# 1NC

### T

#### Restrictions are prohibitions on action --- the aff is oversight

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

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

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

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

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

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

#### Vote neg---

#### Neg ground---only prohibitions on particular authorities guarantee links to every core argument like flexibility and deference

#### Precision---only our interpretation defines “restrictions on authority”---that’s key to adequate preparation and policy analysis

### K

#### Security is a psychological construct—the aff’s scenarios for conflict are products of paranoia that project our violent impulses onto the other

**Mack 91** – Doctor of Psychiatry and a professor at Harvard University (John, “The Enemy System” http://www.johnemackinstitute.org/eJournal/article.asp?id=23 \*Gender modified)

**The** **threat of nuclear annihilation** has stimulated us to try to **understand what it is about (hu)mankind that has led to** such self-destroying behavior. Central to this inquiry is an exploration of the adversarial relationships between ethnic or national groups. It is out of such enmities that war, including nuclear war should it occur, has always arisen. Enmity between groups of people stems from the interaction of psychological, economic, and cultural elements. These include fear and hostility (which are often closely related), competition over perceived scarce resources,[3] the need for individuals to identify with a large group or cause,[4] a tendency to disclaim and assign elsewhere responsibility for unwelcome impulses and intentions, and a peculiar susceptibility to emotional manipulation by leaders who play upon our more savage inclinations in the name of national security or the national interest. A full understanding of the "enemy system"[3] requires insights from many specialities, including psychology, anthropology, history, political science, and the humanities. In their statement on violence[5] twenty social and behavioral scientists, who met in Seville, Spain, to examine the roots of war, declared that there was **no scientific basis for regarding (hu)man(s) as** an **innately aggressive** animal, inevitably committed to war. The Seville statement implies that we have real choices. It also points to a hopeful paradox of the nuclear age: threat of nuclear war may have provoked our capacity for fear-driven polarization but at the same time it has inspired unprecedented efforts towards cooperation and settlement of differences without violence. The Real and the Created Enemy Attempts to **explore the psychological roots of enmity** are frequently met with responses on the following lines: "**I can accept psychological explanations of things,** but my enemy is real. The Russians [or Germans, Arabs, Israelis, Americans] are armed, threaten us, and intend us harm. Furthermore, there are real differences between us and our national interests, such as competition over oil, land, or other scarce resources, and genuine conflicts of values between our two nations. It is essential that we be strong and maintain a balance or superiority of **military and political power**, lest the other side take advantage of our weakness". This argument does not address the distinction between the enemy threat and one's own contribution to that threat-**by distortions of perception**, provocative words, and actions. In short, the enemy is real, but **we have not learned to understand how** we have created that enemy, or how the threatening image we hold of the enemy relates to its actual intentions. "We never see our enemy's motives and we never labor to assess his will, with anything approaching objectivity".[6] Individuals may have little to do with the choice of national enemies. Most Americans, for example, know only what has been reported in the mass media about the Soviet Union. We are largely unaware of the forces that operate within our institutions, affecting the thinking of our leaders and ourselves, and which determine how the Soviet Union will be represented to us. Ill-will and a desire for revenge are transmitted from one generation to another, and **we are not taught to** think critically **about how** our assigned enemies are selected for us. In the relations between potential adversarial nations there will have been, inevitably, real grievances that are grounds for enmity. But the attitude of one people towards another is usually determined by leaders who manipulate the minds of citizens for domestic political reasons which are generally unknown to the public. As Israeli sociologist Alouph Haveran has said, in times of conflict between nations **historical accuracy is the first victim**.[8] The Image of the Enemy and How We Sustain It Vietnam veteran William Broyles wrote: "War begins in the mind, with the idea of the enemy."[9] But to sustain that idea in war and peacetime a nation's leaders must maintain public support for the massive expenditures that are required. Studies of enmity have revealed susceptibilities, though not necessarily recognized as such by the governing elites that provide raw material upon which the leaders may draw to sustain the image of an enemy.[7,10] Freud[11] in his examination of mass psychology identified the proclivity of individuals to **surrender personal responsibility to the leaders of large groups**. This surrender takes place in both totalitarian and democratic societies, and without coercion. Leaders can therefore designate outside enemies and take actions against them with little opposition. Much further research is needed to understand the psychological mechanisms that impel individuals to kill or allow killing in their name, often with little questioning of the **morality or consequences** of such actions. Philosopher and psychologist Sam Keen asks why it is that in virtually every war "The enemy is seen as less than human? He's faceless. He's an animal"." Keen tries to answer his question: "The image of the enemy is not only the soldier's most powerful weapon; it is society's most powerful weapon. **It enables people en masse to** participate in acts of violence they would never consider doing as individuals".[12] National leaders become skilled in presenting the adversary in dehumanized images. The mass media, taking their cues from the leadership, contribute powerfully to the process.

#### Their paranoid projections guarantee extinction—it’s try or die

Hollander 3 – professor of Latin American history and women's studies at California State University (Nancy, "A Psychoanalytic Perspective on the Politics of Terror:In the Aftermath of 9/11" www.estadosgerais.org/mundial\_rj/download/FLeitor\_NHollander\_ingl.pdf)

In this sense, then, 9-11 has symbolically constituted a relief in the sense of a decrease in the persecutory anxiety provoked by living in a culture undergoing a deterioration from within. The implosion reflects the economic and social trends I described briefly above and has been manifest in many related symptoms, including the erosion of family and community, the corruption of government in league with the wealthy and powerful, the abandonment of working people by profit-driven corporations going international, urban plight, a drug-addicted youth, a violence addicted media reflecting and motivating an escalating real-world violence, the corrosion of civic participation by a decadent democracy, a spiritually bereft culture held prisoner to the almighty consumer ethic, racial discrimination, misogyny, gaybashing, growing numbers of families joining the homeless, and environmental devastation. Was this not lived as a kind of societal suicide--an ongoing assault, an aggressive attack—against life and emotional well-being waged from within against the societal self? In this sense, 9/11 permitted a respite from the sense of internal decay by inadvertently stimulating a renewed vitality via a **reconfiguration of political and psychological forces**: tensions within this country—between the “haves-mores” and “have-lesses,” as well as between the defenders and critics of the status quo, yielded to a wave of nationalism in which a united people--Americans all--stood as one against external aggression. At the same time, the generosity, solidarity and selfsacrifice expressed by Americans toward one another reaffirmed our sense of ourselves as capable of achieving the “positive” depressive position sentiments of love and empathy. Fractured social relations were symbolically repaired. The enemy- -the threat to our integrity as a nation and, in D. W. Winnicott’s terms, to our sense of going on being--**was no longer the web of complex internal force**s so difficult to understand and change, but a simple and **identifiable enemy from outside of us**, clearly marked by their difference, their foreignness and their uncanny and unfathomable “uncivilized” pre-modern character. The societal relief came with the **projection of aggressive impulses** onto an easily dehumanized **external enemy, where they could be justifiably** attacked and **destroyed**. This country’s response to 9/11, then, in part demonstrates how persecutory anxiety is more easily dealt with in individuals and in groups when it is experienced as being provoked from the outside rather than from internal sources. As Hanna Segal9 has argued (IJP, 1987), groups often tend to be narcissistic, self-idealizing, and paranoid in relation to other groups and to **shield themselves from knowledge about the reality of** their own aggression, which of necessity is **projected into an enemy**-- real or imagined--so that it can be demeaned, held in contempt and then attacked. In this regard, 9/11 permitted a new discourse to arise about what is fundamentally wrong in the world: indeed, the anti-terrorism rhetoric and policies of the U.S. government functioned for a period to overshadow the anti-globalization movement that has identified the fundamental global conflict to be between on the one hand the U.S. and other governments in the First World, transnational corporations, and powerful international financial institutions, and on the other, workers’ struggles, human rights organizations and environmental movements throughout the world. The new discourse presents the fundamental conflict in the world as one between civilization and fundamentalist terrorism. But this “civilization” is a wolf in sheep’s clothing, and those who claim to represent it reveal the kind of splitting Segal describes: a hyperbolic idealization of themselves and their culture and a projection of all that is bad, including the consequences of the terrorist underbelly of decades long U.S. foreign policy in the Middle East and Asia, onto the denigrated other, who must be annihilated. The U.S. government, tainted for years by its ties to powerful transnational corporate interests, has recreated itself as the nationalistic defender of the American people. In the process, patriotism has kidnapped citizens’ grief and mourning and militarism has high **jacked people’s fears and anxieties**, converting them into a passive consensus for an increasingly authoritarian government’s domestic and foreign policies. The defensive significance of this new discourse has to do with another theme related to death anxiety as well: the threat of species annihilation that people have lived with since the U.S. dropped atomic bombs on Hiroshima and Nagasaki. Segal argues that the leaders of the U.S. as well as other countries with nuclear capabilities, have **disavowed their** own **aggressive motivations** as they developed10 weapons of mass destruction. The distortion of language throughout the Cold War, such as “deterrence,” “flexible response,” Mutual Assured Destruction”, “rational nuclear war,” “Strategic Defense Initiative” has served to deny the aggressive nature of the arms race (p. 8) and “to disguise from ourselves and others the horror of a nuclear war and our own part in making it possible or more likely” (pp. 8-9). Although the policy makers’ destructiveness can be hidden from their respective populations and justified for “national security” reasons, Segal believes that such denial only increases reliance on projective mechanisms and stimulates paranoia.

#### Don’t call it an alternative---our response is to interrogate the epistemological failures of the 1ac---this is a prereq to successful policy

Ahmed 12 Dr. Nafeez Mosaddeq Ahmed is Executive Director of the Institute for Policy Research and Development (IPRD), an independent think tank focused on the study of violent conflict, he has taught at the Department of International Relations, University of Sussex "The international relations of crisis and the crisis of international relations: from the securitisation of scarcity to the militarisation of society" Global Change, Peace & Security Volume 23, Issue 3, 2011 Taylor Francis

While recommendations to shift our frame of orientation away from conventional state-centrism toward a 'human security' approach are valid, this cannot be achieved without confronting the deeper theoretical assumptions underlying conventional approaches to 'non-traditional' security issues.106 By occluding the structural origin and systemic dynamic of global ecological, energy and economic crises, orthodox approaches are incapable of transforming them. Coupled with their excessive state-centrism, this means they operate largely at the level of 'surface' impacts of global crises in terms of how they will affect quite traditional security issues relative to sustaining state integrity, such as international terrorism, violent conflict and population movements. Global crises end up fuelling the projection of risk onto social networks, groups and countries that cross the geopolitical fault-lines of these 'surface' impacts - which happen to intersect largely with Muslim communities. Hence, regions particularly vulnerable to climate change impacts, containing large repositories of hydrocarbon energy resources, or subject to demographic transformations in the context of rising population pressures, have become the focus of state security planning in the context of counter-terrorism operations abroad.

The intensifying problematisation and externalisation of Muslim-majority regions and populations by Western security agencies - as a discourse - is therefore not only interwoven with growing state perceptions of global crisis acceleration, but driven ultimately by an epistemological failure to interrogate the systemic causes of this acceleration in collective state policies (which themselves occur in the context of particular social, political and economic structures). This expansion of militarisation is thus coeval with the subliminal normative presumption that the social relations of the perpetrators, in this case Western states, must be protected and perpetuated at any cost - precisely because the efficacy of the prevailing geopolitical and economic order is ideologically beyond question.

As much as this analysis highlights a direct link between global systemic crises, social polarisation and state militarisation, it fundamentally undermines the idea of a symbiotic link between natural resources and conflict per se. Neither 'resource shortages' nor 'resource abundance' (in ecological, energy, food and monetary terms) necessitate conflict by themselves.

There are two key operative factors that determine whether either condition could lead to conflict. The first is the extent to which either condition can generate socio-political crises that challenge or undermine the prevailing order. The second is the way in which stakeholder actors choose to actually respond to the latter crises. To understand these factors accurately requires close attention to the political, economic and ideological strictures of resource exploitation, consumption and distribution between different social groups and classes. Overlooking the systematic causes of social crisis leads to a heightened tendency to problematise its symptoms, in the forms of challenges from particular social groups. This can lead to externalisation of those groups, and the legitimisation of violence towards them.

Ultimately, this systems approach to global crises strongly suggests that conventional policy 'reform' is woefully inadequate. Global warming and energy depletion are manifestations of a civilisation which is in overshoot. The current scale and organisation of human activities is breaching the limits of the wider environmental and natural resource systems in which industrial civilisation is embedded. This breach is now increasingly visible in the form of two interlinked crises in global food production and the global financial system. In short, industrial civilisation in its current form is unsustainable. This calls for a process of wholesale civilisational transition to adapt to the inevitable arrival of the post-carbon era through social, political and economic transformation.

Yet conventional theoretical and policy approaches fail to (1) fully engage with the gravity of research in the natural sciences and (2) translate the social science implications of this research in terms of the embeddedness of human social systems in natural systems. Hence, lacking capacity for epistemological self-reflection and inhibiting the transformative responses urgently required, they reify and normalise mass violence against diverse 'Others', newly constructed as traditional security threats enormously amplified by global crises - a process that guarantees the intensification and globalisation of insecurity on the road to ecological, energy and economic catastrophe. Such an outcome, of course, is not inevitable, but extensive new transdisciplinary research in IR and the wider social sciences - drawing on and integrating human and critical security studies, political ecology, historical sociology and historical materialism, while engaging directly with developments in the natural sciences - is urgently required to develop coherent conceptual frameworks which could inform more sober, effective, and joined-up policy-making on these issues.

### DA

#### Obama is prioritizing capture over drone strikes now

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

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

#### Restricting detention policies means we kill and extradite prisoners

Jack Goldsmith 09, a professor at Harvard Law School and a member of the Hoover Institution Task Force on National Security and Law, assistant attorney general in the Bush administration, 5/31/09, “The Shell Game on Detainees and Interrogation,” <http://www.washingtonpost.com/wp-dyn/content/article/2009/05/29/AR2009052902989.html>

The cat-and-mouse game does not end there. As detentions at Bagram and traditional renditions have come under increasing legal and political scrutiny, the Bush and Obama administrations have relied more on other tactics. They have secured foreign intelligence services to do all the work -- capture, incarceration and interrogation -- for all but the highest-level detainees. And they have increasingly employed targeted killings, a tactic that eliminates the need to interrogate or incarcerate terrorists but at the cost of killing or maiming suspected terrorists and innocent civilians alike without notice or due process.¶ There are at least two problems with this general approach to incapacitating terrorists. First, it is not ideal for security. Sometimes it would be more useful for the United States to capture and interrogate a terrorist (if possible) than to kill him with a Predator drone. Often the United States could get better information if it, rather than another country, detained and interrogated a terrorist suspect. Detentions at Guantanamo are more secure than detentions in Bagram or in third countries.¶ The second problem is that terrorist suspects often end up in less favorable places. Detainees in Bagram have fewer rights than prisoners at Guantanamo, and many in Middle East and South Asian prisons have fewer yet. Likewise, most detainees would rather be in one of these detention facilities than be killed by a Predator drone. We congratulate ourselves when we raise legal standards for detainees, but in many respects all we are really doing is driving the terrorist incapacitation problem out of sight, to a place where terrorist suspects are treated worse.¶ It is tempting to say that we should end this pattern and raise standards everywhere. Perhaps we should extend habeas corpus globally, eliminate targeted killing and cease cooperating with intelligence services from countries that have poor human rights records. This sentiment, however, is unrealistic. The imperative to stop the terrorists is not going away. The government will find and exploit legal loopholes to ensure it can keep up our defenses.¶ This approach to detention policy reflects a sharp disjunction between the public's view of the terrorist threat and the government's. After nearly eight years without a follow-up attack, the public (or at least an influential sliver) is growing doubtful about the threat of terrorism and skeptical about using the lower-than-normal standards of wartime justice.¶ The government, however, sees the terrorist threat every day and is under enormous pressure to keep the country safe. When one of its approaches to terrorist incapacitation becomes too costly legally or politically, it shifts to others that raise fewer legal and political problems. This doesn't increase our safety or help the terrorists. But it does make us feel better about ourselves.

#### Increased drone use sets a precedent that causes South China Sea conflict

Roberts 13 (Kristen, News Editor at National Journal, “When the Whole World Has Drones”, 3/22/13, <http://www.nationaljournal.com/magazine/when-the-whole-world-has-drones-20130321>)

And that’s a NATO ally seeking the capability to conduct missions that would run afoul of U.S. interests in Iraq and the broader Middle East. Already, Beijing says it considered a strike in Myanmar to kill a drug lord wanted in the deaths of Chinese sailors. What happens if China arms one of its remote-piloted planes and strikes Philippine or Indian trawlers in the South China Sea? Or if India uses the aircraft to strike Lashkar-e-Taiba militants near Kashmir? “We don’t like other states using lethal force outside their borders. It’s destabilizing. It can lead to a sort of wider escalation of violence between two states,” said Micah Zenko, a security policy and drone expert at the Council on Foreign Relations. “So the proliferation of drones is not just about the protection of the United States. It’s primarily about the likelihood that other states will increasingly use lethal force outside of their borders.” LOWERING THE BAR Governments have covertly killed for ages, whether they maintained an official hit list or not. Before the Obama administration’s “disposition matrix,” Israel was among the best-known examples of a state that engaged, and continues to engage, in strikes to eliminate people identified by its intelligence as plotting attacks against it. But Israel certainly is not alone. Turkey has killed Kurds in Northern Iraq. Some American security experts point to Russia as well, although Moscow disputes this. In the 1960s, the U.S. government was involved to differing levels in plots to assassinate leaders in Congo and the Dominican Republic, and, famously, Fidel Castro in Cuba. The Church Committee’s investigation and subsequent 1975 report on those and other suspected plots led to the standing U.S. ban on assassination. So, from 1976 until the start of President George W. Bush’s “war on terror,” the United States did not conduct targeted killings, because it was considered anathema to American foreign policy. (In fact, until as late as 2001, Washington’s stated policy was to oppose Israel’s targeted killings.) When America adopted targeted killing again—first under the Bush administration after the September 11 attacks and then expanded by President Obama—the tools of the trade had changed. No longer was the CIA sending poison, pistols, and toxic cigars to assets overseas to kill enemy leaders. Now it could target people throughout al-Qaida’s hierarchy with accuracy, deliver lethal ordnance literally around the world, and watch the mission’s completion in real time. The United States is smartly using technology to improve combat efficacy, and to make war-fighting more efficient, both in money and manpower. It has been able to conduct more than 400 lethal strikes, killing more than 3,500 people, in Afghanistan, Pakistan, Yemen, Somalia, and North Africa using drones; reducing risk to U.S. personnel; and giving the Pentagon flexibility to use special-forces units elsewhere. And, no matter what human-rights groups say, it’s clear that drone use has reduced the number of civilians killed in combat relative to earlier conflicts. Washington would be foolish not to exploit unmanned aircraft in its long fight against terrorism. In fact, defense hawks and spendthrifts alike would criticize it if it did not. “If you believe that these folks are legitimate terrorists who are committing acts of aggressive, potential violent acts against the United States or our allies or our citizens overseas, should it matter how we choose to engage in the self-defense of the United States?” asked Rep. Mike Rogers, R-Mich., chairman of the House Intelligence Committee. “Do we have that debate when a special-forces team goes in? Do we have that debate if a tank round does it? Do we have the debate if an aircraft pilot drops a particular bomb?” But defense analysts argue—and military officials concede—there is a qualitative difference between dropping a team of men into Yemen and green-lighting a Predator flight from Nevada. Drones lower the threshold for military action. That’s why, according to the Council on Foreign Relations, unmanned aircraft have conducted 95 percent of all U.S. targeted killings. Almost certainly, if drones were unavailable, the United States would not have pursued an equivalent number of manned strikes in Pakistan. And what’s true for the United States will be true as well for other countries that own and arm remote piloted aircraft. “The drones—the responsiveness, the persistence, and without putting your personnel at risk—is what makes it a different technology,” Zenko said. “When other states have this technology, if they follow U.S. practice, it will lower the threshold for their uses of lethal force outside their borders. So they will be more likely to conduct targeted killings than they have in the past.” The Obama administration appears to be aware of and concerned about setting precedents through its targeted-strike program. When the development of a disposition matrix to catalog both targets and resources marshaled against the United States was first reported in 2012, officials spoke about it in part as an effort to create a standardized process that would live beyond the current administration, underscoring the long duration of the counterterrorism challenge. Indeed, the president’s legal and security advisers have put considerable effort into establishing rules to govern the program. Most members of the House and Senate Intelligence committees say they are confident the defense and intelligence communities have set an adequate evidentiary bar for determining when a member of al-Qaida or an affiliated group may be added to the target list, for example, and say that the rigor of the process gives them comfort in the level of program oversight within the executive branch. “They’re not drawing names out of a hat here,” Rogers said. “It is very specific intel-gathering and other things that would lead somebody to be subject for an engagement by the United States government.”

