# 1nc

### K

**Violence has been normalized by the globalization of the state of exception when the law justifies its own suspension, transforming itself into a killing machine, and ushering in global civil war. Return to the legal normal authorizes such violent international aggression**

**Agamben 05.** Giorgio Agamben, famous philosopher, The State of Exception, pg. 85

It is perhaps possible at this point to look back upon the path trav- eled thus far and draw some provisional conclusions from our investi- gation of the state of exception. The juridical system of the West appears as a double structure, formed by two heterogeneous yet coordinated el- ements: **one that is normative and juridical in the strict sense** (which we can for convenience inscribe under the rubric potestas) **and one that is anomic and metajuridical** (which we can call by the name auctoritas).

The normative element **needs the anomic element** in order to be ap- plied, but, on the other hand, auctoritas can assert itself only in the val- idation or suspension of potestas. Because it results from the dialectic between these two somewhat antagonistic yet functionally connected elements, **the ancient dwelling of law is fragile** and, in straining to main- tain its own order, is always already **in the process of ruin and decay.** The state of exception is the device that must ultimately articulate and **hold together the two aspects of the juridico-political machine** by instituting a threshold of undecidability between anomie and nomos, between life and law, between auctoritas and potestas. It is founded on the essential fiction according to which anomie (in the form of auctoritas, living law, or the force of law) is still related to the juridical order and the power to suspend the norm has an immediate hold on life. As long as the two el- ements remain correlated yet conceptually, temporally, and subjectively distinct (as in republican Rome’s contrast between the Senate and the people, or in medieval Europe’s contrast between spiritual and temporal powers) their dialectic—though founded on a fiction—can nevertheless function in some way. But when they tend to coincide in a single per- son, when the state of exception, in which they are bound and blurred together, becomes the rule, then **the juridico-political system transforms itself into a killing machine.**

6.10 The aim of this investigation—in the urgency of the state of ex- ception “in which we live”—was to bring to light the fiction that governs this arcanum imperii [secret of power] par excellence of our time. What the “ark” of power contains at its center is the state of exception—but this is essentially an empty space, in which a human action with no re- lation to law stands before a norm with no relation to life.

This does not mean that the machine, with its empty center, is not effective; on the contrary, what we have sought to show is precisely that it has continued to function almost without interruption **from World War One, through fascism and National Socialism, and up to our own time**. Indeed, **the state of exception has today reached its maximum worldwide deployment.** The normative aspect of law can thus be **obliter- ated and contradicted** with impunity by a governmental violence that— while ignoring international law externally and producing a permanent state of exception internally—**nevertheless still claims to be applying the law.**

Of course, **the task at hand is not to bring the state of exception back within its spatially and temporally defined boundaries** in order to then reaffirm the primacy of a norm and of rights that are themselves **ulti- mately grounded in it.** From the real state of exception in which we live, **it is not possible to return to the state of law** [stato di diritto], **for at issue now are the very concepts of “state” and “law**.” But if it is possible to attempt to halt the machine, to show its central fiction, this is because between violence and law, between life and norm, there is no substantial articulation. Alongside the movement that seeks to keep them in rela- tion at all costs, there is a countermovement that, working in an inverse direction in law and in life, **always seeks to loosen what has been artifi- cially and violently linked**. That is to say, in the field of tension of our culture, two opposite forces act, one that institutes and makes, and one that deactivates and deposes. **The state of exception is both the point of their maximum tension and—as it coincides with the rule—that which threatens today to render them indiscernible**. To live in the state of ex- ception means to experience both of these possibilities and yet, by always separating the two forces, **ceaselessly to try to interrupt the working of the machine that is leading the West toward global civil war.**

**Accepting the plan as a legitimate subject of debate eviscerates solvency. Appeals to legality fail absent study and de-activation of the fictional lines of inside and outside created by the sovereign guardians**

**McLoughlin 13.** Daniel McLoughlin, professor of law at the University of South Wales, “The Fiction of Sovereignty and the Real State of Exception: Giorgio Agamben’s Critique of Carl Schmitt,” Law, Culture and the Humanities 0(0) pg. 17

State of Exception suggests that the studious deactivation of the law is exemplified by Kafka’s characters.86 While his reading of Kafka is only one strand of the politics of inoperativity within his work, it is nonetheless an important one for our purposes, given Agamben’s tendency to illuminate the relationship between messianism, nihil- ism and law through Kafka.87 To conclude, then, I briefly examine the way in which Kafka’s characters seek to “deactivate” the law; how this might relate to the production of a “real state of exception”; and how Agamben conceives the stakes of this politics of “use.”

According to Homo Sacer, Kafka’s parable “Before the Law” represents the “struc- ture of the sovereign ban in an exemplary abbreviation.”88 The story begins with the “man from the country” approaching the door of the law, only to be informed by its gatekeeper that, **although the door is open, he cannot enter at the moment**. The man asks if permission will be forthcoming: the gatekeeper responds that it is possible, **“but not now,”**89 and that, although he is welcome to enter the door without permission, he will only encounter **door after door**, and **guardian after guardian**, each more fearsome than the last. Taking a seat before the door of the law, the man from the country then waits for days and years, all the while **trying to convince** the gatekeeper to grant him entry. Still before the law in old age, with little time left to live, he sees a radiance streaming from the gateway to the law. As his life begins to fade, the man from the country asks why in all this time no-one else has attempted to gain entry, to which the doorkeeper responds: “No one else **could ever be admitted here**, since **this gate was made only for you**. **I am now going to shut it.”**90

According to Agamben, “Before the Law” is usually read as a tale of “irremediable defeat,”91 a story of the impossibility of surpassing the structure of sovereignty. Agamben, by contrast, argues that the man from the country is engaged in **a patient** and **ultimately successful** attempt to **deactivate the law’s “being in force without sig- nificance.”** At the end of the story, despite the risk to his life entailed by his struggle with the law, the man **remains alive** and **the door to the Law is shut.** In his essay “K,” Agamben elaborates on this reading with a subtle yet important shift of emphasis: the lesson of the man from the country is, he argues, that the deactivation of the law does not require the study of law itself, but rather, **the “long study of its doorkeepers.”**92 While the law is absent in Kafka’s world, what keeps it at work is the fact that **the guardians of the law claim to act on its behalf**. If one wants to deactivate the law, then **the decisive politi- cal struggle** is not with law itself, which is already inoperative, but with those who cover over this fact with the claim that they represent the law. In the same essay, Agamben makes a similar point about The Castle: the land surveyor who tries to gain access to the castle does not engage in a struggle “against God or supreme sovereignty ... but against the angels, the messengers and functionaries who appear to represent it ... (it is) a conflict with the fabrications of men (or of angels) regarding the divine.”93

This helps to illuminate the sense in which the real state of exception can simultane- ously be a situation to which we are subject; a situation that has been exposed as such by Benjamin; and also a crucial political task to undertake that will **“help in the struggle against Fascism.”** In Agamben’s account of Paul, the coming of the messiah has deacti- vated the law and yet the law remains at work; in his analyses of the state of exception the law is suspended yet remains in force; in his reading of Kafka, **the Law is absent yet still present**. In each instance, then, there is a **messianic tension** between an **“already” existing lawlessness** that is “not yet” fully experienced as such, because **it is being cov- ered over** by authority: the katechon in Paul, the guardians of the law in Kafka, and those trying to control the state in his account of the exception. To produce **a real state of exception is to deactivate the law**, which requires **undermining the claims of the repre- sentatives of the law and the political divisions that they maintain on this basis**. While the lawlessness of the real state of exception is at work, it can only come to light in and through a **“conflict with the fabrications of men”** about the continued existence of law.94

