### \*\*1NC\*\*

### T

Interpretation -

Restrictions are prohibitions on action

 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.

Violation - the affirmative simply reaffirms the existing AUMF through a statutory clarification

1.) Limits - their int explodes the topic - allows any minor clarification to modify existing exec policy

2.) Precision - the aff is a condition for the AUMF - that is distinct from a restriction

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

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

Extra Topicality - the affirmative ammends the AUMF - this includes a scope of war powers outside of the topic: explodes the topic - Signature strike vs TK proves,

### K

The affirmative represents a strategy of lip service restraint re-affirms executive power granting legitimacy to sovereign manipulation of law

 **Posner & Vermeule 10** Eric A. Posner [Kirkland & Ellis Distinguished Service Professor of Law] AND Adrian Vermeule [Jr. Professor of Law at Harvard Law School] “The Executive Unbound: After the Madisonian Republic”, Oxford: Oxford University Press, USA, 2010 [Questia] pp 3-5

Some commentators argue that the federal courts have taken over Congress’s role as aninstitutional check. It is true that the Supreme Court has shown little compunction about striking down statutes (although usually state statutes), and that it rejected some of the legal theories that the Bush administration used to justify its counterterrorism policies. However, the Court remains a marginal player. The Court ducked any legal rulings on counter terror policies until the 2004 Hamdi decision, and even after the Boumediene decision in 2008, no detainee has been released by final judicial order, from Guantánamo or elsewhere, except incases where the government chose not to appeal the order of a district judge. The vast majorityof detainees have received merely another round of legal process. Some speculate that judicialthreats to release detainees have caused the administration to release them preemptively. Yetthe judges would incur large political costs for actual orders to release suspected terrorists, andthe government knows this, so it is unclear that the government sees the judicial threats ascredible or takes them very seriously. The government, of course, has many administrativeand political reasons to release detainees, quite apart from anything the courts do. So the executive submits to judicial orders in part because the courts are careful not to give orders that the executive will resist.¶ In general, judicial opposition to the Bush administration’s counterterrorism policies took the form of incremental rulings handed down at a glacial pace, none of which actually stopped any of the major counterterrorism tactics of that administration, including the application of military power against Al Qaeda, the indefinite detention of members of Al Qaeda, targeted assassinations, the immigration sweeps, even coercive interrogation. The (limited)modifications of those tactics that have occurred resulted not from legal interventions but from policy adjustments driven by changed circumstances and public opinion, and by electoral victory of the Obama administration. However, the Obama administration has mostly confirmed and in some areas even expanded the counterterrorism policies of the Bush administration. Strong executive government is bipartisan. The 9/11 attack provided a reminder of just how extensive the president’s power is. The executive claimed the constitutional authority to, in effect, use emergency powers. Because Congress provided redundant statutory authority, and the Supreme Court has steadfastly refused to address the ultimate merits of the executive’s constitutional claims, these claims were never tested in a legal or public forum. But it is worth trying to imagine what would have happened if Congress had refused to pass the Authorization for Use of Military Force and the Supreme Court had ordered the¶ executive to release detainees in a contested case. We think that the executive, backed up as it was by popular opinion, would have refused to obey. And, indeed, for just that reason, Congress would never have refused its imprimatur and the Supreme Court would never have stood in the executive’s way. The major check on the executive’s power to declare an emergency and to use emergency powers is—political. The financial crisis of 2008–2009 also revealed the extent of executive power. Acting together, the Fed, the Treasury, and other executive agencies spent hundreds of billions of dollars, virtually nationalizing parts of the financial system. Congress put up a fuss, but it could not make policy and indeed hardly even influenced policy. Congress initially refused to supply a blank check, then in world-record time changed its mind and gave the blank check, then watched helplessly as the administration adopted policies different from those for which it said the legislation would be needed. Courts played no role in the crisis except to ratify executive actions in tension with the law.2'

The justifications for restrictions presuppose that the suspension of legal rights is the exception and not the rule - leads to legal black holes that subject us to the state of exception

**Fabbri 9** Lorenzo Fabbri [PhD in Romance Studies, professor of Italian @ University of Minnesota –areas of research Biopolitics, Continental Philosphy, Humanities, Italian Studies, Critical Theory, Film Studies, and Post-Colonial Studies] ¶ “Chronotopologies of the Exception: Agamben and Derrida before the Camps”¶ Diacritics, Volume 39, Number 3, Fall 2009, pp. 77-95 (Article) Published by The Johns Hopkins University Press

I begin with Bruce Ackerman who in “The Emergency Constitution” tried to demarcate ¶ an unmistakable threshold between the normal functioning of a constitutional democracy and its exceptional suspension. After having separated these two realms, Ackerman ¶ concerns himself with determining the actor who should have the authority to switch ¶ from normality to exceptionality (and vice versa). From this perspective he argues for ¶ the necessity of a statutory reform that would unmistakably preserve the legislature authority over the exception threshold, and therefore prevent the executive from turning ¶ a transitional emergency regime into a permanent police state. However imperative or ¶ praiseworthy such an attempt may be, I argue that Ackerman’s legalist framework fails ¶ to notice that the exception is not something that—sometimes and somewhere, in a local ¶ and transitory context—needs to be enforced in order to deal with national emergencies. ¶ Following Adrian Vermeule, my first critical intervention consists in showing that any ¶ defense of classic legalism overlooks the inevitable existence, within a system of rights, ¶ of legal black and grey holes that always allow for negotiations with the rule of law. ¶ Against Vermeule, I claim that these loopholes are not created by the judicial discretion ¶ inscribed in administrative law, but provoked by the naked formality of laws, i.e., by the ¶ very form of law. Inspired by Jacques Derrida’s description of the textual structure of our ¶ relation to law and Agamben’s identifying the state of exception as the paradigm of government, I argue that spectacular exceptions granted to the executive when emergencies ¶ transpire should not distract us from the micro-exceptions that are produced every time ¶ the meaning of a certain law is decided upon. In other words, the executive’s reactions ¶ to national crises should not prevent us from acknowledging that, for certain segments ¶ of the population, freedom is normally, and strategically, negated. After highlighting the ¶ structural affinities between Derrida and Agamben’s topologies of the exception, I will ¶ show why, according to Agamben, deconstruction’s eternal and tactical negotiation with a ¶ law recognized to always be in force without any fixed meaning is insufficient. In order to ¶ improve our position in the struggle against an emergency that has always been the rule, ¶ the task before us is the creation of truly extra-juridical spaces that might function as real ¶ exceptions to sovereign power.

The 1ac concerns itself with appearance and the spectacle of the law - this legitimizes state violence.

Giorgio Agamben 2000 [Phd., [Baruch Spinoza](http://www.egs.edu/library/benedict-baruch-spinoza/biography/) