Bush administration’s invasion of Iraq in 2003, Ackerman asserts, represented a unique “departure from this restrictive approach.” The failure to find weapons of mass destruction has legal significance as it “only emphasizes the wisdom of Webster’s insistence that the ‘necessity of self-defense’ be ‘instant’ and ‘overwhelming.’ ”¶ Ackerman is wrong in both the history and the law.¶ Article 51 of the U.N. Charter, which recognizes states’ “inherent” right of self-defense, does not exclude preemption. Ackerman is not alone among progressive law professors in preferring a narrow interpretation of self-defense, but Article 51 has always presumed a right of anticipatory self-defense that is significantly broader than the Webster test.¶ The traditional right of anticipatory self-defense, broad enough to include the Bush position on imminent threats, was given apt expression three months before the outbreak of World War I by Elihu Root, a former secretary of war and secretary of state. In a speech at the 1914 annual meeting of the Society of International Law, Root, then a U.S. senator, invoked “the right of every sovereign state to protect itself by preventing a condition of affairs in which it will be too late to protect itself.”¶ When the U.N. Charter was ratified in 1945, Article 51 did not change things. As esteemed Yale Law School scholar of international law, Myres McDougal, wrote in 1963 about the Cuban Missile Crisis, “There is not the slightest evidence that the framers of the United Nations Charter, by inserting one provision which expressly reserves a right of self-defense, had the intent of imposing by the provision new limitations upon the traditional rights of states.”¶ Moreover, Ackerman is mistaken in portraying the U.S. constitutional tradition as embracing the Webster test. In 1818 -- 25 years before Webster penned his famous formulation -- Secretary of State John Quincy Adams, in defense of Gen. Andrew Jackson’s raids into Spanish Florida, propounded a doctrine of preemptive military action. And Presidents Theodore Roosevelt, William Howard Taft and Woodrow Wilson subsequently deployed American troops -- in the Caribbean, Central America and Mexico -- to preempt threats to the international order. Post-World War II American practices have continued this precedent, ranging from George H.W. Bush's 1989 invasion of Panama to Bill Clinton's 1993 strikes against Iraq and Serbia.¶ As for the Reagan administration’s response to the Israeli bombing of Iraq’s Osirak nuclear reactor in 1981, it is true that several nations voting for the unanimously adopted Security Council Resolution 487 condemning the raid argued that the threat posed by Iraq to Israel failed to meet the clear and exacting standards of Webster test. But contrary to Ackerman’s assertion, the Reagan administration did not embrace this rationale. Rather, as U.N. Ambassador Jeane J. Kirkpatrick stated at the time, the United States’ decision to support the Security Council resolution was “based solely on the conviction that Israel failed to exhaust peaceful means for the resolution of this dispute.”¶ Concerning the failure to find weapons of mass destruction in Iraq in 2003 after removing Saddam Hussein from power, this no more proves the wisdom of the Webster test and the illegality of preemption than would the discovery of weapons of mass destruction in Iraq have established the legality of preemption. The scope of nations’ inherent right of self-defense is grounded in centuries of state practice and contemporary analysis of evolving threats and changing military capabilities.¶ Indeed, 40 years before Operation Iraqi Freedom, in his 1963 analysis of the Cuban Missile Crisis, Professor McDougal reported that a consensus had formed around the view that the advent of the nuclear era rendered the Webster rule a dead letter: “The understanding is now widespread that a test formulated in the previous century for a controversy between two friendly states is hardly relevant to contemporary controversies, involving high expectations of violence, between nuclear-armed protagonists.”¶ Ackerman’s misconceptions do not end with his sweeping claim that before George W. Bush the American constitutional tradition did not recognize the legality of preemption. They extend as well to his insinuation that support for preemption vanished after Bush left the White House.¶ Actually, without ever quite saying so for obvious political reasons, the Obama administration has adopted -- and elaborated in major speeches by State Department Legal Counsel Harold Koh, top counterterrorism adviser John Brennan, and Attorney General Eric Holder -- the Bush opinion that in an era of transnational terrorism, rogue states, and the proliferation of weapons of mass destruction, considerable flexibility is needed in determining when a threat is imminent, and when preemptive action is justified.¶ Those opposed to launching a strike against Iran should guard against the temptation to bend the precedents and provisions of international law and twist the facts of American politics to conform to their policy preferences. At the same time, a brief in behalf of the legality of a military strike against Iran must not be confused with a brief in behalf of a military strike against Iran.¶ Whether to launch a strike to destroy or disable Iran’s nuclear program is the weightiest decision Obama and Netanyahu face. It depends on multilayered judgments about the efficacy of diplomacy and sanctions, windows of opportunity for military action, and how far the program can be set back at this late stage.¶ And it depends on complex calculations about the likely backlash: thousands of missiles raining down on Tel Aviv by Iran-sponsored Hamas in the south, Iran-sponsored Hezbollah in the north, and Iran to the east; intensification of the international opprobrium to which Israel is already subject; military operations against American military assets and allies in the Persian Gulf and the spread of war throughout the region; closure by Iran of the Strait of Hormuz, triggering skyrocketing oil prices and paralysis of the international economy; and a wave of terrorist attacks on Israeli and American targets around the globe.¶ Grave, too, would be the costs of allowing Iran to build a nuclear weapon. A rogue state ruled by theocrats and Holocaust deniers and dedicated to the expansion by force of Shia Islam, Iran would threaten Israel, the Arab world, Europe, and soon the United States with nuclear-armed missiles. It would also be likely to set off a nuclear arms race in the Gulf, resulting in not one but several regimes that contain Islamist elements sympathetic to jihadists and terrorism possessing the world’s most dangerous weapons.¶ What can be safely said is that the effort to close off discussion about striking Iran by concocting a legal prohibition out of fragments of international law and cropped photos of the American constitutional tradition does more than betray illiberal and anti-democratic tendencies. It also would deprive the nation of the informed debate on which our security depends.