Agamben sees **the politics of deactivating the law** as **the only appropriate** (and indeed **conceptually viable**) **response to the state of emergency as rule**. As we have observed, Schmitt’s analysis of sovereignty closed down the idea of pure violence and the possi- bility of a radically revolutionary act through the idea of the force-of-law, which placed the power to suspend the law into the hands of the state and those who seek to control it. However, Benjamin’s eighth thesis turns the tables on Schmitt, as the idea of sover- eignty becomes **utterly implausible** when the state of emergency is the rule. Within the contemporary political horizon, then, it is **conceptually impossible** to claim legal author- ity and legitimacy: as Agamben asserts in The Church and the Kingdom “nowhere on earth today is **a legitimate power to be found**.”95 What is conceptually possible, how- ever, is a politics that **seeks to deactivate the law** by **neutralizing the claims to legality** made by those who present themselves as its guardians. It is only through such a politics that the lawlessness of the ‘‘real state of exception’’ is experienced as such, as any poli- tics that makes **claims to legal authority** rests upon **the fiction of sovereignty** and hence **continues to conceal the deactivation of the law.**

What is at stake in this account of the real state of exception is an attempt to break with the sense of political stagnation that characterizes contemporary politics. In a frag- ment from The Coming Community entitled “Halos,” Agamben recounts a version of a parable about the Kingdom of the Messiah told to Ernst Bloch by Walter Benjamin: “The Hassidim tell a story about the world to come that says everything there will be just as it is here. Just as our room is now, so will it be in the world to come; where our baby sleeps now, there too it will sleep in the other world. And the clothes we wear in this world, so too we will wear there. Everything will be **as it is now**, just **a little bit different.”**96 After recounting Benjamin’s version of the parable, Agamben goes on to say that “the tiny displacement does not refer to things, but to their sense and their limits ... the parable introduces a possibility there where everything is perfect, **an ‘otherwise’** where every- thing is finished forever.”97 For Agamben, then, the sense of **“inversion”** that is charac- teristic of Benjamin’s messianism **brings to light a possibility to be otherwise**. Similarly, Agamben’s messianic **inversion of sovereignty** responds to a sense of political closure by trying to introduce a sense that **it is possible for things to be otherwise**.

Throughout his political work, he asserts that the political tradition has **reached its end** due to the **increasing indistinction** of the fundamental oppositions (law/anomie, politics/ life) that have historically **delimited the political and thereby made it possible**. The con- ceptual and institutional structures that **framed** and helped to make sense of **our political experience have collapsed** and it is **not possible to return to their shelter**.98 Despite this crisis, we do not seem **capable of conceiving of political experience** beyond the terms offered by the political tradition, and the theory of sovereignty plays a key role in this sense of political closure, **anchoring all political experience to the law**, and **foreclosing the idea of a political action that breaks with the order of legal violence.**

By undermining the idea of sovereignty, Benjamin’s eighth thesis re-opens the con- ceptual possibility of a politics of pure violence. Pure violence is, Agamben writes, mani- fest in the purification of violence: that is, **in the “exposure and deposition**”99 of the nexus between violence and law. This is precisely what Benjamin achieves in his philo- sophical combat with Schmitt, meaning that the eighth thesis is a manifestation of the politics of pure violence at the level of theory.100 But while Benjamin may have disabled the apparatus of sovereignty at a philosophical level, **the force-of-law is consistently invoked** by the messengers and guardians of the law **to justify the anomic violence that is leading us towards catastrophe**.101 Benjamin’s eighth thesis then grounds Agamben’s call for, and attempt to theorize the conditions of, a messianic politics dedicated to bringing to light **the inoperativity of the law** that is already at work in the politics of our time. For Agamben, to live messianically means **to take the illegitimacy of state power as the premise of one’s politics**: to act on the basis that **the law is already inoperative**, that the claims to authority of its representatives **are a fiction**, and that **their power needs to be deactivated.**

**Stop using the legal system to fix problems within the legal system—the state of exception and its disregard of its own very laws is the maximum point of tension—use the crisis of the 1ac an impulse to craft a new politics**

**Prozorov 10.** Sergei Prozorov, professor of political and economic studies at the University of Helsinki, “Why Giorgio Agamben is an optimist,” Philosophy Social Criticism 2010 36: pg. 1057

The second principle of Agamben’s optimism is best summed up by Ho ̈lderlin’s phrase, made famous by Heidegger: ‘**where danger grows, grows saving power also’**.20 Accord- ing to Agamben, radical global transformation is actually made possible by **nothing other** than the unfolding of biopolitical nihilism itself to **its extreme point of vacuity**. On a number of occasions in different contexts, Agamben has asserted the possibility of a radi- cally different form-of-life on the basis of precisely the same things that he initially set out to criticize. Agamben paints a convincingly gloomy picture of the present state of things only to undertake a majestic reversal at the end, finding **hope and conviction in the very despair that engulfs us**.21 Our very destitution thereby turns out be **the condition for the possibility of a completely different life**, whose description is in turn entirely devoid of fantastic mirages. Instead, as Agamben repeatedly emphasizes, in the redeemed world **‘everything will be as is now, just a little different’**,22 no momentous transformation will take place aside from **a ‘small displacement’** that will nonetheless **make all the difference**. While we shall deal with this ‘small displacement’ in the follow- ing section, let us now elaborate the logic of redemption through the traversal of ‘danger’ in more detail.

It is evident that the danger at issue in Agamben’s work **is nihilism** in its dual form of the sovereign ban and the capitalist spectacle. If, as we have shown in the previous sec- tion, the reign of nihilism is general and complete, we may be optimistic about the pos- sibility of jamming its entire apparatus since there is nothing in it that offers an alternative to the present ‘double subjection’. Yet, where are we to draw resources for such a global transformation? It would be easy to misread Agamben as **an utterly utopian thinker**, whose intentions may be good and whose criticism of the present may be valid if exaggerated, but whose solutions are completely implausible if not outright embarras- sing.23 Nonetheless, we must rigorously distinguish Agamben’s approach from utopian- ism. As Foucault has argued, utopias derive their attraction from their discursive structure of a fabula, which makes it possible to describe in great detail a better way of life, precisely because it is manifestly impossible.24 While utopian thought easily pro- vides us with elaborate visions of a better future, it cannot really lead us there, since its site is by definition a non-place. In contrast, Agamben’s works tell us quite little about life in a community of happy life that has done away with the state form, but are remark- ably concrete about the practices that are constitutive of this community, precisely because these practices require nothing that would be **extrinsic** to the contemporary condition of **biopolitical nihilism**. Thus, Agamben’s coming politics is **manifestly anti-utopian** and draws all its resources from the condition of contemporary nihilism.

Moreover, this nihilism is the only possible resource for this politics, which would otherwise be doomed to continuing the work of negation, vainly applying it to nihilism itself. Given the totality of contemporary biopolitical nihilism, any ‘positive’ project of transformation would come down to the **negation of negativity itself**. Yet, as Agamben demonstrates conclusively in Language and Death, nothing is more nihilistic than **a negation of nihilism**.25 Any project that remains oblivious to the extent to which its valorized positive forms have already been devalued and their content evacuated would only succeed in **plunging us deeper into nihilism**. As Heidegger adds in his commentary on Ho ̈lderlin, ‘It may be that **any other salvation** than that, which **comes from where the danger is**, is still **within non-safety’**.26 Moreover, as Roberto Esposito’s work on the par- adox of immunity in biopolitics demonstrates, any attempt to combat danger through **‘negative protection’** (immunization) that seeks to mediate the immediacy of life through extrinsic principles (sovereignty, liberty, property) necessarily **introjects** within the social realm the **very negativity that it claims to battle**, so that biopolitics is always at risk of **collapsing into thanatopolitics.**27 In contrast, Agamben’s coming politics does not attempt to introduce anything new or ‘positive’ into the condition of nihilism but to use this condition itself in order to **reappropriate human existence** from **its biopolitical confinement**.28

Thus, while the aporia of the negation of negativity might lead other thinkers to res- ignation about the possibilities of political praxis, it actually enhances Agamben’s opti- mism. Renouncing any project of reconstructing social life on the basis of positive principles, his work illuminates the way the unfolding of biopolitical nihilism itself pro- duces the conditions of possibility for **radical transformation**. We can now see that the state of total crisis that Agamben has diagnosed must be understood **in the strict medical sense**. In pre-modern medicine, the crisis of the disease is its kairos, the moment in which the disease **truly manifests itself** and **allows for the doctor’s intervention that might finally defeat it.**29 For this reason, the crisis is not something to be feared and avoided but **an opportunity that must be seized**. Similarly, insofar as the sovereign state of excep- tion and the absolutization of exchange-value completely empty out any content of pos- itive forms-of-life, the contemporary biopolitical apparatus **prepares its self-destruction** by fully **manifesting its own vacuity**.