#### South China Sea conflicts cause extinction

Wittner 11 (Lawrence S. Wittner, Emeritus Professor of History at the State University of New York/Albany, Wittner is the author of eight books, the editor or co-editor of another four, and the author of over 250 published articles and book reviews. From 1984 to 1987, he edited Peace & Change, a journal of peace research., 11/28/2011, "Is a Nuclear War With China Possible?", www.huntingtonnews.net/14446)

While nuclear weapons exist, there remains a danger that they will be used. After all, for centuries national conflicts have led to wars, with nations employing their deadliest weapons. The current deterioration of U.S. relations with China might end up providing us with yet another example of this phenomenon. The gathering tension between the United States and China is clear enough. Disturbed by China’s growing economic and military strength, the U.S. government recently challenged China’s claims in the South China Sea, increased the U.S. military presence in Australia, and deepened U.S. military ties with other nations in the Pacific region. According to Secretary of State Hillary Clinton, the United States was “asserting our own position as a Pacific power.” But need this lead to nuclear war? Not necessarily. And yet, there are signs that it could. After all, both the United States and China possess large numbers of nuclear weapons. The U.S. government threatened to attack China with nuclear weapons during the Korean War and, later, during the conflict over the future of China’s offshore islands, Quemoy and Matsu. In the midst of the latter confrontation, President Dwight Eisenhower declared publicly, and chillingly, that U.S. nuclear weapons would “be used just exactly as you would use a bullet or anything else.” Of course, China didn’t have nuclear weapons then. Now that it does, perhaps the behavior of national leaders will be more temperate. But the loose nuclear threats of U.S. and Soviet government officials during the Cold War, when both nations had vast nuclear arsenals, should convince us that, even as the military ante is raised, nuclear saber-rattling persists. Some pundits argue that nuclear weapons prevent wars between nuclear-armed nations; and, admittedly, there haven’t been very many—at least not yet. But the Kargil War of 1999, between nuclear-armed India and nuclear-armed Pakistan, should convince us that such wars can occur. Indeed, in that case, the conflict almost slipped into a nuclear war. Pakistan’s foreign secretary threatened that, if the war escalated, his country felt free to use “any weapon” in its arsenal. During the conflict, Pakistan did move nuclear weapons toward its border, while India, it is claimed, readied its own nuclear missiles for an attack on Pakistan. At the least, though, don’t nuclear weapons deter a nuclear attack? Do they? Obviously, NATO leaders didn’t feel deterred, for, throughout the Cold War, NATO’s strategy was to respond to a Soviet conventional military attack on Western Europe by launching a Western nuclear attack on the nuclear-armed Soviet Union. Furthermore, if U.S. government officials really believed that nuclear deterrence worked, they would not have resorted to championing “Star Wars” and its modern variant, national missile defense. Why are these vastly expensive—and probably unworkable—military defense systems needed if other nuclear powers are deterred from attacking by U.S. nuclear might? Of course, the bottom line for those Americans convinced that nuclear weapons safeguard them from a Chinese nuclear attack might be that the U.S. nuclear arsenal is far greater than its Chinese counterpart. Today, it is estimated that the U.S. government possesses over five thousand nuclear warheads, while the Chinese government has a total inventory of roughly three hundred. Moreover, only about forty of these Chinese nuclear weapons can reach the United States. Surely the United States would “win” any nuclear war with China. But what would that “victory” entail? A nuclear attack by China would immediately slaughter at least 10 million Americans in a great storm of blast and fire, while leaving many more dying horribly of sickness and radiation poisoning. The Chinese death toll in a nuclear war would be far higher. Both nations would be reduced to smoldering, radioactive wastelands. Also, radioactive debris sent aloft by the nuclear explosions would blot out the sun and bring on a “nuclear winter” around the globe—destroying agriculture, creating worldwide famine, and generating chaos and destruction.

### Exec CP---Courts

#### The Executive Branch of the United States should end military detention without the ability to challenge the legality of detention by way of the writ of habeas corpus.

#### Counterplan solves cred and the case

Adrian Vermeule 7, Harvard law prof - AND - Eric Posner - U Chicago law, The Credible Executive, 74 U. Chi. L. Rev. 865

\*We do not endorse gendered language

The Madisonian system of oversight has not totally failed. Some- times legislators overcome the temptation to free ride; sometimes they invest in protecting the separation of powers or legislative preroga- tives. Sometimes judges review exercises of executive discretion, even during emergencies. But often enough, legislators and judges have no real alternative to letting executive officials exercise discretion un- checked. The Madisonian system is a partial failure; compensating mechanisms must be adopted to fill the area of slack, the institutional gap between executive discretion and the oversight capacities of other institutions. Again, the magnitude of this gap is unclear, but plausibly it is quite large; we will assume that it is. It is often assumed that this partial failure of the Madisonian sys- tem unshackles and therefore benefits ill-motivated executives. This is grievously incomplete. The failure of the Madisonian system harms the well-motivated executive as much as it benefits the ill-motivated one. Where Madisonian oversight fails, the well-motivated executive is a victim of his own power. Voters, legislators, and judges will be wary of granting further discretion to an executive whose motivations are un- certain and possibly nefarious. The partial failure of Madisonian over- sight thus threatens a form of inefficiency, a kind of contracting failure that makes potentially everyone, including the voters, worse off. Our central question, then, is what the well-motivated executive can do to solve or at least ameliorate the problem. The solution is for the executive to complement his (well-motivated) first-order policy goals with second-order mechanisms for demonstrating credibility to other actors. We thus do not address the different question of what voters, legislators, judges, and other actors should do about an executive who is ill motivated and known to be so. That project involves shoring up or replacing the Madisonian system to block executive dictatorship. Our project is the converse of this, and involves finding new mechanisms to help the well-motivated executive credibly distinguish himself as such. ¶ IV. EXECUTIVE SIGNALING: LAW AND MECHANISMS ¶ We suggest that the executive’s credibility problem can be solved by second-order mechanisms of executive signaling. In the general case, well-motivated executives send credible signals by taking actions that are more costly for ill-motivated actors than for well- motivated ones, thus distinguishing themselves from their ill- motivated mimics. Among the specific mechanisms we discuss, an important subset involves executive self-binding, whereby executives commit themselves to a course of action that would impose higher costs on ill-motivated actors. Commitments themselves have value as signals of benign motivations. ¶ This departs from the usual approach in legal scholarship. Legal theory has often discussed self-binding by “government” or govern- ment officials. In constitutional theory, it is often suggested that consti- tutions represent an attempt by “the people” to bind “themselves” against their own future decisionmaking pathologies, or relatedly, that constitutional prohibitions represent mechanisms by which govern- ments commit themselves not to expropriate investments or to exploit their populations.72 Whether or not this picture is coherent,73 it is not the question we examine here, although some of the relevant consid- erations are similar.74 We are not concerned with binding the president so that he cannot abuse his powers, but with how he might bind himself or take other actions that enhance his credibility, so that he can generate support from the public and other members of the government. ¶ Furthermore, our question is subconstitutional: it is whether a well-motivated executive, acting within an established set of constitu- tional and statutory rules, can use signaling mechanisms to generate public trust. Accordingly, we proceed by assuming that no constitutional amendments or new statutes will be enacted. Within these con- straints, what can a well-motivated executive do to bootstrap himself to credibility? The problem for the well-motivated executive is to credibly signal his benign motivations. In general, the solution is to engage in actions that are less costly for good types than for bad types. ¶ We begin with some relevant law, then examine a set of possible mechanisms—emphasizing both the conditions under which they might succeed and the conditions under which they might not—and conclude by examining the costs of credibility. ¶ A. A Preliminary Note on Law and Self-Binding ¶ Many of our mechanisms are unproblematic from a legal per- spective, as they involve presidential actions that are clearly lawful. But a few raise legal questions; in particular, those that involve self- binding.75 Can a president bind himself to respect particular first-order policies? With qualifications, the answer is yes, at least to the same extent that a legislature can. Formally, a duly promulgated executive rule or order binds even the executive unless and until it is validly abrogated, thereby establishing a new legal status quo.76 The legal authority to establish a new status quo allows a president to create inertia or political constraints that will affect his own future choices. In a practical sense, presidents, like legislatures, have great de facto power to adopt policies that shape the legal landscape for the future. A president might commit himself to a long-term project of defense pro- curement or infrastructure or foreign policy, narrowing his own future choices and generating new political coalitions that will act to defend the new rules or policies. More schematically, we may speak of formal and informal means of self-binding:

### Flex DA---Courts

#### Judicial deference is stable now but the plan’s precedent collapses it

John O’Connor 7, Former officer in the Marine Corp and Judge Advocate; JD, U Maryland Law School. Statistics and the Military Deference Doctrine: a Response to Professor Lichtman, 66 Md. L. Rev. 668, Lexis

As I have written elsewhere, one of the most important aspects of the military deference doctrine, and one that many commentators misunderstand,176 is that the military deference doctrine is not a venerable doctrine that has existed since the early days of the Republic. 177 Indeed, a review of the Court’s military deference jurisprudence could lead one to the conclusion that the doctrine was more or less the brainchild of Chief Justice Rehnquist, who wrote virtually every important military deference decision that the Court has issued.178 While notions of stare decisis may militate against a retreat from the military deference doctrine by the Court, the fact remains that the doctrine is one of fairly recent vintage, which was developed and perpetuated mainly through judicial opinions written by a Justice who is no longer on the Court. Moreover, while stare decisis is a nice concept in the abstract, that doctrine did not prevent the Court from radically changing its approach to constitutional challenges to military practices twice before. Therefore, **it is not out of the realm of possibility that the military deference doctrine could recede in importance** with personnel changes on the Court. This could occur through an express overruling of the doctrine, through decisions narrowing the doctrine’s application, or through a moresubtle process whereby the Court continues to pay lip service to its need to defer to political branch judgments but nevertheless **accords little or no actual deference to the policy determinations of Congress and the President.**

But early indications from the Roberts Court, with Chief Justice Roberts and Justice Alito replacing Chief Justice Rehnquist and Justice O’Connor, respectively, provide reason to believe that the military deference doctrine will continue to be a robust feature of the Court’s military jurisprudence, at least in the near term. In FAIR, the first “military” case decided by the Roberts Court, the Court upheld the Solomon Amendment against a constitutional challenge and, in so doing, began its constitutional analysis by extolling the virtues of the military deference doctrine when Congress legislates pursuant to its constitutional power to raise and support armies:

The Constitution grants Congress the power to “provide for the common Defence,” “[t]o raise and support Armies,” and “[t]o provide and maintain a Navy.” Congress’ power in this area “is broad and sweeping,” and there is no dispute in this case that it includes the authority to require campus access for military recruiters. That is, of course, unless Congress exceeds constitutional limitations on its power in enacting such legislation. But the fact that legislation that raises armies is subject to First Amendment constraints does not mean that we ignore the purpose of this legislation when determining its constitutionality; as we recognized in Rostker, “judicial deference . . . is at its apogee” when Congress legislates under its authority to raise and support armies.179

While it is always dangerous to draw conclusions from a single case, all participating members of the Court—Justice Alito did not participate—joined Chief Justice Roberts’s opinion, which invoked the military deference doctrine as its first step in constitutional analysis once the Court resolved what the statute in fact provided.180 Moreover, this is a case that could have been decided on a number of grounds, such as a pure Spending Clause or First Amendment basis, 181 without invoking the military deference doctrine, and the Court’s prominent reliance on the military deference doctrine to support its decision suggests that there is no move afoot to eradicate the doctrine, explicitly or through subtle narrowing. For his part, Justice Alito noted prominently in his confirmation hearing that he had joined a conservative Princeton alumni group because, as an alumnus who attended Princeton on an ROTC scholarship, he was unhappy that the school had decided to abolish the campus ROTC program.182 While, again, predicting judicial attitudes based on personal history is always a risky proposition, Justice Alito’s background makes him seem like an unlikely candidate to take up the sword against the military deference doctrine, particularly when every other member of the Court joined an opinion applying it in FAIR.

V. Conclusion

This Article is by no means an attempt to catalogue every military deference case decided by the Court, or to discuss every nuance in its application. n183 It is important, however, that the doctrine be understood, both in terms of the facts surrounding its development and the limited scope of the doctrine as evidenced by the framework in which it is applied. Professor Lichtman's article on the military deference doctrine is thought provoking in that it challenges the orthodoxy by which the military deference doctrine is viewed - through the lens of time rather than through the lens of subject matter irrespective of time. n184 Ultimately, however, I have come to the conclusion that Professor Lichtman's analysis of the military deference doctrine is flawed in several important respects, all of which result in a fundamental misunderstanding [\*706] of the doctrine. In my estimation, the principal flaws in Professor Lichtman's analysis include: focusing on "win-loss" records rather than on the analytical framework in which those wins and losses occurred; failing to perceive that the military deference doctrine should - and does - apply only to a narrow category of "military" cases; incorrectly casting the military deference doctrine as a longstanding and relatively stable doctrine that has only subtly evolved since the early twentieth century; determining that subject matter, rather than timing, is the proper variable around which to organize an analysis of military deference decisions; and concluding that the military deference doctrine does not - and should not - apply to statutes and regulations burdening civilians instead of military personnel.

The military deference doctrine is, at once, both historically immature and limited, yet potent when applicable. After the disruption that occurred in the course of the Court's prior rejection of the doctrine of noninterference, the Court ultimately landed on the military deference doctrine as an appropriate analytical framework, where applicable, in the mid-1970s, and the Court has largely remained in the same place with its military jurisprudence ever since. The Court's rejection of its noninterference policy beginning in the mid-1950s likely came about as a result of what the Court perceived as overreaching by the political branches in subjecting persons - military and civilian - to courts-martial in a willy-nilly fashion. If the military deference doctrine were to recede in importance in the future, it would be a good bet that it happens because some collection of Supreme Court Justices perceives that Congress and the President are overreaching in the exercise of their constitutional powers to raise armies and regulate the armed forces. At present, though, there is no sign that such an upheaval is anywhere on the horizon.

#### Deference is vital to effective executive crisis response --- solves terror, rogue states, and prolif

Robert Blomquist 10, Professor of Law, Valparaiso University School of Law, THE JURISPRUDENCE OF AMERICAN NATIONAL SECURITY PRESIPRUDENCE, 44 Val. U.L. Rev. 881

Supreme Court Justices--along with legal advocates--need to conceptualize and prioritize big theoretical matters of institutional design and form and function in the American national security tripartite constitutional system. By way of an excellent introduction to these vital issues of legal theory, the Justices should pull down from the library shelf of the sumptuous Supreme Court Library in Washington, D.C. (or more likely have a clerk do this chore) the old chestnut, The Legal Process: Basic Problems in the Making and Application of Law by the late Harvard University law professors Henry M. Hart and Albert M. Sacks. n7 Among the rich insights on institutional design coupled with form and function in the American legal system that are germane to the Court's interpretation of national security law-making and decision-making by the President are several pertinent points. First, "Hart and Sacks' intellectual starting point was the interconnectedness of human beings, and the usefulness of law in helping us coexist peacefully together." n8 By implication, therefore, the Court should be mindful of the unique [\*883] constitutional role played by the POTUS in preserving peace and should prevent imprudent judicial actions that would undermine American national security. Second, Hart and Sacks, continuing their broad insights of social theory, noted that legal communities establish "institutionalized[] procedures for the settlement of questions of group concern" n9 and regularize "different procedures and personnel of different qualifications . . . appropriate for deciding different kinds of questions" n10 because "every modern society differentiates among social questions, accepting one mode of decision for one kind and other modes for others-e.g., courts for 'judicial' decisions and legislatures for 'legislative' decisions" n11 and, extending their conceptualization, an executive for "executive" decisions. n12 Third, Professors Hart and Sacks made seminal theoretical distinctions between rules, standards, principles, and policies. n13 While all four are part of "legal arrangements [\*884] in an organized society," n14 and all four of these arrangements are potentially relevant in judicial review of presidential national security decisions, principles and policies n15 are of special concern because of the sprawling, inchoate, and rapidly changing nature of national security threats and the imperative of hyper-energy in the Executive branch in responding to these threats. n16

The Justices should also consult Professor Robert S. Summers's masterful elaboration and amplification of the Hart and Sacks project on enhancing a flourishing legal system: the 2006 opus, Form and Function in a Legal System: A General Study. n17 The most important points that [\*885] Summers makes that are relevant to judicial review of American national security presiprudence are three key considerations. First, a "conception of the overall form of the whole of a functional [legal] unit is needed to serve the founding purpose of defining, specifying, and organizing the makeup of such a unit so that it can be brought into being and can fulfill its own distinctive role" n18 in synergy with other legal units to serve overarching sovereign purposes for a polity. The American constitutional system of national security law and policy should be appreciated for its genius in making the POTUS the national security sentinel with vast, but not unlimited, powers to protect the Nation from hostile, potentially catastrophic, threats. Second, "a conception of the overall form of the whole is needed for the purpose of organizing the internal unity of relations between various formal features of a functional [legal] unit and between each formal feature and the complementary components of the whole unit." n19 Thus, Supreme Court Justices should have a thick understanding of the form of national security decision-making conceived by the Founders to center in the POTUS; the ways the POTUS and Congress historically organized the processing of national security through institutions like the National Security Council and the House and Senate intelligence committees; and the ways the POTUS has structured national security process through such specific legal forms as Presidential Directives, National Security Decision Directives, National Security Presidential Decision Directives, Presidential Decision Directives, and National Security Policy Directives in classified, secret documents along with typically public Executive Orders. n20 Third, according to Summers, "a conception of the overall form of the whole functional [legal] unit is needed to organize further the mode of operation and the instrumental capacity of the [legal] unit." n21 So, the Supreme Court should be aware that tinkering with national security decisions of the POTUS--unless clearly necessary to counterbalance an indubitable violation of the text of the Constitution--may lead to unforeseen negative second-order consequences in the ability of the POTUS (with or without the help of Congress) to preserve, protect, and defend the Nation. n22

 [\*886] B. Geopolitical Strategic Considerations Bearing on Judicial Interpretation

Before the United States Supreme Court Justices form an opinion on the legality of national security decisions by the POTUS, they should immerse themselves in judicially-noticeable facts concerning what national security expert, Bruce Berkowitz, in the subtitle of his recent book, calls the "challengers, competitors, and threats to America's future." n23 Not that the Justices need to become experts in national security affairs, n24 but every Supreme Court Justice should be aware of the following five basic national security facts and conceptions before sitting in judgment on presiprudential national security determinations.

(1) "National security policy . . . is harder today because the issues that are involved are more numerous and varied. The problem of the day can change at a moment's notice." n25 While "[y]esterday, it might have been proliferation; today, terrorism; tomorrow, hostile regional powers" n26, the twenty-first century reality is that "[t]hreats are also more likely to be intertwined--proliferators use the same networks as narco-traffickers, narco-traffickers support terrorists, and terrorists align themselves with regional powers." n27

(2) "Yet, as worrisome as these immediate concerns may be, the long-term challenges are even harder to deal with, and the stakes are higher. Whereas the main Cold War threat--the Soviet Union--was brittle, most of the potential adversaries and challengers America now faces are resilient." n28

(3) "The most important task for U.S. national security today is simply to retain the strategic advantage. This term, from the world of military doctrine, refers to the overall ability of a nation to control, or at least influence, the course of events." n29 Importantly, "[w]hen you hold [\*887] the strategic advantage, situations unfold in your favor, and each round ends so that you are in an advantageous position for the next. When you do not hold the strategic advantage, they do not." n30

(4) While "keeping the strategic advantage may not have the idealistic ring of making the world safe for democracy and does not sound as decisively macho as maintaining American hegemony," n31 maintaining the American "strategic advantage is critical, because it is essential for just about everything else America hopes to achieve--promoting freedom, protecting the homeland, defending its values, preserving peace, and so on." n32

(5) The United States requires national security "agility." n33 It not only needs "to refocus its resources repeatedly; it needs to do this faster than an adversary can focus its own resources." n34

 [\*888] As further serious preparation for engaging in the jurisprudence of American national security presiprudence in hotly contested cases and controversies that may end up on their docket, our Supreme Court Justices should understand that, as Walter Russell Mead pointed out in an important essay a few years ago, n35 the average American can be understood as a Jacksonian pragmatist on national security issues. n36 "Americans are determined to keep the world at a distance, while not isolating ourselves from it completely. If we need to take action abroad, we want to do it on our terms." n37 Thus, recent social science survey data paints "a picture of a country whose practical people take a practical approach to knowledge about national security. Americans do not bother with the details most of the time because, for most Americans, the details do not matter most the time." n38 Indeed, since the American people "do know the outlines of the big picture and what we need to worry about [in national security affairs] so we know when we need to pay greater attention and what is at stake. This is the kind of knowledge suited to a Jacksonian." n39

Turning to how the Supreme Court should view and interpret American presidential measures to oversee national security law and policy, our Justices should consider a number of important points. First, given the robust text, tradition, intellectual history, and evolution of the institution of the POTUS as the American national security sentinel, n40 and the unprecedented dangers to the United States national security after 9/11, n41 national security presiprudence should be accorded wide latitude by the Court in the adjustment (and tradeoffs) of trading liberty and security. n42 Second, Justices should be aware that different presidents [\*889] institute changes in national security presiprudence given their unique perspective and knowledge of threats to the Nation. n43 Third, Justices should be restrained in second-guessing the POTUS and his subordinate national security experts concerning both the existence and duration of national security emergencies and necessary measures to rectify them. "During emergencies, the institutional advantages of the executive are enhanced", n44 moreover, "[b]ecause of the importance of secrecy, speed, and flexibility, courts, which are slow, open, and rigid, have less to contribute to the formulation of national policy than they do during normal times." n45 Fourth, Supreme Court Justices, of course, should not give the POTUS a blank check--even during times of claimed national emergency; but, how much deference to be accorded by the Court is "always a hard question" and should be a function of "the scale and type of the emergency." n46 Fifth, the Court should be extraordinarily deferential to the POTUS and his executive subordinates regarding questions of executive determinations of the international laws of war and military tactics. As cogently explained by Professors Eric Posner and Adrian Vermeule, n47 "the United States should comply with the laws of war in its battle against Al Qaeda"--and I would argue, other lawless terrorist groups like the Taliban--"only to the extent these laws are beneficial to the United States, taking into account the likely response of [\*890] other states and of al Qaeda and other terrorist organizations," n48 as determined by the POTUS and his national security executive subordinates.

### Habeas

#### Best evidence concludes no legitimacy impact

Brooks & Wohlforth 8 – Stephen G. Brooks, Assistant Professor of Government at Dartmouth, and William C. Wohlforth, Associate Professor of Government at Dartmouth, 2008, World Out of Balance: International Relations and the Challenge of American Primacy, p. 201-206

First, empirical studies find no clear relationship between U.S. rulebreaking, legitimacy, and the continued general propensity of other governments to comply with the overall institutional order. Case studies of U.S. unilateralism—that is, perceived violations of the multilateral principle underlying the current institutional order—reach decidedly mixed results.74 Sometimes unilateralism appears to impose costs on the United States that may derive from legitimacy problems; in other cases, these acts appear to win support internationally and eventually are accorded symbolic trappings of legitimacy; in yet others, no effect is discernable. Similar results are reported in detailed analyses of the most salient cases of U.S. noncompliance with international law, which, according to several studies, is as likely to result in a “new multilateral agreement and treaties [that] generally tilt towards U.S. policy preferences” as it is to corrode the legitimacy of accepted rules.75

The contestation created by the Bush administration’s “new unilateralism,” on the one hand, and the “new multilateralism” represented by other states’ efforts to develop new rules and institutions that appear to constrain the United States, on the other hand, fits the historical pattern of the indirect effect of power on law. Highlighting only the details of the struggle over each new rule or institution may deflect attention from the structural influence of the United States on the overall direction of change. For example, a focus on highly contested issues in the UN, such as the attempt at a second resolution authorizing the invasion of Iraq, fails to note how the institution’s whole agenda has shifted to address concerns (e.g., terrorism, proliferation) that the United States particularly cares about. The secretary-general’s Highlevel Panel on Threats, Challenges and Change endorsed a range of U.S.-supported positions on terrorism and proliferation.76 International legal scholars argue that the United States made measurable headway in inculcating new rules of customary law to legitimate its approach to fighting terrorism and containing “rogue states.”77 For example, UN Security Council Resolution 1373 imposed uniform, mandatory counterterrorist obligations on all member states and established a committee to monitor compliance.

That said, there is also evidence of resistance to U.S. attempts to rewrite rules or exempt itself from rules. Arguably the most salient example of this is the International Criminal Court (ICC). During the negotiations on the Rome Convention in the late 1990s, the United States explicitly sought to preserve great-power control over ICC jurisdiction. U.S. representatives argued that the United States needed protection from a more independent ICC in order to continue to provide the public good of global military intervention. When this logic failed to persuade the majority, U.S. officials shifted to purely legal arguments, but, as noted, these foundered on the inconsistency created by Washington’s strong support of war crimes tribunals for others. The Rome Convention rejected the U.S. view in favor of the majority position granting the ICC judicial panel authority to refer cases to court’s jurisdiction.78 By 2007, 130 states had signed the treaty and over 100 were full-fledged parties to it.

President Clinton signed the treaty, but declined to submit it to the Senate for ratification. The Bush administration “unsigned” it in order legally to be able to take action to undermine it. The United States then persuaded over 75 countries to enter into agreements under which they undertake not to send any U.S. citizen to the ICC without the United States’ consent; importantly, these agreements do not obligate the United States to investigate or prosecute any American accused of involvement in war crimes. This clearly undermines the ICC, especially given that about half the states that have signed these special agreements with the United States are also parties to the Rome Statute. 79 At the same time, the EU and other ICC supporters pressured governments not to sign special agreements with the United States, and some 45 have refused to do so—about half losing U.S. military assistance as a result. In April 2005, the United States chose not to veto a UN Security Council resolution referring the situation in Darfur, Sudan, to the ICC. To many observers, this suggests that inconsistency may yet undermine U.S. opposition to the court.80 If the U.S. campaign to thwart the court fails, and there is no compromise solution that meets some American concerns, the result will be a small but noticeable constraint: U.S. citizens involved in what might be construed as war crimes and who are not investigated and prosecuted by the U.S. legal system may have to watch where they travel.

The upshot as of 2007 was something of a stalemate on the ICC, demonstrating the limits of both the United States’ capability to quash a new legal institution it doesn’t like and the Europeans’ ability to legitimize such an institution without the United States’ participation. Similar stalemates characterize other high-profile arguments over other new international legal instruments, such as the Kyoto Protocol on Climate Change and the Ottawa Landmine Convention. Exactly as constructivists suggest, these outcomes lend credence to the argument that power does not translate unproblematically into legitimacy. What the larger pattern of evidence on rule breaking shows, however, is that this is only one part of the story; the other part involves rule breaking with few, if any, legitimacy costs, and the frequent use of go-it-alone power to revise or create rules.

AN EROSION OF THE ORDER?

The second general evidence pattern concerns whether fallout from the unpopular U.S. actions on ICC, Kyoto and Ottawa, Iraq, and many other issues have led to an erosion of the legitimacy of the larger institutional order. Constructivist theory identifies a number of reasons why institutional orders are resistant to change, so strong and sustained action is presumably necessary to precipitate a legitimacy crisis that might undermine the workings of the current order. While aspects of this order remain controversial among sections of the public and elite both in the United States and abroad, there is little evidence of a trend toward others opting out of the order or setting up alternatives. Recall also that the legitimacy argument works better in the economic than in the security realm. It is also in the economic realm that the United States arguably has the most to lose. Yet it is hard to make the empirical case that U.S. rule violations have undermined the institutional order in the economic realm. Complex rules on trade and investment have underwritten economic globalization. The United States generally favors these rules, has written and promulgated many of them, and the big story of the 1990s and 2000s is their growing scope and ramified nature—in a word, their growing legitimacy. On trade, the WTO represents a major strengthening of the GATT rules that the United States pushed for (by, in part, violating the old rules to create pressure for the upgrade). As of 2007, it had 149 members, and the only major economy remaining outside was Russia’s. And notwithstanding President Putin’s stated preference for an “alternative” WTO, Russian policy focused on accession.81 To be sure, constructivists are right that the WTO, like other rational-legal institutions, gets its legitimacy in part from the appearance of independence from the major powers.82 Critical analysts repeatedly demonstrate, however, that the organization’s core agenda remains powerfully influenced by the interests of the United States.83

Regarding international finance, the balance between the constraining and enabling properties of rules and institutions is even more favorable to the United States, and there is little evidence of general legitimacy costs. The United States retains a privileged position of influence within the International Monetary Fund and the World Bank. An example of how the scope of these institutions can expand under the radar screen of most legitimacy scholarship is International Center for Settlement of Investment Disputes (ICSID)—the major dispute settlement mechanism for investment treaties. Part of theWorld Bank group of institutions, it was established in 1966, and by 1991 it had considered only 26 disputes. With the dramatic growth in investment treaties in the 1990s, however, the ICSID came into its own. Between 1998 and 2004, over 121 disputes were registered with the Center.84 This increase reflects the rapidly growing scope of international investment law. And these new rules and treaties overwhelmingly serve to protect investors’ rights, in which the United States has a powerful interest given how much it invests overseas.

Looking beyond the economic realm, the evidence simply does not provide a basis for concluding that serial U.S. rule-breaking imposed general legitimacy costs sufficient to erode the existing order. On the contrary, it suggests a complex and malleable relationship between rule breaking, legitimacy, and compliance with the existing order that opens up numerous opportunities for the United States to use its power to change rules and limit the legitimacy costs of breaking rules. The evidence also suggests that just as rules do not automatically constrain power, power does not always smoothly translate into legitimacy. As our review of the ICC issue showed, the United States is not omnipotent, and its policies can run afoul of the problems of hypocrisy and inconsistency that constructivists and legal scholars identify. Indeed, neither the theory nor the evidence presented in this chapter can rule out the possibility that the United States might have enjoyed much more compliance, and had much more success promulgating its favored rules and quashing undesired rule change, had it not been such a rule breaker or had it pursued compensating strategies more energetically.

#### Legitimacy’s inevitable and not key to heg

Brooks and Wohlforth, 9 (Stephen Brooks and William Wohlforth, both are professors of Government at Dartmouth, “Reshaping the world order: how Washington should reform international institutions,” Foreign Affairs, March-April)

FOR ANALYSTS such as Zbigniew Brzezinski and Henry Kissinger, the key reason for skepticism about the United States' ability to spearhead global institutional change is not a lack of power but a lack of legitimacy. Other states may simply refuse to follow a leader whose legitimacy has been squandered under the Bush administration; in this view, the legitimacy to lead is a fixed resource that can be obtained only under special circumstances. The political scientist G.John Ikenberry argues in After Victory that states have been well positioned to reshape the institutional order only after emerging victorious from some titanic struggle, such as the French Revolution, the Napoleonic Wars, or World War I or II. For the neoconservative Robert Kagan, the legitimacy to lead came naturally to the United States during the Cold War, when it was providing the signal service of balancing the Soviet Union. The implication is that today, in the absence of such salient sources of legitimacy, the wellsprings of support for U.S. leadership have dried up for good. But this view is mistaken. For one thing, it overstates how accepted U.S. leadership was during the Cold War: anyone who recalls the Euromissile crisis of the 1980s, for example, will recognize that mass opposition to U.S. policy (in that case, over stationing intermediaterange nuclear missiles in Europe) is not a recent phenomenon. For another, it understates how dynamic and malleable legitimacy is. Legitimacy is based on the belief that an action, an actor, or a political order is proper, acceptable, or natural. An action - such as the Vietnam War or the invasion of Iraq - may come to be seen as illegitimate without sparking an irreversible crisis of legitimacy for the actor or the order. When the actor concerned has disproportionately more material resources than other states, the sources of its legitimacy can be refreshed repeatedly. After all, this is hardly the first time Americans have worried about a crisis of legitimacy. Tides of skepticism concerning U.S. leadership arguably rose as high or higher after the fall of Saigon in 1975 and during Ronald Reagan's first term, when he called the Soviet Union an "evil empire." Even George W. Bush, a globally unpopular U.S. president with deeply controversial policies, oversaw a marked improvement in relations with France, Germany, and India in recent years - even before the elections of Chancellor Angela Merkel in Germany and President Nicolas Sarkozy in France. Of course, the ability of the United States to weather such crises of legitimacy in the past hardly guarantees that it can lead the system in the future. But there are reasons for optimism. Some of the apparent damage to U.S. legitimacy might merely be the result of the Bush administration's approach to diplomacy and international institutions. Key underlying conditions remain particularly favorable for sustaining and even enhancing U.S. legitimacy in the years ahead. The United States continues to have a far larger share of the human and material resources for shaping global perceptions than any other state, as well as the unrivaled wherewithal to produce public goods that reinforce the benefits of its global role. No other state has any claim to leadership commensurate with Washington's. And largely because of the power position the United States still occupies, there is no prospect of a counterbalancing coalition emerging anytime soon to challenge it. In the end, the legitimacy of a system's leader hinges on whether the system's members see the leader as acceptable or at least preferable to realistic alternatives. Legitimacy is not necessarily about normative approval: one may dislike the United States but think its leadership is natural under the circumstances or the best that can be expected. Moreover, history provides abundant evidence that past leading states - such as Spain, France, and the United Kingdom - were able to revise the international institutions of their day without the special circumstances Ikenberry and Kagan cite. Spainfashioned both normative and positive laws to legitimize its conquest of indigenous Americans in the early seventeenth century; France instituted modern concepts of state borders to meet its needs as Europe's preeminent land power in the eighteenth century; and the United Kingdom fostered rules on piracy, neutral shipping, and colonialism to suit its interests as a developing maritime empire in the nineteenth century. As Wilhelm Grewe documents in his magisterial The Epochs of International Law, these states accomplished such feats partly through the unsubtle use of power: bribes, coercion, and the allure oflucrative long-term cooperation. Less obvious but often more important, the bargaining hands of the leading states were often strengthened by the general perception that they could pursue their interests in even less palatable ways - notably, through the naked use of force. Invariably, too, leading states have had the power to set the international agenda, indirectly affecting the development of new rules by defining the problems they were developed to address. Given its naval primacy and global trading interests, the United Kingdom was able to propel the slave trade to the forefront of the world's agenda for several decades after it had itself abolished slavery at home, in 1833. The bottom line is that the U nited States today has the necessary legitimacy to shepherd reform of the international system.

#### No heg impact

Christopher J. Fettweis 11, Department of Political Science, Tulane University, 9/26/11, Free Riding or Restraint? Examining European Grand Strategy, Comparative Strategy, 30:316–332, EBSCO

It is perhaps worth noting that there is no evidence to support a direct relationship between the relative level of U.S. activism and international stability. In fact, the limited data we do have suggest the opposite may be true. During the 1990s, the United States cut back on its defense spending fairly substantially. By 1998, the United States was spending $100 billion less on defense in real terms than it had in 1990.51 To internationalists, defense hawks and believers in hegemonic stability, this irresponsible “peace dividend” endangered both national and global security. “No serious analyst of American military capabilities,” argued Kristol and Kagan, “doubts that the defense budget has been cut much too far to meet America’s responsibilities to itself and to world peace.”52 On the other hand, if the pacific trends were not based upon U.S. hegemony but a strengthening norm against interstate war, one would not have expected an increase in global instability and violence. The verdict from the past two decades is fairly plain: The world grew more peaceful while the United States cut its forces. No state seemed to believe that its security was endangered by a less-capable United States military, or at least none took any action that would suggest such a belief. No militaries were enhanced to address power vacuums, no security dilemmas drove insecurity or arms races, and no regional balancing occurred once the stabilizing presence of the U.S. military was diminished. The rest of the world acted as if the threat of international war was not a pressing concern, despite the reduction in U.S. capabilities. Most of all, the United States and its allies were no less safe. The incidence and magnitude of global conflict declined while the United States cut its military spending under President Clinton, and kept declining as the Bush Administration ramped the spending back up. No complex statistical analysis should be necessary to reach the conclusion that the two are unrelated. Military spending figures by themselves are insufficient to disprove a connection between overall U.S. actions and international stability. Once again, one could presumably argue that spending is not the only or even the best indication of hegemony, and that it is instead U.S. foreign political and security commitments that maintain stability. Since neither was significantly altered during this period, instability should not have been expected. Alternately, advocates of hegemonic stability could believe that relative rather than absolute spending is decisive in bringing peace. Although the United States cut back on its spending during the 1990s, its relative advantage never wavered. However, even if it is true that either U.S. commitments or relative spending account for global pacific trends, then at the very least stability can evidently be maintained at drastically lower levels of both. In other words, even if one can be allowed to argue in the alternative for a moment and suppose that there is in fact a level of engagement below which the United States cannot drop without increasing international disorder, a rational grand strategist would still recommend cutting back on engagement and spending until that level is determined. Grand strategic decisions are never final; continual adjustments can and must be made as time goes on. Basic logic suggests that the United States ought to spend the minimum amount of its blood and treasure while seeking the maximum return on its investment. And if the current era of stability is as stable as many believe it to be, no increase in conflict would ever occur irrespective of U.S. spending, which would save untold trillions for an increasingly debt-ridden nation. It is also perhaps worth noting that if opposite trends had unfolded, if other states had reacted to news of cuts in U.S. defense spending with more aggressive or insecure behavior, then internationalists would surely argue that their expectations had been fulfilled. If increases in conflict would have been interpreted as proof of the wisdom of internationalist strategies, then logical consistency demands that the lack thereof should at least pose a problem. As it stands, the only evidence we have regarding the likely systemic reaction to a more restrained United States suggests that the current peaceful trends are unrelated to U.S. military spending. Evidently the rest of the world can operate quite effectively without the presence of a global policeman. Those who think otherwise base their view on faith alone.

#### No CCP collapse---resilience, meritocracy, and legitimacy check---and they’ll adapt, not lash-out, if threatened

Li 13 Eric X. Li is a Henry Crown Fellow at the Aspen Institute. He is also a venture capitalist in Shanghai who serves on the board of directors of China Europe International Business School (CEIBS) and is vice chairman of its publishing arm CEIBS Publishing Group. “The Life of the Party,” Foreign Affairs, Jan/Feb, 92.1, EBSCO

In November 2012, the Chinese Communist Party (CCP) held its 18th National Congress, setting in motion a once-in-a-decade transfer of power to a new generation of leaders. As expected, Xi Jinping took over as general secretary and will become the president of the People's Republic this March. The turnover was a smooth and well-orchestrated demonstration by a confidently rising superpower. That didn't stop international media and even some Chinese intellectuals, however, from portraying it as a moment of crisis. In an issue that was published before the beginning of the congress, for example, The Economist quoted unnamed scholars at a recent conference as saying that China is "unstable at the grass roots, dejected at the middle strata and out of control at the top." To be sure, months before the handover, the scandal surrounding Bo Xilai, the former party boss of the Chongqing municipality, had shattered the CCP'S long-held facade of unity, which had underwritten domestic political stability since the Tiananmen Square upheavals in 1989. To make matters worse, the Chinese economy, which had sustained double-digit GDP growth for two decades, slowed, decelerating for seven straight quarters. China's economic model of rapid industrialization, labor-intensive manufacturing, large-scale government investments in infrastructure, and export growth seemed to have nearly run its course. Some in China and the West have gone so far as to predict the demise of the one-party state, which they allege cannot survive if leading politicians stop delivering economic miracles.¶ Such pessimism, however, is misplaced. There is no doubt that daunting challenges await Xi. But those who suggest that the CCP will not be able to deal with them fundamentally misread China's politics and the resilience of its governing institutions. Beijing will be able to meet the country's ills with dynamism and resilience, thanks to the CCP'S adaptability, system of meritocracy, and legitimacy with the Chinese people. In the next decade, China will continue to rise, not fade. The country's leaders will consolidate the one-party model and, in the process, challenge the West's conventional wisdom about political development and the inevitable march toward electoral democracy. In the capital of the Middle Kingdom, the world might witness the birth of a post-democratic future.¶ ON-THE-JOB LEARNING¶ The assertion that one-party rule is inherently incapable of self-correction does not reflect the historical record. During its 63 years in power, the CCP has shown extraordinary adaptability. Since its founding in 1949, the People's Republic has pursued a broad range of economic policies. First, the CCP initiated radical land collectivization in the early 1950s. This was followed by the policies of the Great Leap Forward in the late 1950s and the Cultural Revolution in the late 1960s to mid-1970s. After them came the quasi-privatization of farmland in the early 1960s, Deng Xiaoping's market reforms in the late 1970s, and Jiang Zemin's opening up of the CCP'S membership to private businesspeople in the 1990s. The underlying goal has always been economic health, and when a policy did not work -- for example, the disastrous Great Leap Forward and Cultural Revolution -- China was able to find something that did: for example, Deng's reforms, which catapulted the Chinese economy into the position of second largest in the world.¶ On the institutional front as well, the CCP has not shied away from reform. One example is the introduction in the 1980s and 1990s of term limits for most political positions (and even of age limits, of 68-70, for the party's most senior leadership). Before this, political leaders had been able to use their positions to accumulate power and perpetuate their rules. Mao Zedong was a case in point. He had ended the civil wars that had plagued China and repelled foreign invasions to become the father of modern China. Yet his prolonged rule led to disastrous mistakes, such as the Cultural Revolution. Now, it is nearly impossible for the few at the top to consolidate long-term power. Upward mobility within the party has also increased.¶ In terms of foreign policy, China has also changed course many times to achieve national greatness. It moved from a close alliance with Moscow in the 1950s to a virtual alliance with the United States in the 1970s and 1980s as it sought to contain the Soviet Union. Today, its pursuit of a more independent foreign policy has once more put it at odds with the United States. But in its ongoing quest for greatness, China is seeking to defy recent historical precedents and rise peacefully, avoiding the militarism that plagued Germany and Japan in the first half of the last century.¶ As China undergoes its ten-year transition, calls at home and abroad for another round of political reform have increased. One radical camp in China and abroad is urging the party to allow multiparty elections or at least accept formal intraparty factions. In this view, only full-scale adversarial politics can ensure that China gets the leadership it needs. However sincere, these demands all miss a basic fact: the CCP has arguably been one of the most self-reforming political organizations in recent world history. There is no doubt that Chinas new leaders face a different world than Hu Jintao did when he took over in 2002, but chances are good that Xi's CCP will be able to adapt to and meet whatever new challenges the rapidly changing domestic and international environments pose. In part, that is because the CCP is heavily meritocratic and promotes those with proven experience and capabilities.

#### Alt causes to CCP legitimacy

Cheng Li 12, director of research and a senior fellow at the John L. Thornton China Center in the Foreign Policy Program at Brookings, and is a director of the National Committee on U.S.-China Relations, "The End of the CCP's Resilient Authoritarianism? A Tripartite Assessment of Shifting Power in China," September, The China Quarterly, Issue 211, pp. 595-623, [www.brookings.edu/~/media/Research/Files/Articles/2012/9/shifting power china lic/shifting power china lic.pdf](http://www.brookings.edu/~/media/Research/Files/Articles/2012/9/shifting%20power%20china%20lic/shifting%20power%20china%20lic.pdf)

Over the past decade, overseas China analysts have tended to characterize the Chinese authoritarian political system as “resilient” and “strong.”2 According to their logic, the Chinese Communist Party (CCP) seems to have found a sustainable way to maintain its rule over its fast-growing economy. In the view of these foreign observers, China’s increasing national strength, growing societal diversity, and emerging intra-Party checks and balances are factors that strengthen rather than undermine CCP rule.3 In general, this perspective tends to underestimate the vulnerability of the authoritarian oneparty system. New socio-economic forces in the country pose serious challenges to the CCP’s resilient authoritarianism. Meanwhile, competing factions within the Party leadership may fail to broker the necessary deals to preserve Party unity. Some of the fundamental flaws of the Chinese political system were on display in the spring 2012 political crisis concerning Bo Xilai 薄熙来, one of the Party’s rising stars and chief of China’s largest city, Chongqing. Official corruption, for example, is unprecedented in scope and scale in contemporary China. Ironically, Bo had been a leader known for his tough stance on corruption, having spearheaded a “smashing mafia” (dahei 打黑) campaign, but now most consider him to be a kind of “head of the mafia.” Consequently, public trust in the CCP’s leadership has perhaps fallen to its lowest point in the post-Mao era. The Party has lost the moral high ground. If the allegations are shown to be true, it seems that absolutely no moral constraints were at play in the cases of Gu Kailai 谷開來(Bo’s wife), former Chongqing Police Chief Wang Lijun 王立军and Bo himself, which allegedly involved murder, assassination, torture and other abuses of power.4 Despite efforts on the part of the CCP leadership to earmark these incidents as “isolated and exceptional phenomena,” many PRC public intellectuals openly argue that rampant official corruption, especially when involving top CCP leaders’ families, exemplifies a decadent form of crony capitalism (quangui zibenzhuyi 权贵资本主义) that is more the rule than the exception in the Chinese political system.5 The Bo imbroglio is certainly not solely a reflection of his notorious egotism.6 The scandal is arguably the most serious political crisis since the 1989 Tiananmen incident and constitutes a major challenge to the legitimacy of the CCP leadership as a whole.