### Tech Good

#### Empirics and best data prove that our impact is true and that offensive strategies is the only way to solve – answers the only warrant Stevens, which is that the impact of cyber warfare has never occurred so we cannot remember it – even if cyber attacks have not occurred, empirics of military strategy prove us right

**Henry, CrowdStrike Services president, 2013**

(Shawn, “China Hack Attacks: Play Offense Or Defense?”, 3-12, <http://www.informationweek.com/security/attacks/china-hack-attacks-play-offense-or-defen/240150482>, ldg)

Our mistake is that we are using the same approach against targeted attack actors, who actually have specific targets in mind and are not going to stop until they have reached their goal. They are relentless. It's not enough to stop their attacks once or twice; they will keep trying until they get in. The problem with existing technologies and defensive tactics is they are too focused on adversary tools (malware and exploits) and not on who the adversary is and how they operate. This requires us to stop relying solely on "defense." The current cybersecurity approach is "vulnerability reduction," and it has largely failed for the past 20 years. We focus on hardening our networks by "defense-in-depth," using firewalls, anti-virus software, patching vulnerabilities and employing intrusion prevention systems. This approach generally stops those opportunistic actors willing to rob "any data," but the sophisticated, targeted adversary practices crafty offense, and the offense outpaces the defense. While we certainly need to continue with robust defense, we cannot let our guard down. We need to be more proactive and strategic in our approach to the adversary. Employing a threat mitigation strategy requires an increased ability to detect and identify our adversaries, and to penalize them. This is the identical strategy we employ in the physical world every single day to thwart criminals, spies, and terrorists. They don't refrain from stealing and killing because we're too secure -- hardly! We walk down the street everyday, play in parks, shop in malls and live in houses with glass windows. We're safer, physically, because law enforcement, the intelligence community and the Department of Defense constantly identifies, mitigates, disrupts, arrests and deters the adversary. In the cyber environment, we must assume adversaries are already inside the perimeter, and we must constantly hunt them on our networks to identify and mitigate their actions. We cannot stand by and wait for them to trip an alarm as they shake the proverbial fence, because sophisticated adversaries jump over the fence, bypassing the intrusion detection "alarm" entirely. Hunting necessitates us acquiring a better site picture of the adversaries…what assets are they targeting, what techniques are they employing, why are they here and who, exactly, are they? This is where intelligence sharing is critical. Companies can use advanced analytical technology to share actionable intelligence, enabling them to correlate data, learn the human aspects of the attack, become more predictive and identify them early enough in the attack cycle to prevent serious consequences. By no means do I advocate vigilantism, or "hacking back." While I think companies can employ certain "active defense" strategies on their networks to make things much more difficult for the adversary, such as denial and deception campaigns designed to fool them, the primary mitigation role rests with the federal government. Success in the cyber environment will require unprecedented coordination between private industry -- which as a whole has the ownership and ability to achieve these goals -- and governments, which are primarily authorized to investigate and penalize. Inevitably we must bring the private sector and the government together to achieve the goal of threat deterrence. The vast majority of the intelligence that will lead to identification of the adversaries resides on private sector networks; they are, in essence, "crime scenes," and the evidence and artifacts of the breach are resident on those networks. That threat intelligence, too, can't be shared periodically via e-mail at human-speed; it needs to be shared among all victims, in real-time, at network speed. The private sector, then, can fill tactical gaps to which the government is blind. This can be done while respecting privacy, a critical and absolutely necessary element of intelligence sharing. When the adversary is identified, the government can use its resources and actions -- law enforcement, civil, diplomatic, financial, or otherwise -- to mitigate the threat posed by these sophisticated opponents. The consistent threat posed by adversaries will subside only when the cost to operate outweighs any potential gain.

### AT: No China Deterrence

#### Cyber attack key to deter future Chinese cyber aggression

Schmitt, AEI Marilyn War Center for Security Studies co director, 2013

(Gary, “How to meet the threat from China's army of cyber guerrillas”, 6-6, lexis, ldg)