### Adv 1

#### No miscalc—accidents don’t cause all-out war

**Mueller** **10** – Woody Hayes chair of national security studies at Ohio State University (John, Atomic Obsession, p. 100-101)

It is a plausible argument that, all other things equal, if the number of nuclear weapons in existence increases, the likelihood one will go off by accident will also increase. In fact, all things haven't been equal. As nuclear weapons have increased in numbers and sophistication, so have safety devices and procedures. Precisely because the weapons are so dangerous, extraordinary efforts to keep them from going off by accident or by an unauthorized deliberate act have been instituted, and these measures have, so far, been effective: no one has been killed in a nuclear explosion since Nagasaki. Extrapolating further from disasters that have not occurred, many have been led to a concern that, triggered by a nuclear weapons accident, a war could somehow be started through an act of desperation or of consummate sloppiness. Before the invention of nuclear weapons, such possibilities were not perhaps of great concern, because no weapon or small set of weapons could do enough damage to be truly significant. Each nuclear weapon, however, is capable of destroying in an instant more people than have been killed in an average war, and the weapons continue to exist in the tens of thousands. However, **even if a bomb, or a few bombs, were to go off**, it does not necessarily follow that war would result. For that to happen, it is assumed, the accident would have to take place at a time of war-readiness, as during a crisis, when both sides are poised for action and when one side could perhaps be triggered – or panicked –into major action by an explosion mistakenly taken to be part of, or the prelude to, a full attack. This means that the unlikely happening –a nuclear accident – would have to coincide precisely with an event, a militarized international crisis, something that is rare to begin with, became more so as the cold war progressed, and has become even less likely since its demise. Furthermore, even if the accident takes place during a crisis, it does not follow that escalation or hasty response is inevitable, or even very likely. As Bernard Brodie points out, escalation scenarios essentially impute to both sides "a well-nigh limitless concern with saving face" and/or "a deal of ground-in automaticity of response and counterresponse." None of this was in evidence during the Cuban missile crisis when there were accidents galore. An American spy plane was shot down over Cuba, probably without authorization, and another accidentally went off course and flew threateningly over the Soviet Union. As if that weren’t enough, a Soviet military officer spying for the West sent a message, apparently on a whim, warning that the Soviets were about to attack.31 **None of these remarkable events triggered anything** in the way of precipitous response. They were duly evaluated and then ignored. Robert Jervis points out that "when critics talk of the impact of irrationality, they imply that all such deviations will be in the direction of emotional impulsiveness, of launching an attack, or of taking actions that are terribly risky. But irrationality could also lead a state to passive acquiescence." In moments of high stress and threat, people can be said to have three psychological alternatives: (1) to remain calm and rational, (2) to refuse to believe that the threat is imminent or significant, or to panic, lashing out frantically and incoherently at the threat. Generally, people react in one of the first two ways. In her classic study of disaster behavior, Martha Wolfenstein concludes, “The usual reaction is one of being unworried.” In addition, the historical record suggests that **wars simply do not begin by accident**. In his extensive survey of wars that have occurred since 1400, diplomat-historian Evan Luard concludes, "It is impossible to identify a single case in which it can be said that a war started accidentally; in which it was not, at the time the war broke out, the deliberate intention of at least one party that war should take place." Geoffrey Blainey, after similar study, very much agrees: although many have discussed "accidental" or "unintentional" wars, "it is difficult," he concludes, "to find a war which on investigation fits this description." Or, as Henry Kissinger has put it dryly, "Despite popular myths, large military units do not fight by accident."

#### No accidental launch, period

**Williscroft 10** (Six patrols on the John Marshall as a Sonar Technician, and four on the Von Steuben as an officer – a total of twenty-two submerged months. Navigator and Ops Officer on Ortolan & Pigeon – Submarine Rescue & Saturation Diving ships. Watch and Diving Officer on Oceanographer and Surveyor. “Accidental Nuclear War” http://www.argee.net/Thrawn%20Rickle/Thrawn%20Rickle%2032.htm)

Is there a realistic chance that we could have a nuclear war by accident? Could a ballistic submarine commander launch his missiles without specific presidential authorization? Could a few men conspire and successfully bypass built-in safety systems to launch nuclear weapons? The key word here is “realistic.” In the strictest sense, yes, these things are possible. But are they realistically possible? This question can best be answered by examining two interrelated questions. Is there a way to launch a nuclear weapon by accident? Can a specific accidental series of events take place—no matter how remote—that will result in the inevitable launch or detonation of a nuclear weapon? Can one individual working by himself or several individuals working in collusion bring about the deliberate launch or detonation of a nuclear weapon? We are protected from accidental launching of nuclear weapons by mechanical safeguards, and by carefully structured and controlled mandatory procedures that are always employed when working around nuclear weapons. Launching a nuclear weapon takes the specific simultaneous action of several designated individuals. System designers ensured that conditions necessary for a launch could not happen accidentally. For example, to launch a missile from a ballistic missile submarine, two individuals must insert keys into separate slots on separate decks within a few seconds of each other. Barring this, the system cannot physically launch a missile. There are additional safeguards built into the system that control computer hardware and software, and personnel controls that we will discuss later, but—in the final analysis—without the keys inserted as described, there can be no launch—it’s not physically possible. Because the time window for key insertion is less than that required for one individual to accomplish, it is physically impossible for a missile to be launched accidentally by one individual. Any launch must be deliberate. One can postulate a scenario wherein a technician bypasses these safeguards in order to effect a launch by himself. Technically, this is possible, but such a launch would be deliberate, not accidental. We will examine measures designed to prevent this in a later column. Maintenance procedures on nuclear weapons are very tightly controlled. In effect always is the “two-man rule.” This rule prohibits any individual from accessing nuclear weapons or their launch vehicles alone. Aside from obvious qualification requirements, two individuals must be present. No matter how familiar the two technicians may be with a specific system, each step in a maintenance procedure is first read by one technician, repeated by the second, acknowledged by the first (or corrected, if necessary), performed by the second, examined by the first, checked off by the first, and acknowledged by the second. This makes maintenance slow, but absolutely assures that no errors happen. Exactly the same procedure is followed every time an access cover is removed, a screw is turned, a weapon is moved, or a controlling publication is updated. Nothing, absolutely nothing is done without following the written guides exactly, always under two-man control. This even applies to guards. Where nuclear weapons are concerned, a minimum of two guards—always fully in sight of each other—stand duty. There is no realistic scenario wherein a nuclear missile can be accidentally launched...ever...under any circumstances...period!