#### **NO Taiwan war**

Feng Tai '12, PhD in International Relations and a Fellow at The Weatherhead Center for International Affairs at Harvard, 4/30/12, "Current Cross-Strait Relations: Problems and Prospects," http://programs.wcfia.harvard.edu/files/fellows/files/feng.pdf

While a peaceful resolution may not emerge in the near term, the **long-term trends show that** the **increased ROC-PRC economic links, cultural intercourse, and** even **political contacts will contribute to** confidence-building anda reduction of mutual hostility. **The trend toward improved relations** between the two sides **has gained a** momentum that will be difficult to reverse**.** This current relationship is too important to fail. **Because of interdependence, both sides are incentivized to create win-win conditions for long-term peaceful development.** The transition of Cross-Strait relations from conflict to stability has not been easy**. The achievements of the current stage are just the beginning of peacemaking in the Taiwan Strait.** In his inaugural address in 2008, President Ma Ying-Jeou of Taiwan expressed the hope that the two sides would grasp the historic opportunity to open a new chapter of peace and co-prosperity. He emphasized the principle of “facing reality, pioneering a new future, shelving controversies, and pursuing a win-win solution.” Looking to the future, the two sides will encounter many difficult issues. As Dr. Henry Kissinger said, “ambiguity serves its purpose,” as **Taiwan and China agree to disagree on some sensitive political issues** **such as mutual non-recognition, sovereignty, and mutual non-denial of a governing authority**. In my personal view, **the two sides** of Taiwan Strait **are adhering to the principle of co-prosperity now**. Evidence for this improvement has been acknowledged by the international community. For example, earlier last year, President Obama expressed his support for the progress that has been made to reduce tensions, and, in particular, how its continuation will be in the interests of the region. President Ma reiterated these ideas in a BBC interview on June 15, 2011, by promising that his administration’s policy will foster more open, deeper, and stronger relations with China. **As further evidence of the improvement of relations with China, Taiwan has since been able to develop ties with Japan and other neighbors, reflecting a sense of goodwill.** The growing ties between the two sides may also result in the exchange of ideas that may directly and indirectly influence China and its politics in the future. **Over the past four years, both Taiwan and China have been taking a path that corresponds to the wishes of the Taiwanese people.** For instance, in November 2011, Taiwan’s MAC conducted a public opinion survey, which showed that 84.8 percent of the public support the government’s continued use of institutionalized negotiations to handle Cross-Strait issues.64 At the same time, a survey by the United Daily News on August 28, 2011 indicated that 52 percent of the Taiwanese people support maintaining the status quo indefinitely.65

### Afghanistan

#### Failed withdrawal now

James Traub 13, fellow of the Center on International Cooperation, Jan 11 2013, “Exit, Minus Strategy,” http://www.foreignpolicy.com/articles/2013/01/11/exit\_minus\_strategy?page=0,1

The exit strategy from Afghanistan increasingly looks like: exit, minus strategy. General Allen has been constantly ratcheting down the number of U.S. troops needed to remain after 2014 to carry out counterterror missions and continue training Afghan forces -- from 20,000 to 15,000 to three options at 3,000, 6,000, or 9,000 troops. But that still may be too much: Earlier this week, Benjamin Rhodes, the deputy national security advisor, said that the president may leave no troops behind at all. That was a message to Afghan President Hamid Karzai, who's now in Washington trying to make case for a larger residual U.S. presence, but also to the Pentagon. General Allen is not David Petraeus. (David Petraeus is no longer David Petraeus, for that matter.) And Obama, who must think about many things which do not enter into his generals' ken, like public opinion and the budget deficit, will make up his own mind. He is saying, in effect, that he can live with failure.¶ Is that a bad thing? In a Washington Post op-ed last November, Kimberly and Frederick Kagan, the gung-ho generals of the Institute for the Study of War, predicted that, absent a remaining force of 40,000 troops, the United States will be unable to engage in serious counterterror operations, affect the Afghan political process as the country approaches a crucial election in 2014, or engage in meaningful nation-building.¶ That may be hyperbolic, but it certainly defines what's at stake. It is, for example, extremely unlikely that Afghan forces will be able to stand on their own once U.S. troops leave. Even the Pentagon's extremely rosy December 2012 progress report concedes that only one of the Afghan National Army's 23 brigades is ready to fight on its own. And a recent article in the New York Times reports that the people of Marja district in Helmand Province, brought back to bustling life after months of bloody battle by U.S. Marines, have already resigned themselves to the return of the Taliban once American forces pack up.¶ The Obama who hopes to pivot to Asia, and to nation-building-at-home, just may not care that much anymore. I imagine that the president and his team, now thoroughly cured of the military's can-do spirit of optimism, regard reports of Afghan military readiness with as much skepticism as most of the rest of us do. They would like to keep Afghan whole after 2014, but they are no longer prepared to pay the price that may be required to do so. They are hoping -- but it's just a hope -- that they can close the door on Afghanistan as they already have on Iraq, continuing to provide billions in development assistance, budgetary support, and military training while the Afghans sort out their security and political problems on their own. Drone warfare has seriously eroded al Qaeda's ranks in Pakistan, and the war on terror has moved on to Yemen and North Africa. Even the counterterror aspect of the Afghan war has thus lost some of its urgency.

#### No Afghan spillover or cred impact

Melvin A. Goodman 9, senior fellow at the Center for International Policy and adjunct professor of government at Johns Hopkins University, “Five Myths on Afghanistan,” Oct 8 2009, http://www.truth-out.org/archive/item/86385:five-myths-on-afghanistan

Myth #3: Any loss in Afghanistan would have a domino effect in the region that would affect Pakistan, India and Iran, with the United States and NATO suffering a significant loss of credibility. The domino effect and the credibility argument represent old saws from the Vietnam era that were discredited 35 years ago and should be dismissed today. Internal political machinations in Afghanistan, even the restoration of a Taliban government in Kabul, would not have significant implications outside the country, and there is no indication that the Taliban has aspirations beyond Afghan borders. The international community has a good sense of US military capabilities, and a reduced US military footprint would not lessen the international perception of US power.

#### Great power cooperation solves stability

Hadar 11—former prof of IR at American U and Mount Vernon-College. PhD in IR from American U (1 July 2011, Leon, Saving U.S. Mideast Policy, http://nationalinterest.org/commentary/saving-us-policy-the-mideast-5556)

Indeed, contrary to the warning proponents of U.S. military intervention typically express, the withdrawal of American troops from Iraq and Afghanistan would not necessarily lead to more chaos and bloodshed in those countries. Russia, India and Iran—which supported the Northern Alliance that helped Washington topple the Taliban—and Pakistan (which once backed the Taliban) all have close ties to various ethnic and tribal groups in that country and now have a common interest in stabilizing Afghanistan and containing the rivalries.

#### Doesn’t spill over

Finel 9 [Dr. Bernard I. Finel, an Atlantic Council contributing editor, is a senior fellow at the American Security Project, “Afghanistan is Irrelevant,” Apr 27 http://www.acus.org/new\_atlanticist/afghanistan-irrelevant]

Fourth, we are now told that defeating the Taliban in Afghanistan is imperative in order to help stabilize Pakistan. But, most observers seem to think that Pakistan is in worse shape now — with the Taliban out of power and American forces in Afghanistan — than it was when the Taliban was dominant in Afghanistan. For five years from 1996 to 2001, the Taliban ruled Afghanistan and the Islamist threat to Pakistan then was unquestionably lower. This is not surprising actually. Insurgencies are at their most dangerous — in terms of threat of contagion — when they are fighting for power. The number of insurgencies that actually manage to sponsor insurgencies elsewhere after taking power is surprising low. The domino theory is as dubious in the case of Islamist movements as it was in the case of Communist expansion.

### Rendition

#### Court ILAW rulings cause massive Congressional backlash that turns the case

Eric Posner 8, professor at the University of Chicago Law School, Medellin and America's Ability To Comply With International Law, www.slate.com/content/slate/blogs/convictions/2008/03/25/medellin\_and\_america\_s\_ability\_to\_comply\_with\_international\_law.html

There is an academic theory that holds that the type of litigation (sometimes called "transnational legal process") exemplified by the Medellin case would eventually bring the United States into greater and greater compliance with international law. But with the benefit of hindsight, we see that the opposite has been the case. The U.S. government reacted to this litigation by withdrawing from the protocol that gave the ICJ jurisdiction over these cases, and the U.S. Supreme Court has reacted to this litigation by weakening the domestic effect of treaties, expressing discomfort with international adjudication and making clear that the president lacks the power to compel the states to comply with treaties. The United States will violate or withdraw from international law when its national government wants to, and sometimes it will do so even when its national government does not want to.

#### Prefer our evidence---all their scholarship rests on unproven assertions about the capacity and willingness of the Courts to restrain the Executive

Daniel Abebe & Eric A. Posner 11, Assistant Professor and Kirkland & Ellis Professor, University of Chicago Law School, The Flaws of Foreign Affairs Legalism, 51 Va. J. Int'l L. 507

Scholarship on foreign affairs law - the body of law, mainly constitutional, that governs the foreign affairs of the United States - reflects a striking divide between the courts and the academy. In the courts, the dominant judicial approach to foreign affairs law is "executive primacy" - the view that judges should defer to the executive's judgments about foreign affairs. n1 In the academy, the dominant approach is what we will call "foreign affairs legalism." Foreign affairs legalism holds that courts should impose more restrictions on the executive than they have in the past or that Congress should play a greater role in foreign affairs. This normative argument rests on two usually implicit descriptive premises: that courts and Congress have the capacity and motivation to restrain the executive, and that the courts and Congress will do so for the sake of promoting international law.

This disjunction between academic and judicial thought matters today more than it ever did in the past. The conflict with al Qaeda has generated an enormous quantity of jurisprudence, including some cases that reflect a new legalist sensibility in tension with the old commitment to executive primacy. n2 Globalization has produced more cross-border conflicts involving trade, migration, human rights, and investment - and the debate between executive primacy and foreign affairs legalism will help determine how courts handle these conflicts.

 [\*509] Despite its prominence in the academy, there is no official school of foreign affairs legalism; no single scholar explicitly defends it. Much of the foreign affairs scholarship of the last twenty years advances this account, however; but the problem is that the argument is mostly implicit. In this Article, our minimal goal is to tease out the distinctive empirical and normative assumptions of foreign affairs legalism. We also argue, more ambitiously, that foreign affairs legalism rests on unproven and inaccurate assumptions about the capacities and motivations of courts and the executive, and it reflects confusion about the nature of international law. Of particular importance, foreign affairs legalists falsely assume that the judiciary seeks to advance international law while the executive seeks to limit it.

#### Ilaw fails --- states will either inevitably cooperate, or ilaw can’t convince them to

Eric A. Posner 9, Kirkland and Ellis Professor of Law at the University of Chicago Law School. The Perils of Global Legalism, 34-6

34 ¶ Most global legalists acknowledge that international law is created and enforced by states. They believe that states are willing to expand international law along legalistic lines because states’ long-term interests lie in solving global collective action problems. In the absence of a world govern- ment or other forms of integration, international law seems like the only way for states to solve these problems. The great difﬁculty for the global legalist is explaining why, if states create and maintain international law, they will also not break it when they prefer to free ride. In the absence of an enforcement mechanism, what ensures that states that create law and legal institutions that are supposed to solve global collective action prob- lems will not ignore them? ¶ For the rational choice theorist, the answer is plain: states cannot solve global collective action problems by creating institutions that themselves depend on global collective action. This is not to say that international law is not possible at all. Certainly, states can cooperate by threatening to retaliate against cheaters, and where international problems are matters of coordination rather than conﬂ ict, international law can go far, indeed.7 But if states (or the individuals who control states) cannot create a global government or q uasi-g overnment institutions, then it seems unlikely that they can solve, in spontaneous fashion, the types of problems that, at the national level, require the action of governments. ¶ Global legalists are not enthusiasts for rational choice theory and have ¶ 35¶ grappled with this problem in other ways.8 I will criticize their attempts in chapter 3. Here I want to focus on one approach, which is to insist that just as individuals can be loyal to government, so too can individuals (and their governments) be loyal to international law and be willing to defer to its requirements even when self-i nterest does not strictly demand that they do so. International law has force because (or to the extent that) it is legitimate.9 ¶ What makes governance or law legitimate? This is a complicated ques- tion best left to philosophers, but a simple and adequate point for present purposes is that no system of law will be perceived as legitimate unless those governed by that law believe that the law does good — serves their interests or respects and enforces their values. Perhaps more is required than this — such as political participation, for example — but we can treat the ﬁ rst condition as necessary if not sufﬁ cient. If individuals believe that a system of law does not advance their interests and respect their values, that instead it advances the interests of others or is dysfunctional and helps no one at all, they will not believe that the law is legitimate and will not voluntarily submit to its authority. ¶ Unfortunately, international law does not satisfy this condition, mainly because of its institutional weaknesses; but of course, its institutional weaknesses stem from the state system — states are not willing to tolerate powerful international agencies. In classic international law, states enjoy sovereign equality, which means that international law cannot be created unless all agree, and that international law binds all states equally. What this means is that if nearly everyone in the world agrees that some global legal instrument would be beneﬁ cial (a climate treaty, the UN charter), it can be blocked by a tiny country like Iceland (population 300,000) or a dictatorship like North Korea. What is the attraction of a system that puts a tiny country like Iceland on equal footing with China? When then at- torney general Robert Jackson tried to justify American aid for Britain at the onset of World War II on the grounds that the Nazi Germany was the aggressor, international lawyers complained that the United States could not claim neutrality while providing aid to a belligerent — there was no such thing as an aggressor in international law.10 Nazi Germany had not agreed to such a rule of international law; therefore, such a rule could not exist. Only through the destruction of Nazi Germany could international law be changed; East and West Germany could reenter international so-¶ 36¶ ciety only on other people’s terms. How could such a system be perceived to be legitimate? ¶ There is, of course, a reason why international law works in this fash- ion. Because no world government can compel states to comply with inter- national law, states will comply with international law only when doing so is in their interest. In this way, international law always depends on state consent. So international law must take states as they are, which means that little states, big states, good states, and bad states, all exist on a plane of equality. ¶

#### Judicial incorporation of ILAW to restrict the President spills-over, hamstrings flexibility and kills the US democratic model---\*\*\*the link’s unique because current court enforcement of ILAW is based on Congressionally authorized statues

John O. McGinnis 7, Professor of Law, Northwestern University School of Law. \*\* Ilya Somin \*\* Assistant Professor of Law, George Mason University School of Law. GLOBAL CONSTITUTIONALISM: GLOBAL INFLUENCE ON U.S. JURISPRUDENCE: Should International Law Be Part of Our Law? 59 Stan. L. Rev. 1175

As globalization runs its course, the domestic world is becoming full of international law. One of the mechanisms by which international law penetrates domestic law is largely unproblematic: our own political actors - Congress and the President through statutes, or the Senate and President through treaties - can incorporate international law into the domestic legal order. But international law now may enter into the domestic sphere in more controversial ways. First, some Supreme Court Justices have suggested that the Court should use international law as a source for construing the U.S. Constitution, and the Court itself has begun to use this interpretative strategy to a limited degree. n1 Such constructions could lead to the invalidation of domestic laws. Second, [\*1177] advocates of customary international law argue for its direct incorporation into domestic law in order to constrain federal and state governments. n2 Finally, others suggest that important domestic statutes be construed in light of customary international law, even if such interpretations prevent the President and his subordinates from exercising otherwise lawful discretionary authority. n3

We use the term "raw international law" to denote this latter kind of international law, which has not been endorsed by the domestic political process. Raw international law is distinguished from "domesticated international law," which our political branches have expressly made part of our law through the legislative process; as when the President and Senate enact treaties or when Congress by statute decides to incorporate norms of customary international law into American law.

The penetration of raw international law into the domestic sphere has led to extensive debate over the desirability of this development. n4 But the existing literature has largely neglected a major disadvantage of international law relative to domestic law: the lack of democratic control over its content. We call this the "democracy deficit" of international law. n5 This Article is the first to comprehensively analyze the democracy deficit. Finding that a serious democracy deficit exists, it also shows that the processes that generate international law do not make up for the deficit through other procedural virtues. n6

 [\*1178] Our reason for focusing on the democracy deficit is straightforward: as we discuss at greater length below, democracy is the political process most likely to generate beneficial norms. n7 Even if democratic control is only one of several normative standards by which to judge the desirability of international law, n8 it remains central to any analysis of its consequences. Holding constant other considerations, if international law has a comparative democracy deficit, this deficit substantially reduces its attractiveness relative to domestic law. If international law suffers from a democracy deficit relative to domestic law, and there is no other compelling process justification to compensate for this defect, the burden of proof shifts to those who would like to use international law to displace domestic law and constrain domestic political actors.

We then review a broad range of doctrinal arguments defending the incorporation of raw international law into domestic jurisprudence. We conclude that the low quality of the political processes generating international law provides a strong argument against allowing raw international law to become part of domestic law in any respect. Not only does the democracy deficit undermine the utility of raw international law for Americans, n9 it also undermines it for foreigners. American law, by contrast, is not only likely to be beneficial for Americans because of its democratic origin, but in many areas is also likely to benefit foreigners. Because of the position of the United States as the dominant economic and military power in the international system, it has strong incentives to provide international public goods that benefit foreigners as well as Americans. In some situations, it even has incentives to provide "private goods" for foreigners as well.

The aftermath of the Supreme Court's decision in Hamdan v. Rumsfeld n10 is likely to make the question of the status of raw international law in domestic jurisprudence even more salient. In Hamdan, the Court relied on international law to hold that the President lacked the authority to establish military commissions to try prisoners held at Guantanamo Bay for war crimes. But it invoked international law only because it held that Article 21 of the Uniform [\*1179] Code of Military Justice - a statute enacted by Congress - conditioned the use of the tribunal on compliance with international law. n11 Thus, the Court relied on domesticated international law, not raw international law, in reaching its decision.

But confining reliance on international law to that which is endorsed by the political branches is unlikely to resolve the issues relating to the War on Terror set to arise in the wake of Hamdan outside the context of military commissions. Examples of areas in which scholars have accused the Bush Administration of violating international law include the rendition of suspects, n12 the legality of preemptive war, n13 and the treatment of detainees. n14 Moreover, the relevance of international law is not limited to the War on Terror. Emerging international law norms on a wide range of issues, such as hate speech, n15 the death penalty, n16 and labor unions, n17 may conflict with domestic legal norms. Applying raw international law to create domestic rules of decision would have ever farther-reaching consequences as the scope of international law grows.

In concluding that raw international law should not displace domestic law because of its substantial democracy deficit, we provide a new justification for "dualism" - the proposition that international law and domestic law control only their respective legal spheres. n18 Because American law derives from a political process and geopolitical position that is likely to benefit both Americans and foreigners more than raw international law, we also show that [\*1180] strict dualism is particularly suitable for the legal regime of a modern democratic superpower. n19

To argue in favor of strict dualism, however, does not commit us to any particular distribution of power among the branches of the U.S. government. Our conclusions are distinct from those of Bush Administration supporters who claim that the President should have nearly unlimited power to interpret or ignore international law as he sees fit. n20 To the extent that international law is incorporated into domestic law through treaty ratification or enactment in a congressional statute, we see no reason to give the President unlimited authority to set it aside, or even very substantial interpretative deference. Treaty ratification by the Senate or incorporation of international law by statute cures the democracy deficit that we find in raw international law. And nothing in our approach prevents the political branches from incorporating international law into our law through treaty or statute.

In Part I, we review the principal reasons for the rise of raw international law. First, international law may be a solution to the growing coordination problems caused by global spillover effects. Second, with the demise of totalitarianism, the belief that all people everywhere have rights has given rise to a notion of universalism, and international law seems the natural mechanism to implement universal rules. Third, raw international law may be part of a worldwide trend by which elites seek to develop legal mechanisms to restrain democracy. These powerful impetuses for raw international law are likely to endure, making the status of such law a central legal question for the rest of this century.

We then describe the different doctrinal categories in which raw international law may find expression. First, raw international law may be used as a source of authority to aid in the construction of the U.S. Constitution. Second, it may cross into the domestic sphere as customary international law binding on states, the President, and even on Congress. Third, customary international law may be used as a canon of construction for statutes. Even as an interpretative principle, international law may exercise substantial power within domestic law by limiting the President's otherwise lawful discretion and requiring Congress to provide clear statements to avoid its strictures. In all these areas, doctrinal disputes have eluded textual or historical resolution, making a fresh pragmatic approach all the more useful. n21

 [\*1181] Part II presents a comprehensive analysis of the democracy deficit of raw international law. The deficit is inherent in the political processes that "make" international legal rules. Since the Treaty of Westphalia, international law has been constructed from the actions of nation-states, many of which are far from democratic.

Second, according to most theories of international law generation, nation-states do not explicitly agree on many principles that are deemed customary international law. Instead, these rules are inferred from state actions by publicists - such as international law professors - and international courts. Both of these groups are highly unrepresentative and not subject to democratic control, thereby exacerbating the democracy deficit.

Third, customary international law suffers from the problem of the "dead hand." Because of the requirement that international law be made by consensus, our generation finds it difficult to change past international law to meet new conditions, which further reduces the law's quality. Fourth, because international law is more opaque to citizens than domestic law, we argue that it has comparatively high agency costs, reducing its quality and permitting insiders to manipulate it to their advantage. In the long run, international law with global application may also undermine democratic control of government by diminishing the scope of "exit rights," which enable citizens to "vote with their feet" by emigrating from nations with harmful or oppressive policies. n22 Part II ends by focusing on other potential process justifications for international law, including custom and the common law. We show that the processes generating raw international law lack the advantages of the common law or custom that might in the domestic context compensate for a democracy deficit.

Part III discusses how the process defects in the generation of international law militate against its use in interpreting the Constitution, construing statutes, or adopting customary international law as a domestic rule of decision. In particular, we discuss in detail the way in which the low quality of the processes for generating international law counts against using it to displace the decisions of political branches, including Congress, the President, and state legislatures.

Part IV addresses the argument that incorporation of international law into the domestic sphere is necessary to serve the interests of the people of the [\*1182] world as a whole, even if it does not serve the parochial interests of Americans. Even if valid, this claim still does not justify its use in the many cases where U.S. domestic law does not create significant externalities. Defenders of raw international law have claimed that it should displace domestic law even in many situations where there are no real spillover effects. By reaching into areas without substantial negative externalities, international law may actually harm the people of the world by undermining the benefits of international diversity and migration.