When President Obama meets woth Chinese President Xi Jinping Friday and Saturday in Southern California, a major topic of conversation between the two will be Chinese cyber-attacks and cyber-espionage against American commercial and government targets. According to U.S. counterintelligence officials, billions upon billions of dollars worth of information has been “lifted” out of American computers and servers in recent years. In fact, only last week, newspapers were reporting that an internal Defense Department review had concluded that China had used cyber attacks to gather data on more than three dozen key U.S. military programs, including the country’s most advanced missile defense systems, naval warships and even the F-35 Joint Strike Fighter—the stealthy, fifth-generation jet **that will be the backbone of the American military’s ability to sustain air superiority in the decades ahead.** As one might expect, the Chinese government has denied any complicity in these attacks. And it is doubtful, given how successful Chinese efforts have been, that even “blunt” talk by the president to the new Chinese leader, will have much effect on Chinese practices. The reality is, the Chinese government is engaged in a form of warfare—new to be sure in its technological aspects but not new in the sense that cyber attacks harm our relative military strength and damage the property (intellectual and proprietary) of citizens and companies alike. So far, the American government’s response has largely been defensive, either talking to the Chinese about establishing new, agreed-upon “rules of road” for cyberspace or working assiduously to perfect new security walls to protect government and key private sector computer systems. Although neither effort should be abandoned, they are no more likely to work than, say, before World War II, the Kellogg-Briand Pact could outlaw war and the Maginot Line could protect France from an invading Germany. This last point is especially important. When it comes to cyberspace, according to Cyber Command head and director of the National Security Agency, General Keith Alexander, those on the offensive side of the computer screen–that is, those hacking into or compromising computer systems–have the advantage over those on the defensive side who are trying to keep systems secure. Walls have always been breached and codes broken. Moreover, attempts to beef up security are complicated by the fact that our own cyber warriors are undoubtedly reluctant to provide those charged with protecting systems here at home with the latest in their own capabilities. In addition to increasing the chance such information might leak by expanding the number of persons in the know, efforts to use that information to plug our own vulnerabilities can inadvertently alert a potential adversary on the very backdoors American would want to save for using in a future crisis or conflict. All of which leads to the conclusion that to stem the tide of harmful cyber attacks by the Chinese (or, for that matter, Iran, Russia or North Korea), **there has to be a cyber response on America’s part that** deters continued cyber aggression**.** Reprisals that are proportionate, in self-defense and designed to stop others from such behavior falls well within the bounds of international law as traditionally understood. Nor is it the case that such reprisals should be limited to responding to government-on-government cyber attacks. The U.S. government has always understood that it has an affirmative duty to protect the lives and property of its citizens from foreign aggression and, in times both past and current, this has meant using American military might. That need not be the case here, however. Indeed, one advantage of the cyber realm is the wide variety of options it offers up for reprisal that can inflict economic harm without causing loss of life or limb. The good news is that the U.S. government has been gradually beefing up its offensive cyber capabilities. Indeed, a little over a month ago in open testimony before the House Armed Services Committee, Gen. Alexander said that he created thirteen new teams that would go on the offensive if the nation were hit by a major cyber attack. And new reports coming out of the Pentagon indicate that the Joint Chiefs would like to empower geographic combatant commanders to counter cyber attacks with offensive cyber operations of their own. These are necessary steps if we hope to create a deterrent to Chinese cyber aggression; however, they are not sufficient. The threat posed by China’s army of cyber “guerrillas” is constant, is directed at both the U.S. government and the private sector, and ranges from the annoying to the deadly serious. **A truly adequate response would require meeting the Chinese challenge on all these fronts**. And **no amount of summitry between the American and Chinese leaders** is likely to **substitute for the cold, hard fact that, when it comes to Chinese misbehavior,** upping the cost to Beijing is a necessary first step **to reclaiming the peaceful potential of the newest of the “great commons,” cyberspace.**