#### Second strike calculations prevent spontaneous launch

**Rosenkrantz 5** (Steven, Foreign Affairs Officer, Office of Strategic and Theater Defenses, Bureau of Arms Control, Weapons of mass destruction: an encyclopedia of worldwide policy, technology, and history, p 1-2)

Since the dawn of the nuclear era, substantial thought and effort have gone into preventing accidental and inadvertent nuclear war. Nuclear powers have attempted to construct the most reliable technology and procedures for command and control of nuclear weapons, including robust, fail-safe early warning systems for verifying attacks. The United States and the Soviet Union also maintained secure **second-strike capabilities** to reduce their own incentives to launch a preemptive strike against each other during crisis situations or out of fear of a surprise attack. The two nuclear superpowers worked bilaterally to foster strategic stability by means of arms control and confidence-building measures and agreements. Several confidence-building agreements were negotiated between the two-superpowers to reduce the risk of an accidental nuclear war: the 1971 Agreement on Measures to Reduce the Risk of Outbreak of Nuclear War, the 1972 Agreement on the Prevention of Incidents on and over the High Seas, and the 1973 Agreement on the Prevention of Nuclear War. Following the end of the Cold War, the United States and the Russian Federation have continued to offer unilateral initiatives and to negotiate bilateral agreements on dealerting and detargeting some of their nuclear forces to further reduce the likelihood of a catastrophic nuclear accident. They have concluded agreements on providing each other with notifications in the event of ballistic missile launches or other types of military activities that could possibly be misunderstood or misconstrued by the other party.

### Adv 2

#### No china - they construct china in a deamonizing way – economic partner etc – the reality that war would ever occur is very low even if it did

#### No risk of American first strike

**Blechman, 2009** [Dr. Barry M. Blechman, Member of the Department of State Advisory Committee on Transformational Diplomacy, A Georgetown PhD in international relations and co-founder of the Henry L. Stimson Center, a nonpartisan think tank based in Washington D.C. focused on issues of national and international security), “SEEKING THE HIGH ROAD ON NUCLEAR STRATEGY,” Presentation to the NDU Foundation, July 21, 2009, pg. www.stimson.org/nuke/pdf/Blechman\_NDU\_Foundation\_speech.pdf]

Continue the process begun by Gen. Cartwright when he was STRATCOM to identify missions that could be carried out more effectively by conventional, rather than nuclear, forces. Nuclear first-use is implausible except in the most exceptional circumstances. I’ve study every crisis in which the use of nuclear weapons of considered, or threatened, or wrongly believed to have been considered and **the one common thread** is the reluctance of Presidents to go down that road. This comes through loud and clear in any President’s memoirs or intimate’s account of crises. Ronald Reagan, for example, was flabbergasted to learn of the nuclear war plans and their consequences, and considered them immoral.

#### Relations are resilient

**Rosecrance and Qingguo 2010** – \*political science professor at Cal and senior fellow at Harvard’s Belfer Center for Science and International Affairs, former director of the Burkle Center for International Relations at UCLA, \*\*PhD from Cornell, Professor and Associate Dean of the School of International Studies of Peking University (Jia Qingguo and Richard Rosecrance, Global Asia, 4.4, “Delicately Poised: Are China and the US Heading for Conflict?”, <http://www.globalasia.org/l.php?c=e251>, WEA)

Sustained Cooperation?   
The fact that the rise of China is unlikely to lead to armed conflict with the US does not necessarily mean that the two countries can achieve a wholly cooperative relationship in the long term. For that to happen, the two need to have shared interests, aspirations, and mutually acceptable approaches to promoting their national goals. It appears that these conditions are increasingly becoming a reality.   
To begin with, after years of interaction, China and the US have developed a **shared stake** in cooperation. Their relationship has deepened to the point where their economic futures have become closely interlinked. Western demand, principally from the US, sustains a whole range of Chinese industries. Chinese investments support America’s deficit financing, with China holding more than $1 trillion of US government debt. The US, meanwhile, contributes greatly to China’s foreign trade surplus. If America stopped buying Chinese goods, it would put a serious crimp in Chinese economic growth. Chinese sovereign wealth funds are also moving into the US financial market to rebalance the amount of foreign direct investment on each side.   
The Emergence of Shared Values   
Chinese-American ties now range well beyond economics. As major beneficiaries of existing international arrangements, both China and the US have an important stake in many areas, including defending a free trade system, maintaining international peace and stability, opposing proliferation of weapons of mass destruction, fighting terrorism, ensuring secure energy supplies and reversing global warming. In addition, as a result of changes within China, the two countries increasingly find themselves sharing similar aspirations in the world. Among other things, China has replaced its centrally-planned economy with a market-oriented one. It has attached increasing importance to the rule of law. It has publicly advocated protection of human rights and has adopted many measures to improve its human rights situation. It has also tried to introduce democratic reforms such as nationwide village-level elections and measures to broaden participation in the selection of leaders at various levels of the Chinese government and in the policy making process. Recently, Chinese Premier Wen Jiabao said that China wants democracy and will make more efforts in this regard. These and other changes on the part of China have narrowed the value differences between the two countries and provided an expanding political basis for China-US cooperation.   
Finally, leaders of the two countries have learned how to cooperate after years of interaction. With the scope and depth of contacts increasing, China and the US find themselves with **greater understanding** and appreciation of each other’s legitimate interests and political sensitivities than ever before. Policy makers in the two countries not only know each other as counterparts, but also increasingly as personal friends. Many become acquainted long before they become important in their respective policy making institutions. Previous misunderstandings at the policy level are **no longer serious**. This has made miscalculation between the two countries less likely and facilitated cooperation.

**Stepping outside the aff’s economy of security is necessary to solve**

**Neocleous 2008** (Mark is a Professor at Brunel University, Critique of Political Economy; Head of Department of Politics & History, he joined Brunel University in the Department of Government in 1994. Since then he has published numerous books and articles. His most recent work has been towards the development of a critique of security. “CRITIQUE OF SECURITY” 2008. Pg. 185-186, MT)

The only way out of such a dilemma, to escape the fetish, is perhaps to eschew the logic of security altogether – to reject it as so ideologically loaded in favour of the state that any real political thought other than the authoritarian and reactionary should be pressed to give it up. That is clearly something that can not be achieved within the limits of bourgeois thought and thus could never even begin to be imagined by the security intellectual. It is also something that the constant iteration of the refrain ‘this is an insecure world’ and reiteration of one fear, anxiety and insecurity after another will also make it hard to do. But it is something that the critique of security suggests we may have to consider if we want a political way out of the impasse of security. This impasse exists because security has now become so all-encompassing that it marginalises all else, most notably the constructive conflicts, debates and discussions that animate political life. The constant prioritising of a mythical security as a political end – as the political end – constitutes a rejection of politics in any meaningful sense of the term. That is, as a mode of action in which differences can be articulated, in which the conflicts and struggles that arise from such differences can be fought for and negotiated, in which people might come to believe that another world is possible – that they might transform the world and in turn be transformed. Security politics simply removes this; worse, it removes it while purportedly addressing it. In so doing it suppresses all issues of power and turns political questions into debates about the most efficient way to achieve ‘security’, despite the fact that we are never quite told – never could be told – what might count as having achieved it. Security politics is, in this sense, an anti-politics,141 dominating political discourse in much the same manner as the security state tries to dominate human beings, reinforcing security fetishism and the monopolistic character of security on the political imagination. We therefore need to get beyond security politics, not add yet more ‘sectors’ to it in a way that simply expands the scope of the state and legitimises state intervention in yet more and more areas of our lives. Simon Dalby reports a personal communication with Michael Williams, co-editor of the important text Critical Security Studies, in which the latter asks: if you take away security, what do you put in the hole that’s left behind? But I’m inclined to agree with Dalby: maybe there is no hole.142 The mistake has been to think that there is a hole and that this hole needs to be filled with a new vision or revision of security in which it is re-mapped or civilised or gendered or humanised or expanded or whatever. All of these ultimately remain within the statist political imaginary, and consequently end up re- affirming the state as the terrain of modern politics, the grounds of security. The real task is not to fill the supposed hole with yet another vision of security, but to fight for an alternative political language which takes us beyond the narrow horizon of bourgeois security and which therefore does not constantly throw us into the arms of the state. That’s the point of critical politics: to develop a new political language more adequate to the kind of society we want. Thus while much of what I have said here has been of a negative order, part of the tradition of critical theory is that the negative may be as significant as the positive in setting thought on new paths. For if security really is the supreme concept of bourgeois society and the fundamental thematic of liberalism, then to keep harping on about insecurity and to keep demanding ‘more security’ (while meekly hoping that this increased security doesn’t damage our liberty) is to blind ourselves to the possibility of building real alternatives to the authoritarian tendencies in contemporary politics. To situate ourselves against security politics would allow us to circumvent the debilitating effect achieved through the constant securitising of social and political issues, debilitating in the sense that ‘security’ helps consolidate the power of the existing forms of social domination and justifies the short-circuiting of even the most democratic forms. It would also allow us to forge another kind of politics centred on a different conception of the good. We need a new way of thinking and talking about social being and politics that moves us beyond security. This would perhaps be emancipatory in the true sense of the word. What this might mean, precisely, must be open to debate. But it certainly requires recognising that security is an illusion that has forgotten it is an illusion; it requires recognising that security is not the same as solidarity; it requires accepting that insecurity is part of the human condition, and thus giving up the search for the certainty of security and instead learning to tolerate the uncertainties, ambiguities and ‘insecurities’ that come with being human; it requires accepting that ‘securitizing’ an issue does not mean dealing with it politically, but bracketing it out and handing it to the state; it requires us to be brave enough to return the gift.143