But even in situations where externalities are possible, international law may do more harm than good if it is worse than the U.S. law it displaces. U.S. domestic law may in fact be better for the citizens of the world even in spite of externalities. Because of its dominant position in the world economy, the United States has strong incentives to provide both public and private goods for foreign citizens and thus is likely to generate legal norms that facilitate such goods. At the very least, it has better incentives to do so than do the political elites who create raw international law. Foreigners as well as Americans are likely to be better off if we do not allow raw international law to override our domestic legal rules.

#### ILaw crushes heg

David Rivkin 2k, partner in the law firm of Baker & Hostetler, LLP, and was Deputy Director, Office of Policy Development, U.S. Department of Justice, and served in the White House Counsel’s Office, David and Lee A. Casey—served in the Office of Legal Counsel in the U.S. Department of Justice, The Rocky Shoals of International Law, Winter 2000, http://findarticles.com/p/articles/mi\_m2751/is\_2000\_Winter/ai\_68547471/

Second, as a practical matter, the new international law has the potential to undermine American leadership in the post-Cold War global system. Even more fundamentally, international law may well make the world safe for aggression, by imposing undue constraints on those countries that are willing to use force to deter and punish it. Although, as noted above, the new international law has a number of manifestations, those elements dealing with the use of military force, and the potential consequences for individual American officials who order or implement its use, are the most advanced and pernicious. As the world's pre-eminent military power, with global interests and responsibilities, the United States should be very concerned about any effort to create international judicial institutions capable of prosecuting individual soldiers, officers and elected officials in the chain of command. The international criminal "norms" applied in these courts, both in the ad hoc criminal courts for the former Yugoslavia and Rwanda and in the International Criminal Court, are ambiguous in their meaning and remarkably fluid in their application. For example, one of the "war crimes prosecutable in the ICC is defined as [i]ntentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated. Whether any particular attack causes "excessive" civilian injuries or environmental damage is very much a matter of opinion. This is, in fact, a crime that can be tailored to fit almost any circumstances, as was all but openly acknowledged by the prosecutor's office of the Yugoslav tribunal during its investigation of alleged NATO war crimes. This investigation was undertaken after a number of NGOs complained that NATO's 1999 air campaign against Serbia resulted in too many civilian deaths. As candidly noted in [t]he answers to these questions [regarding allegedly excessive civilian casualties] are not simple. It may be necessary to resolve them on a case by case basis, and the answers may differ depending on the background and values of the decision-maker. It is unlikely that a human rights lawyer and an experienced combat commander would assign the same relative values to military advantage and to injury to noncombatants. Further, it is unlikely that military commanders with different doctrinal backgrounds and differing degrees of combat experience or national military histories would always agree in close cases. [4] The key underlying problem here is that injuries to noncombatants and their property--so-called "collateral damage"--are an endemic consequence of combat. As a result, the traditional law of war, jus in hello, although proscribing certain hostile actions toward civilians, eschewed overly rigid rules on collateral damage. Unfortunately, instead of continuing to rely on the broad, traditional jus in hello principles of proportionality and discrimination, the new norms have come to resemble American domestic regulatory law. These rules are overly prescriptive and proscriptive, to such an extent that ensuring full compliance has become almost impossible. This is particularly the case because the new international law seems to suggest that zero civilian casualties and no collateral damage are not only attainable outcomes in modern combat, but that these should be the norm. The combination of the unrealistic norms and unaccountable judicial bodies that would apply them is particularly problematic. The American military is particularly vulnerable here. This is because U.S. military doctrine has always been attrition-oriented, emphasizing the intensive application of firepower and the use of "decisive force." It is inevitable that damage to civilian sites, and civilian casualties, will result. This is all the more likely given the growing American aversion to combat casualties, which forces our military commanders to rely more and more on air strikes and missile attacks. This raises the real possibility that American soldiers and officials will be considered subject to prosecution, even in situations where the intervention has been "humanitarian" in character, as with the air campaign against Serbia. Significantly, while no prosecutions against NATO officials are currently planned, even the relatively tame Yugoslav tribunal did not give the alliance a clean bill of health. Indeed, the prosecutor's office declined to bring indictments, not because it concluded that no crimes were committed by NATO, but because "[i]n all cases, either the law is not sufficiently clear or investigations are unlikely to result in the acquisition of sufficient evidence to substantiate charges against high level accused or against lower accused for particularly heinous offenses." Future outcomes in the permanent ICC, a court that will be less dependent upon U.S. and NATO largesse than is the Yugoslav tribunal, may be very different. And the fact that the United States has not signed, and would not ratify, the ICC treaty will not prevent the ICC from pursuing Americans. The court claims to exercise a form of "universal jurisdiction" that will allow it to prosecute American citizens when their actions, or the effects of their ac tions, take place on the territory of a state that has signed the ICC treaty. Moreover, the danger here is not limited to the potential actions of the ICC. Based on the "universal jurisdiction" theory--which suggests that any state can prosecute international humanitarian violations wherever they occur, whether or not that state's own citizens are involved--any state, or even a low-level foreign magistrate, can begin a prosecution against American military or civilian officials. This was, of course, the case with the former Chilean dictator, Augusto Pinochet, who traveled to England for medical treatment in 1998, and was very nearly extradited to Spain to stand trial for his actions during his rule in Chile. Overall, there is no doubt that, insofar as they can successfully claim the right to prosecute military and civilian leaders for violations of the laws of war and international humanitarian norms, international judicial bodies and interested states will be able effectively to shape American policy. An American president would be far less likely to use force if there were a genuine possibility that U.S. soldiers or officials, including himself, would face future prosecution in a foreign court. Both our allies and our adversaries fully understand the importance of molding the new international law to fit their needs, and its power as an effective weapon against the United States. Examples of this phenomenon are not difficult to find. Human rights activists, of course, have frequently made exaggerated claims that pre-existing international humanitarian norms require fundamental changes in U.S. foreign and domestic policy. States are also increasingly using the language of law as a means of shaping U.S. policy. In one of the most boldly cynical examples of this phenomenon, the People's Republic of China--desperate to prevent American deployment of even a limited anti-ballistic missile defense--has asserted that the 1972 Anti-Ballistic Missile Treaty between the United States and the Soviet Union remains in force (even though the Soviet Union disappeared a decade ago), and that it cannot be terminated by the United States because that treaty has assumed the status of "customary" international law.

#### Heg decline causes nuclear war---best IR theory proves our link and our impact

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

A core premise of deep engagement is that it prevents the emergence of a far more dangerous global security environment. For one thing, as noted above, the United States’ overseas presence gives it the leverage to restrain partners from taking provocative action. Perhaps more important, its core alliance commitments also deter states with aspirations to regional hegemony from contemplating expansion and make its partners more secure, reducing their incentive to adopt solutions to their security problems that threaten others and thus stoke security dilemmas. The contention that engaged U.S. power dampens the baleful effects of anarchy is consistent with influential variants of realist theory. Indeed, arguably the scariest portrayal of the war-prone world that would emerge absent the “American Pacifier” is provided in the works of John Mearsheimer, who forecasts dangerous multipolar regions replete with security competition, arms races, nuclear proliferation and associated preventive war temptations, regional rivalries, and even runs at regional hegemony and full-scale great power war. 72 How do retrenchment advocates, the bulk of whom are realists, discount this benefit? Their arguments are complicated, but two capture most of the variation: (1) U.S. security guarantees are not necessary to prevent dangerous rivalries and conflict in Eurasia; or (2) prevention of rivalry and conflict in Eurasia is not a U.S. interest. Each response is connected to a different theory or set of theories, which makes sense given that the whole debate hinges on a complex future counterfactual (what would happen to Eurasia’s security setting if the United States truly disengaged?). Although a certain answer is impossible, each of these responses is nonetheless a weaker argument for retrenchment than advocates acknowledge. The first response flows from defensive realism as well as other international relations theories that discount the conflict-generating potential of anarchy under contemporary conditions. 73 Defensive realists maintain that the high expected costs of territorial conquest, defense dominance, and an array of policies and practices that can be used credibly to signal benign intent, mean that Eurasia’s major states could manage regional multipolarity peacefully without the American pacifier. Retrenchment would be a bet on this scholarship, particularly in regions where the kinds of stabilizers that nonrealist theories point to—such as democratic governance or dense institutional linkages—are either absent or weakly present. There are three other major bodies of scholarship, however, that might give decisionmakers pause before making this bet. First is regional expertise. Needless to say, there is no consensus on the net security effects of U.S. withdrawal. Regarding each region, there are optimists and pessimists. Few experts expect a return of intense great power competition in a post-American Europe, but many doubt European governments will pay the political costs of increased EU defense cooperation and the budgetary costs of increasing military outlays. 74 The result might be a Europe that is incapable of securing itself from various threats that could be destabilizing within the region and beyond (e.g., a regional conflict akin to the 1990s Balkan wars), lacks capacity for global security missions in which U.S. leaders might want European participation, and is vulnerable to the influence of outside rising powers. What about the other parts of Eurasia where the United States has a substantial military presence? Regarding the Middle East, the balance begins to swing toward pessimists concerned that states currently backed by Washington— notably Israel, Egypt, and Saudi Arabia—might take actions upon U.S. retrenchment that would intensify security dilemmas. And concerning East Asia, pessimism regarding the region’s prospects without the American pacifier is pronounced. Arguably the principal concern expressed by area experts is that Japan and South Korea are likely to obtain a nuclear capacity and increase their military commitments, which could stoke a destabilizing reaction from China. It is notable that during the Cold War, both South Korea and Taiwan moved to obtain a nuclear weapons capacity and were only constrained from doing so by a still-engaged United States. 75 The second body of scholarship casting doubt on the bet on defensive realism’s sanguine portrayal is all of the research that undermines its conception of state preferences. Defensive realism’s optimism about what would happen if the United States retrenched is very much dependent on its particular—and highly restrictive—assumption about state preferences; once we relax this assumption, then much of its basis for optimism vanishes. Specifically, the prediction of post-American tranquility throughout Eurasia rests on the assumption that security is the only relevant state preference, with security defined narrowly in terms of protection from violent external attacks on the homeland. Under that assumption, the security problem is largely solved as soon as offense and defense are clearly distinguishable, and offense is extremely expensive relative to defense. Burgeoning research across the social and other sciences, however, undermines that core assumption: states have preferences not only for security but also for prestige, status, and other aims, and they engage in trade-offs among the various objectives. 76 In addition, they define security not just in terms of territorial protection but in view of many and varied milieu goals. It follows that even states that are relatively secure may nevertheless engage in highly competitive behavior. Empirical studies show that this is indeed sometimes the case. 77 In sum, a bet on a benign postretrenchment Eurasia is a bet that leaders of major countries will never allow these nonsecurity preferences to influence their strategic choices. To the degree that these bodies of scholarly knowledge have predictive leverage, U.S. retrenchment would result in a significant deterioration in the security environment in at least some of the world’s key regions. We have already mentioned the third, even more alarming body of scholarship. Offensive realism predicts that the withdrawal of the American pacifier will yield either a competitive regional multipolarity complete with associated insecurity, arms racing, crisis instability, nuclear proliferation, and the like, or bids for regional hegemony, which may be beyond the capacity of local great powers to contain (and which in any case would generate intensely competitive behavior, possibly including regional great power war). Hence it is unsurprising that retrenchment advocates are prone to focus on the second argument noted above: that avoiding wars and security dilemmas in the world’s core regions is not a U.S. national interest. Few doubt that the United States could survive the return of insecurity and conflict among Eurasian powers, but at what cost? Much of the work in this area has focused on the economic externalities of a renewed threat of insecurity and war, which we discuss below. Focusing on the pure security ramifications, there are two main reasons why decisionmakers may be rationally reluctant to run the retrenchment experiment. First, overall higher levels of conflict make the world a more dangerous place. Were Eurasia to return to higher levels of interstate military competition, one would see overall higher levels of military spending and innovation and a higher likelihood of competitive regional proxy wars and arming of client states—all of which would be concerning, in part because it would promote a faster diffusion of military power away from the United States. Greater regional insecurity could well feed proliferation cascades, as states such as Egypt, Japan, South Korea, Taiwan, and Saudi Arabia all might choose to create nuclear forces. 78 It is unlikely that proliferation decisions by any of these actors would be the end of the game: they would likely generate pressure locally for more proliferation. Following Kenneth Waltz, many retrenchment advocates are proliferation optimists, assuming that nuclear deterrence solves the security problem. 79 Usually carried out in dyadic terms, the debate over the stability of proliferation changes as the numbers go up. Proliferation optimism rests on assumptions of rationality and narrow security preferences. In social science, however, such assumptions are inevitably probabilistic. Optimists assume that most states are led by rational leaders, most will overcome organizational problems and resist the temptation to preempt before feared neighbors nuclearize, and most pursue only security and are risk averse. Confidence in such probabilistic assumptions declines if the world were to move from nine to twenty, thirty, or forty nuclear states. In addition, many of the other dangers noted by analysts who are concerned about the destabilizing effects of nuclear proliferation—including the risk of accidents and the prospects that some new nuclear powers will not have truly survivable forces—seem prone to go up as the number of nuclear powers grows. 80 Moreover, the risk of “unforeseen crisis dynamics” that could spin out of control is also higher as the number of nuclear powers increases. Finally, add to these concerns the enhanced danger of nuclear leakage, and a world with overall higher levels of security competition becomes yet more worrisome. The argument that maintaining Eurasian peace is not a U.S. interest faces a second problem. On widely accepted realist assumptions, acknowledging that U.S. engagement preserves peace dramatically narrows the difference between retrenchment and deep engagement. For many supporters of retrenchment, the optimal strategy for a power such as the United States, which has attained regional hegemony and is separated from other great powers by oceans, is offshore balancing: stay over the horizon and “pass the buck” to local powers to do the dangerous work of counterbalancing any local rising power. The United States should commit to onshore balancing only when local balancing is likely to fail and a great power appears to be a credible contender for regional hegemony, as in the cases of Germany, Japan, and the Soviet Union in the midtwentieth century. The problem is that China’s rise puts the possibility of its attaining regional hegemony on the table, at least in the medium to long term. As Mearsheimer notes, “The United States will have to play a key role in countering China, because its Asian neighbors are not strong enough to do it by themselves.” 81 Therefore, unless China’s rise stalls, “the United States is likely to act toward China similar to the way it behaved toward the Soviet Union during the Cold War.” 82 It follows that the United States should take no action that would compromise its capacity to move to onshore balancing in the future. It will need to maintain key alliance relationships in Asia as well as the formidably expensive military capacity to intervene there. The implication is to get out of Iraq and Afghanistan, reduce the presence in Europe, and pivot to Asia— just what the United States is doing. 83 In sum, the argument that U.S. security commitments are unnecessary for peace is countered by a lot of scholarship, including highly influential realist scholarship. In addition, the argument that Eurasian peace is unnecessary for U.S. security is weakened by the potential for a large number of nasty security consequences as well as the need to retain a latent onshore balancing capacity that dramatically reduces the savings retrenchment might bring. Moreover, switching between offshore and onshore balancing could well be difªcult. Bringing together the thrust of many of the arguments discussed so far underlines the degree to which the case for retrenchment misses the underlying logic of the deep engagement strategy. By supplying reassurance, deterrence, and active management, the United States lowers security competition in the world’s key regions, thereby preventing the emergence of a hothouse atmosphere for growing new military capabilities. Alliance ties dissuade partners from ramping up and also provide leverage to prevent military transfers to potential rivals. On top of all this, the United States’ formidable military machine may deter entry by potential rivals. Current great power military expenditures as a percentage of GDP are at historical lows, and thus far other major powers have shied away from seeking to match top-end U.S. military capabilities. In addition, they have so far been careful to avoid attracting the “focused enmity” of the United States. 84 All of the world’s most modern militaries are U.S. allies (America’s alliance system of more than sixty countries now accounts for some 80 percent of global military spending), and the gap between the U.S. military capability and that of potential rivals is by many measures growing rather than shrinking. 85

# 2NC

### Impact

#### US adventurism/crisis containment causes extinction

Spanos 8 [William V. Spanos, Distinguished Professor of English at Binghamton University, State University of New York, 2008, American Exceptionalism in the Age of Globalization: The Specter of Vietnam, Published by SUNY Press, ISBN 0791472892, p. ix-x]

In this book I contend that the consequence of America's intervention and conduct of the war in Vietnam was the self-destruction of the ontological, cultural, and political foundations on which America had perennially justified its “benign" self-image and global practice from the time of the Puritan "errand in the wilderness." In the aftermath of the defeat of the American Goliath by a small insurgent army, the "specter" of Vietnam—by which I mean, among other things, the violence, bordering on genocide, America perpetrated against an "Other" that refused to accommodate itself to its mission in the wilderness of Vietnam—came to haunt America as a contradiction that menaced the legitimacy of its perennial self-representation as the exceptionalist and "redeemer nation." In the aftermath of the Vietnam War, the dominant culture in America (including the government, the media, Hollywood, and even educational institutions) mounted a massive campaign to "forget Vietnam." This relentless recuperative momentum to lay the ghost of that particular war culminated in the metamorphosis of an earlier general will to "heal the wound” inflicted on the American national psyche, into the "Vietnam syndrome"; that is, it transformed a healthy debate over the idea of America into a national neurosis. This monumentalist initiative was aided by a series of historical events between 1989 and 1991 that deflected the American people's attention away from the divisive memory of the Vietnam War and were represented by the dominant culture as manifestations of the global triumph of "America": Tiananmen Square, the implosion of the Soviet Union, and the first Gulf War. This "forgetting" of the actual history of the Vietnam War, represented in this book by Graham Greene's The Quiet American, Philip Caputo's A Rumor of War, and Tim O’Brien's Going After Cacciato (and many other novels, memoirs, and films to which I refer parenthetically), contributed to the rise of neoconservatism and the religious right to power in the United States. And it provided the context for the renewal of America's exceptionalist errand in the global wilderness, now understood, as the conservative think tank the Project for the New American [end page ix] Century put it long before the invasion of Afghanistan and Iraq, as the preserving and perpetuation of the Pax Americana. Whatever vestigial memory of the Vietnam War remained after this turn seemed to be decisively interred with Al Qaeda's attacks on the World Trade Center and the Pentagon on September 11, 2001. Completely immune to dissent, the confident American government, under President George W. Bush and his neoconservative intellectual deputies—and with the virtually total support of the America media—resumed its errand in the global wilderness that had been interrupted by the specter of Vietnam. Armed with a resurgence of self-righteous indignation and exceptionalist pride, the American government, indifferent to the reservations of the "Old World," unilaterally invaded Afghanistan and, then, after falsifying intelligence reports about Saddam Hussein's nuclear capability, Iraq, with the intention, so reminiscent of its (failed) attempts in Vietnam, of imposing American-style democracy on these alien cultures. The early representation by the media of the immediately successful "shock and awe" acts of arrogant violence in the name of “civilization" was euphoric. They were, it was said, compelling evidence not only of the recuperation of American consensus, but also of the rejuvenation of America's national identity. But as immediate "victory" turned into an occupation of a world unwilling to be occupied, and the American peace into an insurgency that now verges on becoming a civil war, the specter of Vietnam, like the Hydra in the story of Hercules, began to reassert itself: the unidentifiability or invisibility of the enemy, their refusal to be answerable to the American narrative, quagmire, military victories that accomplished nothing, search and destroy missions, body counts, the alienation of allies, moral irresolution, and so on. It is the memory of this "Vietnam”—this specter that refuses to be accommodated to the imperial exceptionalist discourse of post-Vietnam America—that my book is intended to bring back to presence. By retrieving a number of representative works that bore acute witness, even against themselves, to the singularity of a war America waged against a people seeking liberation from colonial rule and by reconstellating them into the post-9/11 occasion, such a project can contribute a new dimension not only to that shameful decade of American history, but also, and more important, to our understanding of the deeply backgrounded origins of America's “war on terror" in the aftermath of the Al Qaeda attacks. Indeed, it is my ultimate purpose in this book to provide directives for resisting an American momentum that threatens to destabilize the entire planet, if not to annihilate the human species itself, and also for rethinking the very idea of America.