### AT: China Discourse

#### Prioritizing discourse eliminates the material factors that allow distinctions between different representations of China; reifying conservative cultural essentialism under the guise of poststructuralism.

Vukovich 2010

Daniel, teaches postcolonial, PRC, literary, and theoretical studies at Hong Kong University, in the School of Humanities, China in Theory: The Orientalist Production of Knowledge in the Global Economy, Cultural Critique 76, Fall

I will return below to questions of economism and intellectual labor, and why such uses of China take the abstract form that they do. But to further my case for the orientalist use of China in theory, I want to turn to the generic poststructuralism in texts that examine the question of how China has been written in foreign and native literature alike. Here the new turn is called “Sinography”: “the study not simply of how China is written about, but the ways in which that writing constitutes itself simultaneously as a form of writing and a form of Chineseness” (Hayot, 87).10 But whereas Derrida targeted Western logocentrism, “Sinography” is focused on the process of graphesis or writing as such, and is in fact aimed against critique of the West and the marking of misrepresentation. It eschews evaluation, judgment, and criticism on the basis of what counts as the truth. That type of work—the work of the negative—in Eric Hayot’s view can only be “moralistic,” “debunking,” and can only falsely grant to China or the West “an ontological stability” that neither has (xiv, 180–81). Like Haun Saussy he is at pains to announce that the West has no such stability and is just as constructed and changing at different moments and in different texts as is China (Hayot, xii–xiii, 180–81; Saussy, 853–54, 885 n.14). While valid at a formal level of the signiWer, this claim misses the point of Marxist-inspired work on globalization: the world remains structured neocolonially by a core/periphery division centered on the West and First World, which exercises economic and political, if not cultural hegemony over “the Rest.” Indeed, Saussy will claim that the phrase “the West and the Rest” is “mythology” (182). What ex plains this perspective, aside from the substitution of ethics for politics à la Agamben, is a strident poststructuralism that presents itself as more “complex” and ethically sensitive than postcolonial or other critiques. It is as if facts, beliefs, or identities, accessible only through language, do not acquire material force and have real effects in the world; as if all constructions of China are the same. Thus, despite the caveat that Sinography will proceed “without abandoning the question of reference altogether,” it indeed abandons this, save for a few potshots at Maoist or “nationalist” intellectuals and the party-state (“the shadow of realpolitikal China”) (Hayot, 182). (Such shots further indicate that the eschewal of reference allows Sinography and other poststructuralist “new” readings of China to conceal their essentially cold war political dimensions.) All forms of knowledge—of writing China—are generally equivalent, as they are all “graphesis” (Hayot, 185). Here, China ceases to exist outside of constructions, dreams, or writings of “China.” For a theoretical turn that aims to be more sophisticated than Saidian critique, we are left with a China—and Sino–West encounter—that is an abstract thought ex periment. This is preordained in the original transformation of the topic of Western understandings of China into an act of generic crosscultural reading. The problem arises in part with Hayot’s positioning of China as only a space in Eurasia with a “more or less continuous history of being conceived as a political identity”; from this