# 2nc

### K – Overview

**The bureaucratic focus on the exchange value of nuclear threats abstracts the reality of the actual weapons from their everyday social costs and constitutes a form of epistemic structural violence**

Anna Harrington **de Santana**, PhD Candidate in Political Science at the University of Chicago, **2k9** “NUCLEAR WEAPONS AS THE CURRENCY OF POWER', The Nonproliferation Review,16:3,325 — 345; this article was the winner of the 2009 Doreen and Jim McElvany Nonproliferation Challenge of the James Martin Center for Nonproliferation Studies Monterey Institute of International Studies, a ten thousand dollar prize contest judged by policy experts for the CNS

The explicit recognition of a gap between what we believe about nuclear weapons and what we act as if we believe is a necessary feature of nuclear deterrence because it enables us to maintain the traditional association between military force and power. The dominant World War II era discourse of international politics defined power in terms of control. For instance, power for the classical realist Hans Morgenthau could consist of anything that contributed to ‘‘the control of man over man.’’22 Nuclear weaponry challenged the practice of treating military force as an embodiment of power because it was no longer possible to maintain a logical association between the application of military force and the control of political outcomes. The fact of mutual assured destruction, in which nuclear adversaries both had the capability to launch a first strike and retaliate in kind, meant that superior military strength no longer prevented an adversary from inflicting retaliatory damage. Without the ability to secure the homeland, the application of military force could no longer be understood as conferring political control. Shifting the debate about military strategy from a focus on what violence could accomplish forcibly to what Schelling refers to as ‘‘the diplomacy of violence’’ allowed military strategists to maintain the association between military force and control. By predicating nuclear strategy on what could be accomplished through the threat of pain and destruction (the threat-value of nuclear weapons), as opposed to what could be accomplished through the efficient application of military strength (the use-value of nuclear weapons), the association between military force and control was reasserted at the level of perception. Deterrence is defined as the ability to dissuade as opposed to the ability to coerce. Both dissuasion and coercion are aspects of control. Thus, a successful strategy of deterrence was also a demonstration of military and political power.23 Nuclear strategy became a game of nerves in which control over perceptions of resolve, as opposed to skill and ingenuity in the application of force, was the determinate factor in political outcomes. Rather than producing useful weapons that could also be exploited for their threat-value, nuclear weapons were produced for the purpose of making a threat in spite of the implications of their use. To understand what it means for nuclear weapons to be produced and reproduced as fetish objects, viewing them through the lens of Pietz’s model of fetishism is useful. From his historical reconstruction of the idea of the fetish, Pietz derives four recurrent themes that are characteristic of the pattern of behavior known as fetishism and that I have adapted for the purposes of this analysis: materiality, historicality, reification, and efficacy. Materiality Fetishism is irreducibly material; it requires a physical presence, as opposed to a purely ideational or linguistic existence. Thus, fetishism always refers to a pattern of human behavior organized with respect to a material object: the African worshipping a trinket, or the capitalist exchanging a commodity. This configuration differentiates a fetish object from a symbolic object. A symbol is referential. Its purpose is communicative. A physical change in the status of a symbolic object does nothing to alter the nature of its social context. A fetish object, on the other hand, is essential to the functioning of the social context in which it is embedded. Nationalists do not require a flag, but capitalists require a commodity. The destruction that can be wrought by nuclear weapons is required for them to be properly understood as an instrument of force and to mediate relations between states; states require nuclear weapons in order to practice nuclear deterrence. The significance of a nuclear weapon’s capacity for physical destruction is that it pushes the logic of accumulating power to its logical extreme. In that way, nuclear weapons are the ultimate expression of a historically particular fetish form, the fetishism of force. They are the most destructive force the world has ever known. The fact that a relatively small amount of fissile material can release a very large amount of explosive energy differentiates nuclear weapons from other explosive technologies. The combination of nuclear explosive technology with advanced missile systems maximized the capacity for physical destruction while minimizing the human presence necessary to engage in the act of destruction. All of these characteristics of their physical embodiment are significant for understanding how nuclear weapons embody the culmination of a socio-historical process that created and sustained a relationship between the capacity for destruction and the exercise of power. Yet, it is not their capacity for destruction that is the source of their power. The act of large-scale nuclear destruction will not contribute to achieving rational political ends; only compliance with the threat of destruction will further those ends. The same way the materiality of money has no use-value apart from its exchange-value, the value of nuclear weapons resides in their threat- (exchange-) value rather than their use-value. In essence, their material form is nothing but a carrier of their social function.24 The particularities of their physical embodiment that make them desirable for consumption\*properties such as their explosive yield\*are not what make them appropriate carriers of social value. The same material properties that are germane to the physical embodiment of money\* durability and scarcity\*are the physical properties that provide the foundation for nuclear weapons to serve as the embodiment of power. **Money is treated as if it did not experience the wear and tear of physical exchange, and nuclear arsenals are treated as if their development and maintenance had no human or economic costs.** Both objects are treated as if their material embodiment were not subject to the effects of time. Although individuals know very well that mechanisms exist to reproduce their material existence, as the ultimate expression of the development of commodity fetishism and the fetishism of force respectively, both objects function as if they consisted of an immutable substance. In this sense, what is specific about the durability of a fetish object is not that it is actually indestructible, but rather that its physical substance can be incorporated into a social process of ‘‘circulation’’ that is supported by a mechanism for its continual renewal. One effect of behaving as if the material substance of the fetish object were indestructible is that it both enables and requires the costs associated with its production to be obscured. This was true of the human and environmental costs associated with the production and maintenance of nuclear weapons throughout the Cold War. Stephen Schwartz, referring to the human and environmental costs of the U.S. nuclear complex, argues the following: Until the end of the Cold War, the environmental and public health costs of U.S. nuclear weapons generally received little attention and funding. This was partly because there were few systematic efforts underway to document or address the full extent of the problems and implement solutions. But it was also because few senior government officials felt comfortable raising concerns about real and potential hazards posed by the production and testing of nuclear weapons at a time when those weapons were still considered a crucial factor in U.S.-Soviet relations. The AEC [Atomic Energy Commission] and DOE [Department of Energy] also did what they could to discourage discussion about these issues, to the point of lying about the dangers to not only the general public but also the workers in its own facilities.25 Consistent with what a theory of nuclear fetishism would predict, much of the information about human costs was purposefully hidden during the Cold War so as not to disrupt the fetishistic belief in the security provided by the U.S. nuclear program.26 The end of the Cold War created a new opportunity to recover data on financial costs associated with U.S. nuclear weapons programs. Throughout the Cold War the nuclear arsenal had been maintained, updated, and improved as if its existence were costless, creating the illusion that nuclear weapons were made of a permanently enduring, ‘‘sublime’’ substance. Costs were not scrutinized due to both a lack of transparency and the assumption that nuclear weapons were a cheaper form of security than conventional weapons (epitomized by the adage ‘‘more bang for the buck’’). The first comprehensive historical analysis of nuclear weapons costs, completed under the aegis of the Brookings Institution in 1998, reveals that those costs were not only not scrutinized, but they were not systematically collected for much of the Cold War. A previously classified report on the Air Force atomic energy program found that, ‘‘From 1943 through 1951, there was no current, systematic account of Air Force atomic costs, since with some few exceptions no effort was made to distinguish these from other budget categories of which they formed a part.’’27 In fact, in 1960 a recently retired Army general testified to a Senate subcommittee that, ‘‘We never build our forces in a budget sense in terms of military functions such as atomic retaliation, limited war capability, antisubmarine warfare, continental air defense. We don’t case our books in that form. So as a result, I never know, and I doubt personally that anyone knows, exactly what we are buying with our budget.’’28 Not until nongovernmental organizations became interested in comprehensive nuclear weapons costs in the 1970s and 1980s were they isolated as a budgetary category and analyzed systematically. When the first comprehensive analysis was complete, what researchers found was that, at a minimum, all costs associated with the U.S. nuclear weapons program from 1940 to 1996 totaled $5.5 trillion (expressed in inflation-adjusted 1996 dollars). Importantly, that number is the estimated total cost for everything associated with the U.S. nuclear weapons program, including, for example, the cost of dismantling nuclear weapons, ‘‘cleaning up’’ nuclear waste, compensating people harmed by nuclear weapons production, and testing activities. Approximately $4.5 trillion of that was spent strictly on the U.S. nuclear arsenal. Not only the dollar amount spent is significant, but relative budgetary allocations demonstrate that spending on the nuclear arsenal was exceptional. It was approximately one-quarter of all spending on national defense ($18.7 trillion); roughly equaled the net interest on the national debt ($4.7 trillion); and significantly exceeded government expenditures on such things as Medicare ($2.3 trillion), veteran benefits and services ($1.8 trillion), transportation ($1.6 trillion), international affairs including foreign aid ($1.2 trillion), and general science, space, and technology ($600 billion).29 **Throughout the Cold War, the U.S. government allowed nuclear weapons programs to exist outside typical costbenefit concerns.**