### Framework---2NC

#### Critical intellectualism key to solve extinction---it outweighs the benefits of “policy relevance”

**Jones 99**—IR, Aberystwyth (Richard, “6. Emancipation: Reconceptualizing Practice,” Security, Strategy and Critical Theory, http://www.ciaonet.org/book/wynjones/wynjones06.html, AMiles)

The central political task of the intellectuals is to aid in the construction of a counterhegemony and thus undermine the prevailing patterns of discourse and interaction that make up the currently dominant hegemony. **This** task **is accomplished through educational activity**, because, as Gramsci argues, “every relationship of ‘hegemony’ is necessarily a pedagogic relationship” (Gramsci 1971: 350). Discussing the relationship of the “philosophy of praxis” to political practice, Gramsci claims: It [the theory] does not tend to leave the “simple” in their primitive philosophy of common sense, but rather to lead them to a higher conception of life. If it affirms the need for contact between intellectuals and “simple” it is not in order to restrict scientific activity and preserve unity at the low level of the masses, but precisely in order to construct an intellectual–moral bloc which can make politically possible the intellectual progress of the mass and not only of small intellectual groups. (Gramsci 1971: 332–333) According to Gramsci, this attempt to construct an alternative “intellectual–moral bloc” should take place under the auspices of the Communist Party—a body he described as the “modern prince.” Just as Niccolò Machiavelli hoped to see a prince unite Italy, rid the country of foreign barbarians, and create a virtù–ous state, Gramsci believed that the modern prince could lead the working class on its journey toward its revolutionary destiny of an emancipated society (Gramsci 1971: 125–205). Gramsci’s relative optimism about the possibility of progressive theorists playing a constructive role in emancipatory political practice was predicated on his belief in the existence of a universal class (a class whose emancipation would inevitably presage the emancipation of humanity itself) with revolutionary potential. It was a gradual loss of faith in this axiom that led Horkheimer and Adorno to their extremely pessimistic prognosis about the possibilities of progressive social change. But does a loss of faith in the revolutionary vocation of the proletariat necessarily lead to the kind of quietism ultimately embraced by the first generation of the Frankfurt School? The conflict that erupted in the 1960s between them and their more radical students suggests not. Indeed, contemporary critical theorists claim that the deprivileging of the role of the proletariat in the struggle for emancipation is actually a positive move. Class remains a very important axis of domination in society, but it is not the only such axis (Fraser 1995). Nor is it valid to reduce all other forms of domination—for example, in the case of gender—to class relations, as orthodox Marxists tend to do. To recognize these points is not only a first step toward the development of an analysis of forms of exploitation and exclusion within society that is more attuned to social reality; it is also a realization that there are other forms of emancipatory politics than those associated with class conflict. 1 This in turn suggests new possibilities and problems for emancipatory theory. Furthermore, the abandonment of faith in revolutionary parties is also a positive development. The history of the European left during the twentieth century provides myriad examples of the ways in which the fetishization of party organizations has led to bureaucratic immobility and the confusion of means with ends (see, for example, Salvadori 1990). The failure of the Bolshevik experiment illustrates how disciplined, vanguard parties are an ideal vehicle for totalitarian domination (Serge 1984). Faith in the “infallible party” has obviously been the source of strength and comfort to many in this period and, as the experience of the southern Wales coalfield demonstrates, has inspired brave and progressive behavior (see, for example, the account of support for the Spanish Republic in Francis 1984). But such parties have so often been the enemies of emancipation that they should be treated with the utmost caution. Parties are necessary, but their fetishization is potentially disastrous. History furnishes examples of progressive developments that have been positively influenced by organic intellectuals operating outside the bounds of a particular party structure (G. Williams 1984). Some of these developments have occurred in the particularly intractable realm of security. These examples may be considered as “resources of hope” for critical security studies (R. Williams 1989). They illustrate that ideas are important or, more correctly, that change is the product of the dialectical interaction of ideas and material reality. One clear security–related example of the role of critical thinking and critical thinkers in aiding and abetting progressive social change is the experience of the peace movement of the 1980s. At that time the ideas of dissident defense intellectuals (the “alternative defense” school) encouraged and drew strength from peace activism. Together they had an effect not only on short–term policy but on the dominant discourses of strategy and security**, a far more important result in the long run.** The synergy between critical security intellectuals and critical social movements and the potential influence of both working in tandem can be witnessed particularly clearly in the fate of common security. As Thomas Risse–Kappen points out, the term “common security” originated in the contribution of peace researchers to the German security debate of the 1970s (Risse–Kappen 1994: 186ff.); it was subsequently popularized by the Palme Commission report (Independent Commission on Disarmament and Security Issues 1982). Initially, mainstream defense intellectuals dismissed the concept as hopelessly idealistic; it certainly had no place in their allegedly hardheaded and realist view of the world. However, notions of common security were taken up by a number of different intellectual communities, including the liberal arms control community in the United States, Western European peace researchers, security specialists in the center–left political parties of Western Europe, and Soviet “institutchiks”—members of the influential policy institutes in the Soviet Union such as the United States of America and Canada Institute (Landau 1996: 52–54; Risse–Kappen 1994: 196–200; Kaldor 1995; Spencer 1995). These communities were subsequently able to take advantage of public pressure exerted through social movements in order to gain broader acceptance for common security. In Germany, for example, “in response to social movement pressure, German social organizations such as churches and trade unions quickly supported the ideas promoted by peace researchers and the SPD” (Risse–Kappen 1994: 207). Similar pressures even had an effect on the Reagan administration. As Risse–Kappen notes: When the Reagan administration brought hard–liners into power, the US arms control community was removed from policy influence. It was the American peace movement and what became known as the “freeze campaign” that revived the arms control process together with pressure from the European allies. (Risse–Kappen 1994: 205; also Cortright 1993: 90–110) Although it would be difficult to sustain a claim that the combination of critical movements and **intellectuals** persuaded the Reagan government to adopt the rhetoric and substance of common security in its entirety, it is clear that it did at least **have a substantial impact on ameliorating U.S. behavior.** The most dramatic and certainly the most unexpected impact of alternative defense ideas was felt in the Soviet Union. Through various East–West links, which included arms control institutions, Pugwash conferences, interparty contacts, and even direct personal links, a coterie of Soviet policy analysts and advisers were drawn toward common security and such attendant notions as “nonoffensive defense” (these links are detailed in Evangelista 1995; Kaldor 1995; Checkel 1993; Risse–Kappen 1994; Landau 1996 and Spencer 1995 concentrate on the role of the Pugwash conferences). This group, including Palme Commission member Georgii Arbatov, Pugwash attendee Andrei Kokoshin, and Sergei Karaganov, a senior adviser who was in regular contact with the Western peace researchers Anders Boserup and Lutz Unterseher (Risse–Kappen 1994: 203), then influenced Soviet leader Mikhail Gorbachev. Gorbachev’s subsequent championing of common security may be attributed to several factors. It is clear, for example, that new Soviet leadership had a strong interest in alleviating tensions in East–West relations in order to facilitate much–needed domestic reforms (“the interaction of ideas and material reality”). But what is significant is that the Soviets’ commitment to common security led to significant changes in force sizes and postures. These in turn aided in the winding down of the Cold War, the end of Soviet domination over Eastern Europe, and even the collapse of Russian control over much of the territory of the former Soviet Union. At the present time, in marked contrast to the situation in the early 1980s, common security is part of the common sense of security discourse. As MccGwire points out, the North Atlantic Treaty Organization (NATO) (a common defense pact) is using the rhetoric of common security in order to justify its expansion into Eastern Europe (MccGwire 1997). This points to an interesting and potentially important aspect of the impact of ideas on politics. As concepts such as common security, and collective security before it (Claude 1984: 223–260), are adopted by governments and military services, they inevitably become somewhat debased. The hope is that enough of the residual meaning can survive to **shift the parameters of the debate** in a potentially progressive direction. Moreover, the adoption of the concept of common security by official circles provides critics with a useful tool for (immanently) critiquing aspects of security policy (as MccGwire 1997 demonstrates in relation to NATO expansion). The example of common security is highly instructive. First, it indicates that critical intellectuals can be politically engaged and play a role—a significant one at that—in making the world a better and safer place. Second, it points to potential future addressees for critical international theory in general, and critical security studies in particular. Third, it also underlines the role of ideas in the evolution of society. Although most proponents of critical security studies reject aspects of Gramsci’s theory of organic intellectuals, in particular his exclusive concentration on class and his emphasis on the guiding role of the party, the desire for engagement and relevance must remain at the heart of their project. The example of the peace movement suggests that critical theorists can still play the role of organic intellectuals and that this organic relationship need not confine itself to a single class; it can involve alignment with different coalitions of social movements that campaign on an issue or a series of issues pertinent to the struggle for emancipation (Shaw 1994b; R. Walker 1994). Edward Said captures this broader orientation when he suggests that critical intellectuals “are always tied to and ought to remain an organic part of an ongoing experience in society: of the poor, the disadvantaged, the voiceless, the unrepresented, the powerless” (Said 1994: 84). In the specific case of critical security studies, this means placing the experience of those men and women and communities for whom the present world order is a cause of insecurity rather than security at the center of the agenda and making suffering humanity rather than raison d’état the prism through which problems are viewed. Here the project stands full–square within the critical theory tradition. If “all theory is for someone and for some purpose,” then critical security studies is for “the voiceless, the unrepresented, the powerless,” and its purpose is their emancipation. The theoretical implications of this orientation have already been discussed in the previous chapters. They involve a fundamental reconceptualization of security with a shift in referent object and a broadening of the range of issues considered as a legitimate part of the discourse. They also involve a reconceptualization of strategy within this expanded notion of security. But the question remains at the conceptual level of how these alternative types of theorizing—even if they are self–consciously aligned to the practices of critical or new social movements, such as peace activism, the struggle for human rights, and the survival of minority cultures—can become “a force for the direction of action.” Again, Gramsci’s work is insightful. In the Prison Notebooks, Gramsci advances a sophisticated analysis of how dominant discourses play a vital role in upholding particular political and economic orders, or, in Gramsci’s terminology, “historic blocs” (Gramsci 1971: 323–377). Gramsci adopted Machiavelli’s view of power as a centaur, half man, half beast: a mixture of consent and coercion. Consent is produced and reproduced by a ruling hegemony that holds sway through civil society and through which ruling or dominant ideas become widely dispersed. 2 In particular, Gramsci describes how ideology becomes sedimented in society and takes on the status of common sense; it becomes subconsciously accepted and even regarded as beyond question. **Obviously**, for Gramsci, **there is nothing immutable about the values that permeate society; they can and do change.** In the social realm, ideas and institutions that were once seen as natural and beyond question (i.e., commonsensical) in the West, such as feudalism and slavery, are now seen as anachronistic, unjust, and unacceptable. In Marx’s well–worn phrase, “All that is solid melts into the air.” Gramsci’s intention is to harness this potential for change and ensure that it moves in the direction of emancipation. To do this he suggests a strategy of a “war of position” (Gramsci 1971: 229–239). Gramsci argues that in states with developed civil societies, such as those in Western liberal democracies, any successful attempt at progressive **social change requires** a slow, **incremental**, even **molecular, struggle** to break down the prevailing hegemony and construct an alternative counterhegemony to take its place. Organic intellectuals have a crucial role to play in this process by helping to undermine the “natural,” “commonsense,” internalized nature of the status quo. This in turn helps create political space within which alternative conceptions of politics can be developed and new historic blocs created. I contend that Gramsci’s strategy of a war of position suggests an appropriate model for proponents of critical security studies to adopt in relating their theorizing to political practice. The Tasks of Critical Security Studies If the project of critical security studies is conceived in terms of a war of position, then the main task of those intellectuals who align themselves with the enterprise is to attempt to undermine the prevailing hegemonic security discourse. This may be accomplished by utilizing specialist information and expertise to engage in an immanent critique of the prevailing security regimes, that is, comparing the justifications of those regimes with actual outcomes. When this is attempted in the security field, the prevailing structures and regimes are found to fail grievously on their own terms. Such an approach also involves challenging the pronouncements of those intellectuals, traditional or organic, whose views serve to legitimate, and hence reproduce, the prevailing world order. This challenge entails teasing out the often subconscious and certainly unexamined assumptions that underlie their arguments while **drawing attention to the normative viewpoints that are smuggled into mainstream thinking** about security behind its positivist facade. In this sense, proponents of critical security studies approximate to Foucault’s notion of “specific intellectuals” who use their expert knowledge to challenge the prevailing “regime of truth” (Foucault 1980: 132). However, critical theorists might wish to reformulate this sentiment along more familiar Quaker lines of “speaking truth to power” (this sentiment is also central to Said 1994) or even along the eisteddfod lines of speaking “truth against the world.” Of course, traditional strategists can, and indeed do, sometimes claim a similar role. Colin S. Gray, for example, states that “strategists must be prepared to ‘speak truth to power’” (Gray 1982a: 193). But the difference between Gray and proponents of critical security studies is that, whereas the former seeks to influence policymakers in particular directions without questioning the basis of their power, the latter aim at a thoroughgoing critique of all that traditional security studies has taken for granted. Furthermore, critical theorists base their critique on the presupposition, elegantly stated by Adorno, that “the need to lend suffering a voice is the precondition of all truth” (cited in Jameson 1990: 66). The aim of critical security studies in attempting to undermine the prevailing orthodoxy is ultimately educational. As Gramsci notes, “Every relationship of ‘hegemony’ is necessarily a pedagogic relationship” (Gramsci 1971: 350; see also the discussion of critical pedagogy in Neufeld 1995: 116–121). Thus, by criticizing the hegemonic discourse and advancing alternative conceptions of security based on different understandings of human potentialities, the approach is simultaneously playing a part in eroding the legitimacy of the ruling historic bloc and contributing to the development of a counterhegemonic position. There are a number of avenues open to critical security specialists in pursuing this educational strategy. As teachers, they can try to foster and encourage skepticism toward accepted wisdom and open minds to other possibilities. They can also take advantage of the seemingly unquenchable thirst of the media for instant punditry to forward alternative views onto a broader stage. Nancy Fraser argues: “As teachers, we try to foster an emergent pedagogical counterculture.... As critical public intellectuals we try to inject our perspectives into whatever cultural or political public spheres we have access to” (Fraser 1989: 11). Perhaps significantly, support for this type of emancipatory strategy can even be found in the work of the ultrapessimistic Adorno, who argues: In the history of civilization there have been not a few instances when delusions were healed not by focused propaganda, but, in the final analysis, because scholars, with their unobtrusive yet insistent work habits, studied what lay at the root of the delusion. (cited in Kellner 1992: vii) Such “unobtrusive yet insistent work” does not in itself create the social change to which Adorno alludes. The conceptual and the practical **dangers of collapsing practice into theory must be guarded against**. Rather, **through** their **educational** **activities**, proponents of critical security studies should aim to provide support for those social movements that promote emancipatory social change. By providing a critique of the prevailing order and legitimating alternative views, **critical theorists** can **perform a valuable role in** supporting the struggles of **social movements**. That said, the role of theorists is not to direct and instruct those movements with which they are aligned; instead, the relationship is reciprocal. The experience of the European, North American, and Antipodean peace movements of the 1980s shows how influential social movements can become when their efforts are harnessed to the intellectual and educational activity of critical thinkers. For example, in his account of New Zealand’s antinuclear stance in the 1980s, Michael C. Pugh cites the importance of the visits of critical intellectuals such as Helen Caldicott and Richard Falk in changing the country’s political climate and encouraging the growth of the antinuclear movement (Pugh 1989: 108; see also Cortright 1993: 5–13). In the 1980s peace movements and critical intellectuals interested in issues of security and strategy drew strength and succor from each other’s efforts. If such critical social movements do not exist, then this creates obvious difficulties for the critical theorist. But even under these circumstances, the theorist need not abandon all hope of an eventual orientation toward practice. Once again, the peace movement of the 1980s provides evidence of the possibilities. At that time, the movement benefited from the intellectual work undertaken in the lean years of the peace movement in the late 1970s. Some of the theories and concepts developed then, such as common security and nonoffensive defense, were eventually taken up even in the Kremlin and played a significant role in defusing the second Cold War. Those ideas developed in the 1970s can be seen in Adornian terms of a “message in a bottle,” but in this case, contra Adorno’s expectations, they were picked up and used to support a program of emancipatory political practice. Obviously, one would be naive to understate the difficulties facing those attempting to develop alternative critical approaches within academia. Some of these problems have been alluded to already and involve the structural constraints of academic life itself. Said argues that many problems are caused by what he describes as the growing “professionalisation” of academic life (Said 1994: 49–62). Academics are now so constrained by the requirements of job security and marketability that they are extremely risk–averse. It pays—in all senses—to stick with the crowd and avoid the exposed limb by following the prevalent disciplinary preoccupations, publish in certain prescribed journals, and so on. The result is the navel gazing so prevalent in the study of international relations and the seeming inability of security specialists to deal with the changes brought about by the end of the Cold War (Kristensen 1997 highlights the search of U.S. nuclear planners for “new targets for old weapons”). And, of course, the pressures for conformism are heightened in the field of security studies when governments have a very real interest in marginalizing dissent. Nevertheless, opportunities for critical thinking do exist, and this thinking can connect with the practices of social movements and become a “force for the direction of action.” The experience of the 1980s, when, in the depths of the second Cold War, critical thinkers risked demonization and in some countries far worse in order to challenge received wisdom, thus arguably playing a crucial role in the very survival of the human race, should act as both an inspiration and a challenge to critical security studies.

#### Education DA—focusing on procedural reforms historically always fails

Aziz Rana 12, Assistant Professor of Law, Cornell University Law School; A.B., Harvard College; J.D., Yale Law School; PhD., Harvard University, July 2012, “NATIONAL SECURITY: LEAD ARTICLE: Who Decides on Security?,” 44 Conn. L. Rev. 1417

Widespread concerns with the government's security infrastructure are by no means a new phenomenon. In fact, such voices are part of a sixty-year history of reform aimed at limiting state (particularly presidential) discretion and preventing likely abuses. n8 What is remarkable about these reform efforts is that in every generation critics articulate the same basic anxieties and present virtually identical procedural solutions. These procedural solutions focus on enhancing the institutional strength of both Congress and the courts to rein in the unitary executive. They either promote new statutory schemes that codify legislative responsibilities or call for greater court activism. As early as the 1940s, Clinton Rossiter argued that only a clearly established legal framework in which Congress enjoyed the power to declare and terminate states of emergency would prevent executive tyranny and rights violations in times of crisis. n9 After the Iran-Contra scandal, Harold Koh, now State Department Legal Adviser, once more raised this approach, calling for passage of a National Security Charter that explicitly enumerated the powers of both the executive and the legislature, promoting greater balance between the branches and explicit constraints on government action. n10 More recently, [\*1421] Bruce Ackerman has defended the need for an "emergency constitution" premised on congressional oversight and procedurally specified practices. n11 As for increased judicial vigilance, Arthur Schlesinger argued nearly forty years ago, in his seminal book, The Imperial Presidency, that the courts "had to reclaim their own dignity and meet their own responsibilities" by abandoning deference and by offering a meaningful check to the political branches. n12 Today, Laurence Tribe and Patrick Gudridge once more imagine that, by providing a powerful voice of dissent, the courts can play a critical role in balancing the branches. They write that adjudication can "generate[]-even if largely (or, at times, only) in eloquent and cogently reasoned dissent-an apt language for potent criticism." n13¶ The hope-returned to by constitutional scholars for decades-has been that by creating clear legal guidelines for security matters and by increasing the role of the legislative and judicial branches, government abuse can be stemmed. Yet despite this reformist belief, presidential and military prerogatives continue to expand even when the courts or Congress intervene. Indeed, the ultimate result primarily has been to entrench further the system of discretion and centralization. In the case of congressional legislation (from the 200 standby statutes on the books n14 to [\*1422] the post-September 11 and Iraq War Authorizations for the Use of Military Force, to the Detainee Treatment Act and the Military Commissions Acts n15 ), this has often entailed Congress self-consciously playing the role of junior partner- buttressing executive practices by providing its own constitutional imprimatur to them. Thus, rather than rolling back security practices, greater congressional involvement has tended to further strengthen and internalize emergency norms within the ordinary operation of politics. n16 As just one example, the USA PATRIOT Act, while no doubt controversial, has been renewed by Congress a remarkable ten consecutive times without any meaningful curtailments. n17 Such realities underscore the dominant drift of security arrangements, a drift unhindered by scholarly suggestions and reform initiatives. Indeed, if anything, today's scholarship finds itself mired in an argumentative loop, re-presenting inadequate remedies and seemingly incapable of recognizing past failures.¶ What explains both the persistent expansion of the federal government's security framework as well as the inability of civil libertarian solutions to curb this expansion? This Article argues that the current reform debate ignores the broader ideological context that shapes how the balance between liberty and security is struck. In particular, the very meaning of security has not remained static, but rather has changed dramatically since World War II and the beginning of the Cold War. This shift has principally concerned the basic question of who decides on issues of war and emergency. And as the following pages explore, at the center of this shift has been a transformation in legal and political judgments about the capacity of citizens to make informed and knowledgeable decisions in security domains. Yet, while underlying assumptions about popular knowledge-its strengths and limitations-have played a key role in shaping security practices in each era of American constitutional history, [\*1423] this role has not been explored in any sustained way in the scholarly literature.¶ As an initial effort to delineate the relationship between knowledge and security, this Article will argue that throughout most of the American experience, the dominant ideological perspective saw security as grounded in protecting citizens from threats to their property and physical well-being (especially those threats posed by external warfare and domestic insurrection). Drawing from a philosophical tradition extending back to John Locke, many politicians and thinkers-ranging from Alexander Hamilton and James Madison, at the founding, to Abraham Lincoln and Roger Taney-maintained that most citizens understood the forms of danger that imperiled their physical safety. n18 The average individual knew that securing collective life was in his or her own interest, and also knew the institutional arrangements and practices that would fulfill this paramount interest. n19 A widespread knowledge of security needs was presumed to be embedded in social experience, indicating that citizens had the skill to take part in democratic discussion regarding how best to protect property or to respond to forms of external violence. Thus the question of who decides was answered decisively in favor of the general public and those institutions-especially majoritarian legislatures and juries-most closely bound to the public's wishes. n20¶ What marks the present moment as distinct is an increasing repudiation of these assumptions about shared and general social knowledge. Today, the dominant approach to security presumes that conditions of modern complexity (marked by heightened bureaucracy, institutional specialization, global interdependence, and technological development) mean that while protection from external danger remains a paramount interest of ordinary citizens, these citizens rarely possess the capacity to pursue such objectives adequately. n21 Rather than viewing security as a matter open to popular understanding and collective assessment, in ways both small and large the prevailing concept sees threat as sociologically complex and as requiring elite modes of expertise. n22 Insulated decision-makers in the executive branch, armed with the specialized skills of the [\*1424] professional military, are assumed to be best equipped to make sense of complicated and often conflicting information about safety and self-defense. n23 The result is that the other branches-let alone the public at large-face a profound legitimacy deficit whenever they call for transparency or seek to challenge presidential discretion. Not surprisingly, the tendency of procedural reform efforts has been to place greater decision-making power in the other branches, and then to watch those branches delegate such power back to the very same executive bodies.