standpoint, the study of representations of China can only be an exercise in “intellectual history and cross-cultural reading” in general (Hayot, ix, my emphasis). As is often the case with strict “social constructionist” modes of criticism, the only reality is that of perception and form. My point here is not just that there is a difference between such constructions of reality and reality itself. That, as Roy Bhaskar reminds us is the epistemic fallacy: mistaking our knowledge of reality for the “thing,” reality, itself (111–12, 397). It is also that “Sinography” cannot help us discern what is being constructed. It cannot answer or even pose questions like, Why is one “graphing” of China more or less valuable than another? Why do Sinography other than to show that representations of China and Chineseness are “written”? There is here no dialectic, process, or relay between an actual event and our textualized knowledge of it. In the end we are presented with a closed system of discourse that like orientalism itself is only self-referential: “Whatever distinction exists between the West and ‘China.’ . . . nonetheless reveals itself . . . to be caught up in the ephemerality of self-recognition” (Hayot, 188). This echoes Saussy’s claim against critique and for theory as self-referential therapy: “Have we been missing something all these centuries, so that we take a work of critique to be the archetypal project of logical construction? Or is the difference (between philosophy as foundation and philosophy as therapy) merely illusory?” (189–90). There is indeed a long view of History here, resulting in a condition that can no longer say what China or “China” refer to, beyond a certain set of signifiers that refer back only to the text in question. This is indeed a postmodernism—a triumphalistic textuality reminiscent of the Modern Language Association of the late 1980s—writ large. The positional superiority of the Sinographer is as strong here as in Agamben and the rest. It is assumed that this “graphing” framework Wts China seamlessly, and virtually all writings of China at any point in time. Thus, Saussy can reach back to Mateo Ricci, the sixteenth century Italian missionary as easily as to journalist Edgar Snow (1905– 72), alleged Chinese nationalists, or Derrida, because he is unimpeded by contextualization. Note that this type of analysis departs from Said’s own sweeping history. Orientalism mapped changes within a discursive structure and rooted these within a larger history of contact and colonialism. The postmodern template of Sinography is also notable for its non-engagement with the large body of literature from China on postmodernism (as theory and as epoch) and its relationship to the mainland, a subject of intense debate since the late 1980s (for an overview, see Dirlik and Zhang, and Liu and Tang).11We can thus say of these texts directed against postcolonialism and for misrepresentation what Brennan has said of Rey Chow’s deconstruction of the “myth of origins” and “Chineseness”: that they do not deconstruct reference so much as “efface” it; and having done this, “there is no outer tribunal to compare China against the West’s ‘translation’ of it” (Brennan, 54). This is not to appeal to an unmediated reality but to a mediated one, to the context and constitutive outside of interpretation and cultural translation. In the case of China this must be informed by the antagonisms and epistemological challenges—such as orientalism— that have subtended the China–West relationship for, say, a good three hundred years. Without such ground not just critique but understanding is impossible. This tribunal will inevitably have to substantially address and not dismiss the complex matters of misrepresentation and judgment.