### K – FW

**Their state centric approach sacrifices agency and causes violence.**

**Shaffer 2007** (Butler teaches at the Southwestern University School of Law. B.S., Law, 1958, University of Nebraska, Lincoln; B.A., Political Science, 1959, and J.D., 1961, University of Chicago; Member, Colorado and Nebraska State Bars. “Identifying With the State” June 29th 2007. <http://www.lewrockwell.com/shaffer/shaffer159.html>)

One of the deadliest practices we engage in is that of identifying ourselves with a collective entity. Whether it be the state, a nationality, our race or gender, or any other abstraction, we introduce division – hence, conflict – into our lives as we separate ourselves from those who identify with other groupings. If one observes the state of our world today, this is the pattern that underlies our deadly and destructive social behavior. This mindset was no better articulated than when George W. Bush declared “you’re either with us, or against us.” Through years of careful conditioning, we learn to think of ourselves in terms of agencies and/or abstractions external to our independent being. Or, to express the point more clearly, we have learned to internalize these external forces; to conform our thinking and behavior to the purposes and interests of such entities. We adorn ourselves with flags, mouth shibboleths, and decorate our cars with bumper-stickers, in order to communicate to others our sense of “who we are.” In such ways does our being become indistinguishable from our chosen collective. In this way are institutions born. We discover a particular form of organization through which we are able to cooperate with others for our mutual benefit. Over time, the advantages derived from this system have a sufficient consistency to lead us to the conclusion that our well-being is dependent upon it. Those who manage the organization find it in their self-interests to propagate this belief so that we will become dependent upon its permanency. Like a sculptor working with clay, institutions take over the direction of our minds, twisting, squeezing, and pounding upon them until we have embraced a mindset conducive to their interests. Once this has been accomplished, we find it easy to subvert our will and sense of purpose to the collective. The organization ceases being a mere tool of mutual convenience, and becomes an end in itself. Our lives become “institutionalized,” and we regard it as fanciful to imagine ourselves living in any other way than as constituent parts of a machine that transcends our individual sense. Once we identify ourselves with the state, that collective entity does more than represent who we are; it is who we are. To the politicized mind, the idea that “we are the government” has real meaning, not in the sense of being able to control such an agency, but in the psychological sense. The successes and failures of the state become the subject’s successes and failures; insults or other attacks upon their abstract sense of being – such as the burning of “their” flag – become assaults upon their very personhood. Shortcomings on the part of the state become our failures of character. This is why so many Americans who have belatedly come to criticize the war against Iraq are inclined to treat it as only a “mistake” or the product of “mismanagement,” not as a moral wrong. Our egos can more easily admit to the making of a mistake than to moral transgressions. Such an attitude also helps to explain why, as Milton Mayer wrote in his revealing post-World War II book, [They Thought They Were Free](http://www.amazon.com/They-Thought-Were-Free-Germans/dp/0226511928/lewrockwell/), most Germans were unable to admit that the Nazi regime had been tyrannical. It is this dynamic that makes it easy for political officials to generate wars, a process that reinforces the sense of identity and attachment people have for “their” state. It also helps to explain why most Americans – though tiring of the war against Iraq – refuse to condemn government leaders for the lies, forgeries, and deceit employed to get the war started: to acknowledge the dishonesty of the system through which they identify themselves is to admit to the dishonest base of their being. The truthfulness of the state’s rationale for war is irrelevant to most of its subjects. It is sufficient that they believe the abstraction with which their lives are intertwined will be benefited in some way by war. Against whom and upon what claim does not matter – except as a factor in assessing the likelihood of success. That most Americans have pipped nary a squeak of protest over Bush administration plans to attack Iran – with nuclear weapons if deemed useful to its ends – reflects the point I am making. Bush could undertake a full-fledged war against Lapland, and most Americans would trot out their flags and bumper-stickers of approval. The “rightness” or “wrongness” of any form of collective behavior becomes interpreted by the standard of whose actions are being considered. During World War II, for example, Japanese kamikaze pilots were regarded as crazed fanatics for crashing their planes into American battleships. At the same time, American war movies (see, e.g., [Flying Tigers](http://www.amazon.com/Flying-Tigers-John-Wayne/dp/0782011276/lewrockwell/)) extolled the heroism of American pilots who did the same thing. One sees this same double-standard in responding to “conspiracy theories.” “Do you think a conspiracy was behind the 9/11 attacks?” It certainly seems so to me, unless one is prepared to treat the disappearance of the World Trade Center buildings as the consequence of a couple pilots having bad navigational experiences! The question that should be asked is: whose conspiracy was it? To those whose identities coincide with the state, such a question is easily answered: others conspire, we do not. It is not the symbiotic relationship between war and the expansion of state power, nor the realization of corporate benefits that could not be obtained in a free market, that mobilize the machinery of war. Without most of us standing behind “our” system, and cheering on “our” troops, and defending “our” leaders, none of this would be possible. What would be your likely response if your neighbor prevailed upon you to join him in a violent attack upon a local convenience store, on the grounds that it hired “illegal aliens?” Your sense of identity would not be implicated in his efforts, and you would likely dismiss him as a lunatic. Only when our ego-identities become wrapped up with some institutional abstraction – such as the state – can we be persuaded to invest our lives and the lives of our children in the collective madness of state action. We do not have such attitudes toward organizations with which we have more transitory relationships. If we find an accounting error in our bank statement, we would not find satisfaction in the proposition “the First National Bank, right or wrong.” Neither would we be inclined to wear a T-shirt that read “Disneyland: love it or leave it.” One of the many adverse consequences of identifying with and attaching ourselves to collective abstractions is our loss of control over not only the meaning and direction in our lives, but of the manner in which we can be efficacious in our efforts to pursue the purposes that have become central to us. We become dependent upon the performance of “our” group; “our” reputation rises or falls on the basis of what institutional leaders do or fail to do. If “our” nation-state loses respect in the world – such as by the use of torture or killing innocent people - we consider ourselves no longer respectable, and scurry to find plausible excuses to redeem our egos. When these expectations are not met, we go in search of new leaders or organizational reforms we believe will restore our sense of purpose and pride that we have allowed abstract entities to personify for us. As the costs and failures of the state