### Policy Relevance---2NC

#### The political’s ceded---critical inquirty into state-constructed ideologies is necessary to reclaim it

Jackson 12—Director of the National Centre for Peace and Conflict Studies, the University of Otago. Former. Professor of International Politics at Aberystwyth University (7/10/12, Richard, Politics, Politicians and Other Reasons to Stop Voting, richardjacksonterrorismblog.wordpress.com/2012/07/10/politics-politicians-and-other-reasons-to-stop-voting/)

I have recently returned to New Zealand after 9 years of living in the United Kingdom. One of the most striking similarities between the two countries I have noticed is the almost complete failure of the political class to discern the historical moment and its opportunities. Of course, such failings are not confined to New Zealand and the United Kingdom; there is currently a near universal quality to the myopia and stunted imagination of politicians. However, what’s even more depressing is the profound lack of serious debate in the political realm and the mainstream media about the world-changing issues and tectonic changes currently under way, and the incapacity of the current political system to deal them. While the planet edges closer and closer to unprecedented economic recession and impending environmental disaster, and the manufacture and trade of weapons spreads misery and chaos across the globe, seemingly oblivious politicians merrily continue with business as usual. Their most pressing issues are whether to sell a few more state assets or build a few more casinos.¶ The problem is not simply that politicians fail to heed established evidence and ignore expert advice, although this is a conspicuous and enduring failure of politicians who seem to care more for appearances, or who are in thrall to special interests. How often have we seen politicians make quite stupid policies on gambling, alcohol, education, health, crime, development assistance, and countless other issues which contradict years of academic research and the advice of leading experts? At present, our politicians ignore a veritable mountain of evidence, including a study by the IMF, which shows that austerity measures most often fail to stimulate economic growth, and instead determinedly press ahead with policies of austerity that are far more likely to exacerbate rather than rectify the crisis. Our politicians also ignore the by now overwhelming evidence which shows that if you want to reduce rates of crime, depression and mental illness, teenage pregnancies, anti-social behavior and a host of other social ills which reduce communities’ happiness and sense of well-being, then you have to make greater equality a serious policy aim. Instead, politicians press on with the same policies that have increased social inequality for the past thirty years, thereby condemning us all – rich and poor – to living in unhappy, blighted societies. I won’t even mention the evidence which shows that nonviolence is morally and practically superior to militarism, and how a single day’s military spending could improve the lives of billions immeasurably.¶ The problem is also not the fault of the mostly supine and intellectually feeble mainstream media, although their failure to play any kind of fourth estate role has been more than obvious since the Iraq war. A combination of corporate ownership, celebrity culture and the one hour news cycle means that we can no longer expect the media to ask the hard political questions; it seems they no longer have the time or the inclination to do the necessary research for intelligent analysis. Their best option is to take the nicely pre-packaged press releases handed out by ministers and corporations alike and try not to ask any awkward questions which might deny them future access to the news goodies.¶ No, the real problem is, as the Occupy Movement and countless other protest groups have argued, that the political system itself is broken; irreparably. It is no longer fit for purpose. It’s actually no longer a political system in which genuine political alternatives can be properly debated. It’s become a management system for maintaining neoliberalism. This is why the loyal opposition cannot really oppose; they can only quibble about whether the current government has got their sums right, or whether deficit reduction is moving too fast. It’s also why the politicians cannot suggest anything other than more of the same ideology, and why they cannot launch a real inquiry into financial and corporate crime and malfeasance. It’s also why the media cannot really ask why that is. In the current system, the political elite are there primarily to ensure that neoliberal capitalism functions smoothly, in part because they still believe that this will produce the greatest good for the greatest number. This means that the interests of capitalism have to come before the interests of the majority, or the environment, or the truth.¶ The point is that we know now that this belief is hopelessly wrong: neoliberal capitalism does not produce the greatest good for the greatest number. It produces the greatest inequality the world has ever known. It produces unimaginable wealth for the few, and declining living standards for the rest. It produces corruption, exploitation, over-consumption, waste, and environmental disaster. The amazing thing is that you know it, and I know it. Scholars know it. Probably 99 percent of the world knows it. But the politicians don’t know it. Instead, they keep insisting that if we keep going with the austerity package, if we sell off some more assets, if we privatize a few more things, if give a few more tax breaks to the rich, things will eventually work out. The economy will come out of its slump. There will be rewarding jobs for everyone. We will all be able to go back to former consumption levels and ever-upwards economic growth will return. Why do politicians keep on insisting on this, despite the fact that everyone knows they’re wrong? Because they have to; they’re part of the system. They believe in it. And it pays their bills.¶ I think this is why Occupy and other protest movements around the world have decided not to launch national political parties, and refrain from engaging in electoral politics. Because they know the system is unfixable. They figure, hey, what would be the point of becoming part of an entrenched system where there’s no real politics: Where we can’t seriously debate whether to abolish the military and spend the money on schools and hospitals instead? Where we can’t talk about having a maximum wage as well as a minimum one? Where we can’t tell the police to go after tax dodgers and interest rate manipulators with the same zeal as they do rioters? Where we can’t discuss making sustainability the primary value of a state-owned asset rather than profitability? Where we can’t debate replacing GNP per capita with happiness and fulfillment as the measure of the nation’s worth? Where we can’t discuss the option of defining our national goal as a socially just and sustainable society rather than a competitive one? What they are saying is, what would be the point of joining a system where the only real debate is whether we should aim to reduce the deficit in two years or three?¶ This may land me in hot water, but I have come to largely agree with this point of view. I no longer have faith in the political system. I don’t think it’s fit for purpose anymore. I think we’re deluded if we think that the political class can do anything for us anymore. They work for others, not us; they are part of the system. The implication of my position is that on election day I think we should all conspicuously avoid the polling booth and instead go to the local town hall or park or square and have a debate about the kind of society we’d prefer to live in. Some real political debate, outside of the suffocating prison of the political system, might even lead to some decent ideas. It certainly couldn’t do any worse than the politicians. And if no one voted, the politicians might have to come out and really listen because they could no longer claim a mandate. In the meantime, before the next election, educate yourself. Question. Discuss. Enjoy some real political debate.

### Perm---P

#### The permutation is the worst form of paranoid politics—it gives into their threats of immediate consequences and thereby feeds their psychosis—it’s tantamount to a crack addict who says “this is my last time”—the belief we can fill the gaps in security and then move beyond it fails to escape the grip of anxiety and is the ultimate inauthentic act—complete rejection is critical

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

The only way out of such a dilemma, to escape the fetish, is perhaps to eschew the logic of security altogether – to reject it as so ideologically loaded in favour of the state that any real political thought other than the authoritarian and reactionary should be pressed to give it up. That is clearly something that can not be achieved within the limits of bourgeois thought and thus could never even begin to be imagined by the security intellectual. It is also something that the constant iteration of the refrain ‘this is an insecure world’ and reiteration of one fear, anxiety and insecurity after another will also make it hard to do. But it is something that the critique of security suggests we may have to consider if we want a political way out of the impasse of security. This impasse exists because security has now become so all-encom passing that it marginalises all else, most notably the constructive conﬂicts, debates and discussions that animate political life. The con stant 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 con ception 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

#### 1AC links swamp the alternative --- our all arguments prove they instill a cognitive dissonance about the true state of security

Inan 4**—**dr. A. (Annette) Freyberg Inan Associate Professor, the Director of the Master's Program in Political Science, Univ of Amsterdam, PhD in Political Science at the University of Georgia, USA. Her MA degrees in Political Science and English were obtained at the University of Stuttgart in her native Germany. Editorial Board Member: International Studies Review, Globalizations Journal, Advisory Board Member: Millennium, What Moves Man: The Realist Theory of International Relations and Its Judgment of Human Nature 2004

Cognitive approaches concede that real-life decision makers cannot comply with the expectation of full rationality. Instead, political decision makers adopt a number of strategies to deal with the limitations imposed on them by their cognitive capabilities. It is important to remember that such strategies are, to a certain extent, necessary and unavoidable. They facilitate information processing and enable actors to make decisions. However, they may also lead to misperception and error. A number of processes are particularly relevant. The study of problem solving has proven the need to pay attention to actors’ **definitions of the problem**.51 Studies of the limitations of memory have drawn attention to the problem of information overload in both problem solving and decision making. Most important, the development of the concepts of ‘cognitive dissonance’ versus ‘cognitive consistency’ by Leon Festinger and Fritz Heider in the 1950s and 1960s has served to emphasize the need for stability in beliefs and perceptions, while at the same time alerting us to the costs of such stabilit y: “misperception and biased interpretation, with individuals using denial, bolstering, or other mechanisms to maintain their beliefs.”52 According to Robert Art and Robert Jervis, “[P]eople simplify their processing of complex information by permitting their established frameworks of beliefs to guide them. They can then assimilate incoming information to what they already believe.”53 Thus there exists “a tendency for people to assimilate incoming information into their **pre-existing images.”** 54 This tendency is explained by psychological theor y as part of a strategy to avoid cognitive dissonance. There is little to stop this tendency, because “information is usually **ambiguous enough** so that people can **see it as consistent with the views** that they already hold.”55 Voss and Dorsey observe that “individuals build mental representations of the world and . . . such representations provide coherence and stability to their interpretations of the complexities of the environment.”56 So-called image theory studies the role played in the decision-making process by such **interpretive “blueprints**,” which have been variously called “images,” “schemata,” “scripts,” or “mental models.”57 The concept of “image,” which is most commonly used in foreign policy analysis, captures the notion of a schema, which is more popular in cognitive psychology. In the 1950s, Kenneth Boulding defined the term image as “the total cognitive, affective, and evaluative structure of the behavioral unit, or its internal view of itself and its universe.”58 He argued that “the images which are important in international systems are those which a nation has of itself and of those other bodies in the system which constitute its international environment.”59 Images can introduce misperception and error into the decision-making process, especially if they function as stereotypes. Stereot ypes can be defined as “images that are assumed to have attributes that characterize all elements of a particular group.”60 The role of stereotypical images, such as the “**enemy image**,” has been explored by authors such as Ole Holsti, Richard Cottam, or David Finlay and his colleagues. 61 Such studies find that stereot yping generally leads to “over-generalization, that is, erroneously attributing characteristics to a particular countr y that may not have one or more of the given characteristics. The countries are thus not sufficiently differentiated.”62 According to Holsti, “[T]he relationship of national images to international conf lict is clear: decision-makers act upon their definition of the situation and their images of states—others as well as their own. These images are in turn dependent upon the decision-maker’s belief system, and these may or may not be accurate representations of ‘reality.’”63 The impact of stereot ypical national images in policy making was particularly obvious during the Cold War, when Boulding referred to them as “the last great stronghold of unsophistication” in international politics, observing that “nations are divided into ‘good’ and ‘bad’—the enemy is all bad, one’s own nation is of spotless virtue.”64 The bipolar system was commonly characterized as a “closed” one, in which “perceptions of low hostilit y are self-liquidating and perceptions of high hostilit y are self-fulfilling.”65 This is because both sides continue to interpret new information in ways that help preserve the enemy image, even if such information is meant to constitute a conciliatory gesture. Closed systems suffer from the dangerous problem of distorted “mirror images.” Urie Bronfenbrenner explains: Herein lies the terrible danger of the distorted mirror image, for it is characteristic of such images that they are self-confirming; that is, each part y, often against its own wishes, is increasingly driven to behave in a manner which fulfills the expectations of the other. . . . [The mirror image] impels each nation to act in a manner which confirms and enhances the fear of the other to the point that even deliberate efforts to reverse the process are reinterpreted as evidence of confirmation.66 (128-130)

### Links

#### International promotion of liberal governance requires permanent war

Nick Mansfield 6, Associate Professor in Critical and Cultural Studies at Macquarie University in Sydney, 2006, “War and Its Other: Between Bataille and Derrida,” Theory & Event, Vol. 9, No. 4

It is a truism to say that each war redefines the nature of war itself, due to changes in arms technology, military organisation or geo-strategic history. The long war of terror is no exception, but what is most new about it, and what makes it most fit its age, is that it promises the erasure of the difference between war and peace, and concomitantly between war and civil society: terrorists and criminals swap identity, emerge anywhere at any time and are imputed to share a hostility to the whole Western way of life. This rhetorical slippage, however, confirms what many theorists of war have been proposing in different ways for a long time. We will no longer have war and peace in the future, but ever more complex entanglements of one in the other, where social policy, diplomatic manipulation and military strategy exchange characteristics, contriving enemies at home, representing political antagonists abroad as criminals, and abolishing not only the idea of a military frontier, but of warfare itself as simply a matter of literal or possible armed conflict. In the future, the question will be not "Why did we choose war instead of peace?" but "What configuration of the peace-war complex embroils us now? "

Discussing what is new about the "new wars," Herfried Munkler argues that in the wars that have developed in the decolonised world: "military force and organised crime go increasingly together."2He goes on: "The new wars know no distinction between combatants and non-combatants, nor are they fought for any definite goals or purposes; they involve no temporal or spatial limits on the use of violence."3In the low intensity, asymmetrical conflicts Munkler sees as typical of contemporary war, war is without limits, and has no identifiable outside, either in space or time.

The inverse of this argument is Martin Shaw's identification of one of the key attributes of "the new Western way of war": "The key understanding, therefore, is that warfighting must be carried on simultaneously with 'normal' economics, politics and social life in the West. It is imperative it does not impact negatively on these."4Western publics only tolerate a war that can be co-ordinated seamlessly with peace. This is not an alienation of war from social life, but its absolute co-ordination with it. It is not here a question of war being kept hidden behind a screen of peaceful social advancement from one day to the next. Instead, war under this dispensation becomes completely compatible with what we conventionally understand as peace. In the end, this is what allows the complete saturation of society by war: the ability to represent the normal unfolding of social life as relatively undisturbed.

In their discussion of the paradoxes of global political governance, Dillon and Reid present a more complex account of the inter-relationship between war and peace. Here liberal governance both provokes and repudiates war. They write: "It . . . seems obvious that the radical and continuous transformation of societies that global liberal governance so assiduously seeks must constitute a significant contribution to the very violence that it equally also deplores."5Here, global political institutions which have charged themselves with the task of drawing fragile states into the contemporary world of transparent and open (especially financial) administration which makes them accessible to the flow of international capital, unsettle societies enough that warfare is risked, while equally bemoaning war as a sign of institutional failure. The pressure put, for example, on the small states of the Western Pacific by local powers like Australia both aggravates communal tensions by destabilising inherited power structures, while bemoaning the subsequent unrest as symptomatic of cultures seen as ill-equipped for contemporary global modernity.

Each of these accounts presents a different insight into the various ways in which war and peace co-exist in the contemporary. War totally infiltrates peace, yet war is only allowed when it confirms the apparent inviolability of peace. The governance that insists on the rationalisation and stabilisation of civic society stokes instability and war. War is consistently incited in peace while being simultaneously alienated from it. Peace is administered in such a way that war presses to return, always and everywhere. But how are we to theorise this possibly epoch-making development? How do our philosophies of war and peace allow us to represent and consider this development and its consequences for the future global polity and for the identity of civil society, which, since Hobbes at least has always relied on the institution of social peace through the containment of war as its touchstone? The aim of this paper is to present a strand of thinking in modern and postmodern cultural theory that essays a formulation of the war/peace complex that history now so clearly proposes to us. It is in the long acknowledged but under-investigated connection between Georges Bataille and Jacques Derrida that one version of the reformulation of the war/peace complex becomes articulable.

#### China’s not a threat to the US and has no violent intentions---the only scenario for conflict is the aff’s threat con

Chapman 12—has been a fellow at the American Academy in Berlin and the Hoover Institution at Stanford University, and has served on the Visiting Committee of the University of Chicago Law School. member of the Chicago Tribune’s editorial board (2/19/12, Steve, China as the enemy, www.chicagotribune.com/news/columnists/ct-oped-0219-chapman-20120219,0,2446599.column)

Chinese Vice President Xi Jinping came to the United States last week, and that set alarm bells clanging. Among those who sorely miss the Cold War, China serves as an endless source of fear and loathing.

Mitt Romney responded in tones appropriate for a bitter foe. Writing in The Wall Street Journal, he accused President Barack Obama of "weakness" that "has only encouraged Chinese assertiveness" while serving to "embolden China's leaders at the expense of greater liberty."

As for our economic ties, he wrote, "A trade war with China is the last thing I want, but I cannot tolerate our current trade surrender."

Martial metaphors like that give the impression we are locked in a deadly struggle with Beijing. For that reason, it's no surprise that in January of last year, China ranked first in a Pew Research Center poll as the country representing the greatest danger to the United States. In the latest one, it finished second only to Iran.

The perception of Iran is understandable, given that our leaders seem bent on taking us to war there. But China? If we're going to have adversaries, China is the best kind to have.

For one thing, it's no match for us militarily. The United States spends between two and nine times as much on defense as China. We have 11 aircraft carriers; they have one — which they bought, used, from Ukraine. We have nearly 3,700 modern combat aircraft to their 307.

"We don't view China as a direct threat," Vice Adm. Scott Van Buskirk, then the commander of the U.S. 7th Fleet, said last year. "To look at China through the lens of an adversary would be counterproductive."

It's true that China has been upgrading its defense forces. But that's what you would expect of a country that has gotten much richer in the past few decades.

It's also what you would expect of a country surrounded by neighbors with which it has had military conflicts — including Russia, Japan, India and Vietnam. Not to mention that it has 9,000 miles of coastline on the Pacific Ocean, which is effectively owned and operated by the U.S. Navy.

Like any normal regional power, China aspires to have some capacity to dictate to others rather than be dictated to. That ambition could bring it to blows with the United States over Taiwan or over free passage in the South China Sea.

Rising powers often collide with established powers, which means there is certainly potential for China to clash with the United States. But the two sides have proved able to peacefully manage their chief disagreement, Taiwan, decade after decade.

Human rights will be a source of tension as long as Beijing persecutes dissidents, but it's no cause for war. And the economic changes China has made are bound to lead, over time, to political liberalization.

China bears little resemblance to Nazi Germany or the Soviet Union in its approach to the world. The post-Mao government has shown no interest in grabbing territory from neighbors, enforcing obedience or promoting revolution. It has no dangerous ideology to spread. It has exhibited a consistent desire to focus on internal development.

It has done little to make trouble beyond its borders. China has repeatedly shown itself to be, writes Princeton scholar Aaron Friedberg, "a cautious power with limited aims."

What about the economic realm? In our daily lives, someone who sells us things and lends us money is to be valued, not feared. China is often accused of keeping its exchange rate low to benefit its export sector. But that's not exactly an act of naked aggression.

In fact, it's a favor to American consumers, who get goods at a lower price than they otherwise would. If shipping us freighters full of merchandise were a way to reduce us to submission, we'd have been taken over by Japan 20 years ago.

China's rapid growth has been a good thing, not a bad one. It has transformed a backward communist nation into a thriving, mostly capitalist one. It has lifted hundreds of millions of people out of poverty. It has brought China into the world economy and the World Trade Organization — where, if we think it's using unfair trade practices, we can bring action to stop them.

As long as it remains an authoritarian state, China is not going to be our BFF. But it is not fated to be an enemy, unless we decide to make it one.

#### Their attempt to smooth the withdrawal from Afghanistan pathes the way for further imperialism---this masks our neurotic addiction to power and makes war inevitable

Spanos 8 –Professor of English at Binghamton University William, ,American Exceptionalism in the Age of Globalization: The Specter of Vietnam, p. ix-x)

In this book I contend that the consequence of America's intervention and conduct of the war in Vietnam was the self-destruction of the ontological, cultural, and political foundations on which America had perennially justi­fied its "benign" self-image and global practice from the time of the Puritan "errand in the wilderness." In the aftermath of the defeat of the American Goliath by a small insurgent army, the "specter- of Vietnam—by which I mean, among other things, the violence, bordering on genocide, America perpetrated against an -Other" that refused to accommodate itself to its mission in the wilderness of Vietnam—came to haunt America as a contra­diction that menaced the legitimacy of its perennial self-representation as the exceptionalist and -redeemer nation.- In the aftermath of the Vietnam War, the dominant culture in America (including the government, the media. Hollywood. and even educational institutions) mounted a massive campaign to "forget Vietnam." This relentless recuperative momentum to lay the ghost of that particular war culminated in the metamorphosis of an ear­lier general will to "heal the wound" inflicted on the American national psy­che, into the "Vietnam syndrome"; that is, it transformed a healthy debate over the idea of America into a **rational neurosis**. This monumentalist initiative was aided by a series of historical events between 1989 and 1991 that deflected the American people's attention away from the divisive memory of the Vietnam War and were represented by the dominant culture as manifestations of the global triumph of "America's: Tiananmen Square, the implosion of the Soviet Union, and the first Gulf War. This “forgetting” of the actual history of the Vietnam War, represented in this book by Graham Greene's The Quiet American, Philip Caputo's A Rumor of War, and Tim O'Brien's Going After Cacciato hand many other novels, memoirs, and films to which I refer paren­thetically, contributed to the rise of neoconservatism and the religious right to power in the United States. And it provided the context for the re­newal of America's exceptionalist errand in the global wilderness, now un­derstood, as the conservative think tank the Project (or the New American Century put it long before the invasion of Afghanistan and Iraq, as the preserving and perpetuation of the Pax Americana. Whatever vestigial memory of the Vietnam War remained after this turn seemed to be decisively interred with Al Qaeda's attacks on the World Trade Center and the Pentagon on September 11, 2001. Com­pletely immune to dissent, the confident American government, under President George W. Bush and his neoconservative intellectual deputies—and with the virtually total support of the America media—resumed its errand in the global wilderness that had been interrupted by the specter of Vietnam. Armed with a resurgence of self-righteous indignation and exceptionalist pride, the American government, indifferent to the reser­vations of the "Old World," unilaterally invaded Afghanistan and, then, after falsifying intelligence reports about Saddam Hussein's nuclear ca­pability, Iraq, with the intention, so reminiscent of its (failed) attempts in Vietnam, of imposing American-style democracy on these alien cultures. The early representation by the media of the immediately successful "shock and awe" acts of arrogant violence in the name of "civilization" was euphoric. They were, it was said, compelling evidence not only of the recuperation of American consensus, but also of the rejuvenation of America's national identity. But as immediate "victory" turned into an occupation of a world un­willing to be occupied, and the American peace into an insurgency that now verges on becoming a civil war, the specter of Vietnam, like the Hydra in the story of Hercules, began to reassert itself: the unidentifiabil­ity or invisibility of the enemy, their refusal to be answerable to the American narrative, quagmire, military victories that accomplished noth­ing, search and destroy missions, body counts, the alienation of allies, moral irresolution, and so on. It is the memory of this "Vietnam"—this specter that refuses to be accommodated to the imperial exceptionalist discourse of post-Vietnam America—that my book is intended to bring back to presence. By retriev­ing a number of representative works that bore acute witness, even against themselves, to the singularity of a war America waged against a people seeking liberation from colonial rule and by reconstellating them into the post-9111 occasion, such a project can contribute a new dimen­sion not only to that shameful decade of American history, but also, and more important, to our understanding of the deeply backgrounded ori­gins of America's "war on terror" in the aftermath of the Al Qaeda at­tacks. Indeed, it is my ultimate purpose in this book to provide directives for resisting an American momentum that threatens to destabilize the en­tire planet, if not to annihilate the human species itself, and also for rethinking the very idea of America.