become increasingly evident, there is a growing tendency to blame this system. But to do so is to continue playing the same game into which we have allowed ourselves to become conditioned. One of the practices employed by the state to get us to mobilize our “dark side” energies in opposition to the endless recycling of enemies it has chosen for us, is that of psychological projection. Whether we care to acknowledge it or not – and most of us do not – each of us has an unconscious capacity for attitudes or conduct that our conscious minds reject. We fear that, sufficiently provoked, we might engage in violence – even deadly – against others; or that inducements might cause us to become dishonest. We might harbor racist or other bigoted sentiments, or consider ourselves lazy or irresponsible. Though we are unlikely to act upon such inner fears, their presence within us can generate discomforting self-directed feelings of guilt, anger, or unworthiness that we would like to eliminate. The most common way in which humanity has tried to bring about such an exorcism is by subconsciously projecting these traits onto others (i.e., “scapegoats”) and punishing them for what are really our own shortcomings. The state has trained us to behave this way, in order that we may be counted upon to invest our lives, resources, and other energies in pursuit of the enemy du jour. It is somewhat ironic, therefore, that most of us resort to the same practice in our criticism of political systems. After years of mouthing the high-school civics class mantra about the necessity for government – and the bigger the government the better – we begin to experience the unexpected consequences of politicization. Tax burdens continue to escalate; or the state takes our home to make way for a proposed shopping center; or ever-more details of our lives are micromanaged by ever-burgeoning state bureaucracies. Having grown weary of the costs – including the loss of control over our lives – we blame the state for what has befallen us. We condemn the Bush administration for the parade of lies that precipitated the war against Iraq, rather than indicting ourselves for ever believing anything the state tells us. We fault the politicians for the skyrocketing costs of governmental programs, conveniently ignoring our insistence upon this or that benefit whose costs we would prefer having others pay. The statists have helped us accept a world view that conflates our incompetence to manage our own lives with their omniscience to manage the lives of billions of people – along with the planet upon which we live! – and we are now experiencing the costs generated by our own gullibility. We have acted like country bumpkins at the state fair with the egg money who, having been fleeced by a bunch of carnival sharpies, look everywhere for someone to blame other than ourselves. We have been euchred out of our very lives because of our eagerness to believe that benefits can be enjoyed without incurring costs; that the freedom to control one’s life can be separated from the responsibilities for one’s actions; and that two plus two does not have to add up to four if a sizeable public opinion can be amassed against the proposition. By identifying ourselves with any abstraction (such as the state) we give up the integrated life, the sense of wholeness that can be found only within each of us. While the state has manipulated, cajoled, and threatened us to identify ourselves with it, the responsibility for our acceding to its pressures lies within each of us. The statists have – as was their vicious purpose – simply taken over the territory we have abandoned. Our politico-centric pain and suffering has been brought about by our having allowed external forces to move in and occupy the vacuum we created at the center of our being. The only way out of our dilemma involves a retracing of the route that brought us to where we are. We require nothing so much right now as the development of a sense of “who we are” that transcends our institutionalized identities, and returns us – without division and conflict – to a centered, self-directed integrity in our lives.

### K – Alt

**Shaffer, 13** (Butler, “'Just Shut Up or Die',” <http://www.lewrockwell.com/2013/06/butler-shaffer/if-you-see-something-say-something/> //Red)

Those establishment defenders who condemn the Bradley Mannings, Julian Assanges, and Edward Snowdens, have yet to present an indictment that extends beyond the fact that these courageous men have spoken truths that embarrass the institutional power structure. Such consequences may be disruptive of the special interests of the establishment, but how ordinary people are harmed in the process is never explained. Snowden has revealed how the government has insisted on having access to every private piece of information regarding every American. If this is true, and if it serves any valid purpose of the state to have such power, how can it be wrong for Americans to be made aware of this fact? If the state is entitled to know everything about us, why aren’t we entitled to know all the details of state action? The hacks’ thoughtless reaction to these revelations is the familiar one: it will help our enemies. But who are the “enemies” who might benefit from knowing the details of the state’s surveillance, wiretapping, e-mail snooping, DNA and medical records, and other attributes of “Big Brother”? In this regard, the hacks have unwittingly confirmed the insights of that noted 1950’s social philosopher, Pogo Possum when he advised that “we have met the enemy, and they is us.” **You and I are the foe most feared by those who keep their power over us through our state-induced fears, ignorance, and belief in their necessity.** As Western Civilization is swept into the dust-bin of history, it is crucial for us to ask: what will replace it? What values, moral principles, economic understanding, and social practices will prevail in the future? You will not hear these questions asked by any of the establishment hacks – who will confine themselves to refashioning statism in a “**new and improved**” **package.** **The hacks are as bankrupt as the dying culture to whose withering tentacles of power they so desperately cling.** They will continue to entertain us with trivia from the lives of the political sinners, but will not explore either the causes of, or the alternatives to, what brought down our freer and more prosperous culture. They will not engage in such depths of inquiry for one reason: their minds do not work in any transcendent, principled manner. **It is power, and power alone, that both impresses and motivates them.** As more soldiers die from suicide than from combat; as other soldiers earn medals while killing hundreds or even thousands of Afghan and Pakistani civilians with drones they control from facilities outside Las Vegas; as the police-state continues to metastasize; as the looting of the citizenry continues to benefit corporate-state interests who pay little, if any, taxes; and as the general material, spiritual, and socially-supportive nature of a decent society continues its decline, it is evident that **all of mankind** – **including Americans** – **will need to engage in some highly-focused, principled, long-term thinking** if we (i.e., ourselves, children and grandchildren, and species) are to survive this collective madness. Manning, Assange, and Snowden have challenged each of us: will we, as the hacks and their owners continue to insist, do as we have been trained to do, namely, mind our own business and do as we are told by those in authority? Or shall we, like these courageous men – and the White Rose members before them – **have the individualized** ”**arrogance**” **to believe that the fate of mankind is our business**, and that we have a responsibility to act, with focused and peaceful energy, to help extricate ourselves from the collective arrogance of power that is destroying us?

# 1nr

### Adv 1

#### History – the history of restrictions is a history of abject failure – they check the President in the short-term – but future Congresses will acquiesce

**Posner and Vermeule, 10** - \*professor of law at the University of Chicago AND \*\*professor of law at Harvard (Eric and Adrian, The Executive Unbound, p. 84-88)

If the constitutional framework of liberal legalism is too rickety to contain executive power, perhaps statutes can substitute new legal constraints. A principal hope of liberal legal theory is that the deficiencies of the constitutional framework can be patched up by framework statutes that will channel and constrain executive power. The executive comprises the president and (various types of) agencies, and liberal legalism tries to constrain both, through different statutes. As to the agencies, liberal legalists hope that general procedural statutes such as the Administrative Procedure Act (APA) can “translate” the principles and values underlying the separation of powers into a world in which agencies routinely hold consolidated powers of lawmaking, law-execution, and law-interpretation.1 As to the president, Congress has enacted many subject-specific framework statutes that attempt to constrain executive power, especially with regard to warmaking, foreign policy, and emergencies. And liberal legal theorists often propose new statutes of this sort—for example, a statute that would confine presidential emergency powers in the aftermath of a terrorist attack.2

These efforts all fall short of the aspirations of liberal legalism, in greater or lesser degree. The subject-specific framework statutes that attempt to constrain presidential power are the most conspicuous failure; most are dead letters. Seemingly more successful is the APA, which remains the central framework for the administrative state. We will suggest that this is something of an illusion; the greater specificity of the subject-specific statutes, and the greater plasticity and ambiguity of the APA, make the failure of the former group more conspicuous, while giving the latter a misleading appearance of constraining force.

The secret of the APA’s “success”—its ability to endure in a nominal sense—is that it contains a series of adjustable parameters that the courts use to dial up and down the intensity of their scrutiny over time. The APA’s basic flexibility allows courts to allow government to do what government needs to do when it needs to do it. The result is a series of legal “black holes” and “grey holes”—the latter being standards of reasonableness that have the appearance of legality, but not the substance, at least not when pressing interests suggest otherwise. This regime is a triumph for the nominal supremacy of the APA, but not for any genuine version of the rule of law. Liberal legalism’s basic aspiration, that statutes (if not the Constitution) will subject the administrative state to the rule of law, is far less successful than it appears.

SUBJECT-SPECIFIC FRAMEWORK STATUTES

With a few exceptions, most of the subject-specific firamework statutes that attempt to constrain executive power, particularly presidential power, are a product of the era after Watergate. As revelations of executive abuses by both federal and state governments multiplied and a backlash against executive power set in, all three branches of government acted to reduce the scope of executive discretion in matters touching on security and antiterrorism. In the middle to late 1970s, Congress imposed a range of statutory constraints on the powers and activities of the executive branch generally and the presidency in particular, especially in matters relating to foreign affairs and national security.

The most prominent examples are the War Powers Resolution,3 which constrained executive use of force abroad; the National Emergencies Act,4 which limited executive declarations of emergency; the International Economic Emergency Powers Act,5 which limited the executive’s power to impose various economic sanctions and controls; the Ethics in Government Act,6 which created independent counsels to investigate government wrongdoing; and the Inspector General Act of 1978, described below. Other constraints were imposed by litigation and judicial decree. Finally, some constraints were self-imposed, by executive guidelines that curtailed FBI authority to investigate groups with the potential to engage in terrorism. The restrictive Levi Guidelines of 19767 exemplified this executive self-constraint.

This framework for national security law has not endured. Indeed, a large part of the story of national security law in ensuing decades, and especially after 9/11, has involved efforts by various institutions and groups to loosen the constraints of the post-Watergate framework. By and large, those efforts have succeeded.8 The following are four major examples.

1. The War Powers Resolution (1973). At its core, the resolution attempts to limit executive use of armed forces in conflicts abroad, without congressional approval, to a period of 60 or 90 days (omitting many complicated details). But the resolution has by many accounts become a dead letter, especially after President Clinton’s rather clear breach of its terms during the Kosovo conflict.9 Congress has proven unable to enforce the resolution by ex post punishment of executive violations or arguable violations; the courts have invoked various doctrines of justiciability to avoid claims for enforcement of the resolution by soldiers and others. As one Madisonian scholar puts it, “In the area of military policy making, the War Powers Resolution, in its current form, has simply proven inadequate to discipline executive branch unilateralism.”10

2. The National Emergencies Act (1976). This statute abolished all preexisting states of emergency declared by executive order, and substituted a process for congressional review of new declarations. The process has proven largely ineffective, in large part because later Congresses have usually proven unable to use the statutory mechanism for overriding executive declarations. The Act’s default rule is set so that affirmative congressional action is necessary to block an executive proclamation of emergency, and congressional inertia has generally prevailed. In practice, “anything the President says is a national emergency is a national emergency.”11

3. The International Emergency Economic Powers Act (1977). Enacted to regulate and constrain executive action during international economic crises, the statute has been construed by the courts to grant broad executive power. The Supreme Court held that it implicitly authorized the president to suspend claims pending in American courts against Iranian assets, as part of a deal to free hostages.12 And a lower court said that the president had unreviewable discretion to determine that the government of Nicaragua satisfied the statutory requirement of “an unusual and extraordinary threat,” thus triggering enhanced executive powers.13

4. Inspector General Act of 1978. A final accountability mechanism is the cadre of inspectors general, who now hold offices within most federal agencies, including the Department of Justice. Inspectors general have the power to investigate legal violations, sometimes including crimes, within the executive branch. Some can be discharged by the agency head, but some can be discharged only by the president, and in either case Congress must be notified. It is clear that inspectors general have created a large apparatus of compliance monitoring and bureaucratic reporting, and have used a great deal of paper; what is harder to assess is whether they have been effective at promoting executive accountability, either to Congress or to the citizenry. The leading systematic study14 concludes that “the Inspectors General have been more or less effective at what they do, but what they do has not been effective. That is, they do a relatively good job of compliance monitoring, but compliance monitoring alone has not been that effective at increasing governmental accountability. Audits and investigations focus too much on small problems at the expense of larger systemic issues.”15

Why did these statutes prove less effective than their proponents hoped or, in the extreme, become dead letters? In all the cases, the basic pattern is similar. The statutes were enacted during a high-water mark of political backlash against strong executive power, which supermajorities in Congress attempted to translate into binding legal constraints. However, once the wave of backlash receded and the supermajorities evaporated, there was insufficient political backing for the laws to ensure their continued vigor over time. Later Congresses have not possessed sufficient political backing or willpower to employ the override mechanisms that the statutes create, such as the override of presidential declarations of emergency created by the National Emergencies Act.

Even where the statutes attempt to change the legal default rule, so that the president cannot act without legislative permission—as in the case of the War Powers Resolution, after the 60- or 90-day grace period has passed—the president may simply ignore the statutory command, and will succeed if he has correctly calculated that Congress will be unable to engage in ex post retaliation and the courts will be unwilling to engage in ex post review. President Clinton’s implicit decision to brush aside the resolution during the Kosovo conflict (albeit with the fig leaf of a compliant legal opinion issued by the Justice Department’s Office of Legal Counsel)16 shows that what matters is what Congress can do after the fact, not what it says before the fact.

Here a major problem for framework statutes is the “presidential power of unilateral action”17 to which we referred in the introduction. Statutory drafters may think they have cleverly closed off the executive’s avenues of escape when they set the legal status quo to require legislative permission. Because the president can act in the real world beyond the law books, however—the armed forces did not threaten to stand down from their Kosovo mission until Congress gave its clear approval, but instead simply obeyed the President’s orders—the actual status quo may change regardless of whether the legal situation does. Once armed forces are in action, the political calculus shifts and legislators will usually be unable to find enough political support to retaliate—especially not on the basis of an arcane framework statute passed years or decades before.