# 1NR

### Habeas

#### Even if they win legitimacy’s important, there’s no impact---global institutions are fundamentally broken---makes it impossible for “boosting legitimacy” to solve global problems

Patrick Cottrell 11, Assistant Professor of Political Science, Linfield College, July 2011, “Hope or Hype? Legitimacy and US Leadership in a Global Age,” Foreign Policy Analysis, Vol. 7, No. 3, p. 337-358

Many experts converge on the point that it is critical for the United States to reengage and rebuild international institutions in the post-Bush era. Realists see international institutions as a way to preserve an international order that is favorable to US national interests—a key tool in “translating power into consensus” (Kissinger 2004).32 Liberals also see international institutions as foundations of a global order that is underpinned by democratic values and promotes not just US interests, but also a greater good (Ikenberry 2001; Deudney and Ikenberry 1999; Leffler and Legro 2008). In this sense, the United States is the world’s “indispensable nation,” uniquely configured with the resources and value system to lead even in a “new world order” defined by the rise of nonstate actors and multilayered governance networks (Slaughter 2005).

However, the preceding analysis suggests that while US engagement remains critical, we must temper our expectations for an order that rests squarely on the shoulders of a “benevolent hegemon.”33 Section I unpacked the concept of legitimacy vis-à-vis international institutions and underscored the difficulties in reconciling US national interests and international norms in a way that would allow of a particular brand of “legitimate” leadership. Section II highlighted the major domestic political impediments that help explain why these difficulties exist and why they are likely to persist. Consequently, this section suggests that much more attention needs to be paid to the international institutions themselves.

Many of today’s most prominent multilateral institutions were established in the years following World War II and thus reflect a very different era.34 However, while some of the more mainstream US foreign policy prescriptions that seek to revitalize these institutions —promoting UN Security Council reform, assuming a more proactive role on climate change, hosting a nuclear summit, and ratifying the Comprehensive Nuclear Test Ban Treaty—would help, they are unlikely to go far enough either in increasing the legitimacy of these institutions or in solving global problems. Accomplishing these goals requires the fundamental questioning of our received understandings of international law and institutions a globalized environment. Which legal and institutional constellations have the most potential to solve the complex problems we face? While the specific answers to these questions vary by issue area and circumstances, a general goal in updating and reinvigorating international institutions should be creating an order that recognizes the imperative of harnessing US power and ideals, but can still make progress in solving problems and retain legitimacy even when US leadership wanes. Recent developments in the study of experimental forms of governance in the international legal arena hold considerable potential in this regard.

#### Legitimacy’s irrelevant to hegemony---prefer our evidence because their authors all apply IR theory incorrectly

Brooks & Wohlforth 8 – Stephen G. Brooks, Assistant Professor of Government at Dartmouth, and William C. Wohlforth, Associate Professor of Government at Dartmouth, 2008, World Out of Balance: International Relations and the Challenge of American Primacy, p. 2-5

For more than three decades, much IR scholarship has been devoted to theories about how the international environment shapes states’ behavior. 5 Applying them to the case at hand, scholars have drawn on each of the main IR theories—realism, institutionalism, constructivism, and liberalism—to identify external (or “systemic”) constraints that undermine the value of the United States’ primacy, greatly restricting the range of security policies it can pursue. Scholars emphasize a variety of elements in the international system that constrain U.S. security policy: international institutions, balancing dynamics, global economic interdependence, and legitimacy. The upshot is simple but portentous for the contours of international politics in the decades to come: the political utility of U.S. material primacy is attenuated or even negated by enduring properties of the international system.

The purpose of this book is to undertake a systematic evaluation of the external constraints that scholars have highlighted and thereby gain a better understanding of the United States’ global role. This entails answering four questions: Does the United States face the imminent prospect of having its power checked by a balancing coalition of other great powers? As it has become increasingly exposed to the international economy, has the United States become more vulnerable to other actors’ attempts to influence its security policies? Is the United States tightly bound by the need to maintain a good general reputation for cooperation in international institutions? Does the United States need to adhere to existing rules to sustain legitimacy and thus maintain today’s international institutional order?

Our answer to each of these questions is no—a finding that overturns the scholarly conventional wisdom, according to which these factors strongly constrain U.S. security policy. On the contrary, the unprecedented concentration of power resources in the United States generally renders inoperative the constraining effects of the systemic properties long central to research in international relations.

Given the likely longevity of American primacy, this general finding has important repercussions for thinking about international relations scholarship and U.S. foreign policy. In the concluding chapter, we outline a new research agenda to address the analytical challenge of American primacy, and identify an important and heretofore neglected grand strategic alternative for the United States.

THE ARGUMENT

Our purpose is to analyze propositions drawn from all the theoretical schools that deal with the systemic constraints on U.S. security policy. Following many other scholars, we treat security policy as not simply the use and threat of military force, but also the use of nonmilitary tools to advance security interests. By systemic constraints, we mean constraints that are external to the United States itself, and that operate in the international system generally rather than within one set of actors or in response to a particular issue. More specifically, a systemic constraint is a property of the international system that restricts freedom of action by forbidding, or raising the costs of, certain kinds of actions, or compelling other kinds of actions.

Scholars stress that the shift from the bipolarity of the Cold War to the current unipolarity is not an unalloyed benefit for the United States because it comes with the prospect of counterbalancing, increased dependence on the international economy, a greater need to maintain a favorable reputation to sustain cooperation within international institutions, and greater challenges to American legitimacy. The conventional wisdom is that these systemic constraints impede the translation of U.S. power capabilities into influence over security outcomes, rendering the United States much less capable than its material capabilities imply. Put more generally, existing theoretical arguments sum up to the contention that once a state is at or near the top of the international heap, it confronts more and stronger properties of the international system that greatly diminish the marginal utility of additional capabilities for pursuing its security objectives.6

The validity of this view depends on whether systemic constraints function in a unipolar system as they did in the bi- and multipolar systems on which most IR research is based. Yet answering that critical question has not been the explicit object of study. As a result, the research underlying the conventional wisdom suffers from one or more of the following problems: it uncritically applies theories developed to explain past international systems; it does not subject arguments to systematic theoretical or empirical analysis; it considers only a single theoretical perspective; and it is not specifically focused upon the constraints on U.S. security policy. To assess the conventional wisdom, it is necessary to examine the key systemic constraints to determine whether and to what degree their operation is transformed in a unipolar system. Ours is the first book to do this, and it does so for all the systemic constraints highlighted by IR theory.

This study turns the conventional wisdom on its head: our assessment is that as the concentration of power in a state increases beyond a certain threshold, systemic constraints on its security policy become generally inoperative. Scholars are right to hold that systemic constraints are potentially important, but wrong to assume that theories developed to explain previous international systems apply to unipolarity.

#### Increased wages cause calls for democracy—kills political legitimacy

Ivanov ’12 – graduate student in political science and international affairs at Carleton University (Georgi, “CHINA IN THE 21ST CENTURY: IS GLOBAL LEADERSHIP POSSIBLE?” Political Reflection, Vol. 3, No. 1)

Implications of Economic Growth for Internal Political Challenges and Foreign Policy

The growing affluence of China is going to bring with it a set of political problems that the coun-try’s one-party rule will find increasingly difficult to confront. The first challenge is that the average person will have the ability to increasingly ques-tion the existing order, catalysed by greater per-sonal wealth. In other words, democratic tenden-cies in a population are correlated with increased economic means and this development will come to odds with the paradigm of one-party rule in China.

The effective question is qualitative: can pluralism exist in the context of a charismatic or one-party political system? The historical precedents point to a negative answer: the USSR, for instance, or Franco’s Spain, show that this kind of regime does not stand the test of time and once collapsed, is replaced by imperfect, nascent pluralism.

The trouble for China’s Communist Party is that economic growth has the potential to hasten the demise of its political legitimacy. The historical experience of the last major democratic throes in China is not flattering: the forceful suppression of the 1989 Tiananmen Square uprisings raised questions about Beijing’s ability to deal with large-scale protest8. Dealing with dissent is crucial for political legitimacy, because a regime that does not have ability to change in the long run is not sustainable. In other words, China needs to find a different, peaceful means of handling difference of opinion and dissent in order for the current regime to maintain political legitimacy.

#### No lashout---CCP would fear retaliation AND even if the order was issues the PLA would not obey

Gilley 5 (Bruce, Professor of International Affairs @ New School University and Former Contributing Editor @ the Far Eastern Economic Review, “China’s Democratic Future,”)

More ominous as a piece of "last ditchism" would be an attack on Taiwan. U.S. officials and many overseas democrats believe that there is a significant chance of an attack on Taiwan if the CCP is embattled at home. Indeed, China's strategic journals make frequent reference to this contingency: "The need for military preparations against Taiwan is all the more pressing in light of China's growing social tensions and unstable factors which some people, including the U.S. might take advantage of under the flag of 'humanism' to paralyze the Chinese government," one wrote. Such a move would allow the government to impose martial law on the country as part of war preparations, making the crushing of protest easier. It would also offer the possibility, if successful, of CCP survival through enhanced nationalist legitimacy. Yet **the risks**, even to a dying regime, **may be too high**. An unprovoked attack on Taiwan would almost certainly bring the U.S. and its allies to the island's rescue. Those forces would not stop at Taiwan but might march on Beijing and oust the CCP, or attempt to do so through stiff sanctions, calling it a threat to regional and world peace. Such an attack might also face the opposition of the peoples of Fujian, who would be expected to provide logistical support and possibly bear the worst burdens of war. They, like much of coastal China, look to Taiwan for investment and culture and have a close affinity with the island. As a result, there are doubts about whether such a plan could be put into action. A failed war would prompt a Taiwan declaration of independence and a further backlash against the CCP at home, just as the May Fourth students of 1919 berated the Republican government for weakness in the face of foreign powers. Failed wars brought down authoritarian regimes in Greece and Portugal in 1974 and in Argentina in 1983. Even if CCP leaders wanted war, it is unlikely that the PLA would oblige. Top officers would see the disastrous implications of attacking Taiwan. **Military caution would** also **guard against the even wilder scenario of the use of nuclear weapons against Japan or the U. S.** At the height of the Tiananmen protests it appears there was consideration given to the use of nuclear weapons in case the battle to suppress the protestors drew in outside Countries .41 But even then, the threats did not appear to gain even minimal support. In an atmosphere in which the military is thinking about its future, the resort to nuclear confrontation would not make sense.

### Afg

#### Aid cutoff inevitable---triggers their impact

Stephen Biddle 13, Professor of Political Science and International Affairs at GWU, “Ending the War in Afghanistan,” http://www.foreignaffairs.com/articles/139644/stephen-biddle/ending-the-war-in-afghanistan

Afghan aid will get even harder to defend the next time an Afghan corruption scandal hits the newspapers, or Afghan protests erupt over an accidental Koran burning, or an American adviser is killed by an Afghan recipient of U.S. aid, or an Afghan president plays to local politics by insulting American sensibilities. Such periodic crises are all but inevitable, and each one will sap congressional support for aid to Afghanistan. I recently spoke to a gathering of almost 70 senior congressional staffers with an interest in Afghanistan and asked how many of them thought it was likely that the ANSF aid budget would be untouched after one of these crises. None did.¶ In the near term, Congress will probably pay the ANSF what the White House requests, but the more time goes on, the more likely it will be that these appropriations will be cut back. It will not take much reduction in funds before the ANSF contracts to a size that is smaller than what it needs to be to hold the line or before a shrinking pool of patronage money splits the institution along factional lines. Either result risks a return to the civil warfare of the 1990s, which would provide exactly the kind of militant safe haven that the United States has fought since 2001 to prevent.

#### Great power cooperation solves stability---no collapse

Hadar 11—former prof of IR at American U and Mount Vernon-College. PhD in IR from American U (1 July 2011, Leon, Saving U.S. Mideast Policy, http://nationalinterest.org/commentary/saving-us-policy-the-mideast-5556)

Indeed, contrary to the warning proponents of U.S. military intervention typically express, the withdrawal of American troops from Iraq and Afghanistan would not necessarily lead to more chaos and bloodshed in those countries. Russia, India and Iran—which supported the Northern Alliance that helped Washington topple the Taliban—and Pakistan (which once backed the Taliban) all have close ties to various ethnic and tribal groups in that country and now have a common interest in stabilizing Afghanistan and containing the rivalries.

#### Doesn’t turn Pakistan

Finel 9 [Dr. Bernard I. Finel, an Atlantic Council contributing editor, is a senior fellow at the American Security Project, “Afghanistan is Irrelevant,” Apr 27 http://www.acus.org/new\_atlanticist/afghanistan-irrelevant]

Fourth, we are now told that defeating the Taliban in Afghanistan is imperative in order to help stabilize Pakistan. But, most observers seem to think that Pakistan is in worse shape now — with the Taliban out of power and American forces in Afghanistan — than it was when the Taliban was dominant in Afghanistan. For five years from 1996 to 2001, the Taliban ruled Afghanistan and the Islamist threat to Pakistan then was unquestionably lower. This is not surprising actually. Insurgencies are at their most dangerous — in terms of threat of contagion — when they are fighting for power. The number of insurgencies that actually manage to sponsor insurgencies elsewhere after taking power is surprising low. The domino theory is as dubious in the case of Islamist movements as it was in the case of Communist expansion.

#### No Taliban takeover

ASG 11[“A New Way Forward: Rethinking U.S. Strategy In Afghanistan,” <http://www.afghanistanstudygroup.org/NewWayForward_report.pdf>] authors below

Bruce Ackerman, Yale University, Gordon Adams, American University and Stimson Center, Amjad Atallah, New America Foundation, James Bamford, Author/Documentary Producer Darcy Burner Progressive Caucus Action Fund, James Clad, National Defense University, Steve Clemons, New America Foundation and *The Washington Note,* Juan Cole, University of Michigan and *Informed Comment,* Patrick Cronin, Center for a New American Security, Arnaud de Borchgrave, Center for Strategic & International Studies, Graciana del Castillo, Columbia University, Michael C. Desch, University of Notre Dame, Robert H. Donaldson, University of Tulsa, Bernard I. Finel, National War College, James K. Galbraith, University of Texas at Austin, James Goldgeier, George Washington University, William C. Goodfellow, Center for International Policy, Selig S. Harrison, Center for International Policy, Leo Hindery, Jr. Chair, US Economy/Smart Globalization Initiative New America Foundation, Matthew P. Hoh, Former U.S. Marine Officer and former Department of State official, Michael Intriligator, University of California, Los Angeles and The Milken Institute, Robert Jervis, Columbia University, Sean Kay, Ohio Wesleyan University, Parag Khanna, New America Foundation and former Senior Geopolitical Officer, US Special Operations Forces in Iraq and Afghanistan, W. Patrick Lang, Former Defense Intelligence Officer, South Asia Publisher, *Sic Semper Tyrannis,* Anatol Lieven, King’s College London and New America Foundation, Flynt Leverett, New America Foundation and *Race for Iran,* Hillary Mann Leverett, Yale University and *Race for Iran,* Justin Logan, Cato Institute, John Mueller, Ohio State University, Robert A. Pape, University of Chicago, Paul R. Pillar, Georgetown University, Barry Posen, Massachusetts Institute of Technology, Jason Rosenbaum, Writer, Priya Satia, Stanford University, Stephen Schlesinger, Century Foundation, Sherle R. Schwenninger, New America Foundation, Michael Shank, Office of US Congressman, Michael Honda, and Afghanistan Taskforce Chair, Congressional Progressive Caucus, J.P. Singh, Georgetown University, Richard Vague, The Governor’s Woods Foundation, America Strategy Leadership Council of the New America Foundation, Martin Walker, Woodrow Wilson Center, Stephen M. Walt, Harvard University, Jeffrey Winters, Northwestern University, Col. Lawrence B. Wilkerson, (USA, ret.) College of William & Mary, Former Chief of Staff, US Department of State, Leighton Woodhouse Labor Organizer Mosharraf Zaidi, International Development Expert and Columnist
Second, a U.S. drawdown would not make Al Qaeda substantially more lethal. In order for events in Afghanistan to enhance Al Qaeda’s ability to threaten the U.S. homeland, three separate steps must occur: 1) the Taliban must seize control of a substantial portion of the country, 2) Al Qaeda must relocate there in strength, and 3) it must build facilities in this new that will allow it to plan and train more effectively than it can today. Each of these three steps is unlikely, however, and the chances of all three together are very remote. For starters, a Taliban victory is unlikely even if the United States reduces its military commitment. The Taliban is a rural insurgency rooted primarily in Afghanistan’s Pashtun population, and its seizure of power in the 1990s was due to unusual circumstances that no longer exist and are unlikely to be repeated. Non-Pashtun Afghans now have ample experience with Taliban rule, and they are bound to resist any Taliban efforts to regain control in Kabul.

### ILaw

#### Judicial review of treaties causes the US to comply less with human rights on a scale that qualitatively outweighs their internal link---we control uniqueness because the Court doesn’t restrict political authority now and Court enforcement isn’t key to US treaty compliance

Curtis Bradley 9, Horvitz Professor of Law, Duke Law School, SELF-EXECUTION AND TREATY DUALITY, http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=5505&context=faculty\_scholarship

The argument for more mandatory judicial review of treaty obligations depends on a separation of powers-oriented, rather than federalism-oriented, construction of the Clause. Critics of non-self-execution argue that treaties were included in the Supremacy Clause to help avert U.S. treaty violations, something that they contend will be more likely to occur without self-execution.47 As an initial matter, it is important to remember that U.S. compliance with its treaty obligations generally does not depend on self- execution. There are many ways for a nation to comply with a treaty without direct judicial application, including preexisting legislation, new legislation, and executive action, and U.S. compliance with most treaties is not in fact accomplished through its courts. As discussed below in Part III, treaties are never self-executing in some countries, and yet those countries generally manage to comply. Critics of political branch flexibility with respect to the issue of self-execution also neglect to consider the ex ante effects of eliminating such flexibility. Among other things, if the political branches could not regulate the domestic effects of treaties, they would likely enter into fewer, and less significant, treaty commitments.48 ¶ [Footnote 48 Starts] ¶ 48 See, e.g., Bradley & Goldsmith, 149 U Pa L Rev at 410-16 (documenting how non-self- execution declarations and other conditions helped break the logjam that had prevented U.S. ratification of human rights treaties) ¶ [Footnote 48 Ends]

#### US compliance is irrelevant to other states’ calculus

Andrew Moravcsik 5, PhD and a Professor of Politics and International Affairs at Princeton, 2005, "The Paradox of U.S. Human Rights Policy," American Exceptionalism and Human Rights, http://www.princeton.edu/~amoravcs/library/paradox.pdf

It is natural to ask: What are the consequences of U.S. "exemptionalism” and noncompliance? International lawyers and human rights activists regularly issue dire warnings about the ways in which the apparent hypocrisy of the United States encourages foreign governments to violate human rights, ignore international pressure, and undermine international human rights institutions. In Patricia Derian's oft-cited statement before the Senate in I979: "Ratification by the United States significantly will enhance the legitimacy and acceptance of these standards. It will encourage other countries to join those which have already accepted the treaties. And, in countries where human rights generally are not respected, it will aid citizens in raising human rights issues.""' One constantly hears this refrain. Yet there is little empirical reason to accept it. Human rights norms have in fact spread widely without much attention to U.S. domestic policy. In the wake of the "third wave" democratization in Eastern Europe, East Asia, and Latin America, government after government moved ahead toward more active domestic and international human rights policies without attending to U.S. domestic or international practice." The human rights movement has firmly embedded itself in public opinion and NGO networks, in the United States as well as elsewhere, despite the dubious legal status of international norms in the United States. One reads occasional quotations from recalcitrant governments citing American noncompliance in their own defense-most recently Israel and Australia-but there is little evidence that this was more than a redundant justification for policies made on other grounds. Other governments adhere or do not adhere to global norms, comply or do not comply with judgments of tribunals, for reasons that seem to have little to do with U.S. multilateral policy.

#### International law isn’t key to global co-operation

**Estreicher 03 -**  Law Professor at NYU (Samuel, “Rethinking the Binding Effect of Customary International Law,” Virginia Journal of International Law Association, Fall, 44 Va. J. Int'l L. 5)

As for the subsidiary law that an increasingly interdependent world needs in advance of treaties, traditional CIL could not easily play this role as it was essentially backwards looking. The new, instantaneous customary law tries to play this role, but in a way that hardly comports with legitimacy. Without relying on CIL, states, international organizations, and other actors have ample means of identifying problems requiring interstate cooperation, drafting instruments that might command state support, and marshaling the forces of moral suasion. It is hard to see that the "law" aspiration of CIL offers the prospect of a significant incremental gain. In any event, the ultimate question is whether any such benefit warrants the accompanying costs - to which I now turn.

#### ( ) Poor implementation dooms it to failure

Racusin 6 **– JD from University of Houston Law Center (**Phillip D., “Looking at the constitution through world-colored glasses: the Supreme Court’s use of transnational law in constitutional adjudication,” *Houston Journal of International Law,* 9/22/06)

Opponents often argue that there is great danger in incorrectly citing or using transnational law, and look upon judges' and lawyers' lack of expertise in transnational legal application as inevitable. The Supreme Court Justices and American law professors admit that more experience is needed to properly use the full resources of international law. Their sense of urgency underscores the need for education in properly applying international law and avoiding confusing or obscure applications. Justice Breyer calls attention to difficulties the Justices and their clerks experience in finding relevant comparative material (149)--a common argument against transnational discourse. He asks lawyers to recognize that the courts are now receptive to international law and to perform the legal research necessary to bring relevant international law to the Court. (150) Justice O'Connor believes experience with international law should begin at the legal education level, especially due to the increasing frequency of international and foreign law in American courts. (151) She emphasizes that expanded knowledge in the field of comparative constitutional law is needed now. (152) Comparative law professors agree and reveal that they can best understand legal global changes in the law by making trips to emerging countries that are "some of the world's most dynamic centers of legal change." (153) However, what first appears to be incompetence when decisions are rendered may actually be something profound for its time. David Fontana brings up an interesting point for consideration: "Even when using American sources, judges do not know all that much. When the Warren Court decided Brown v. Board of Education, it may have known something about the South, but did it really know what would happen in the years following its decision?" (154) In many cases, only through hindsight will [make] a decision come to be known as a well- or poorly-reasoned one. Though competence in comparative constitutional law cannot be presently assured, judges, clerks, and lawyers can assure high competence by using, discussing, and interacting with transnational law. (155)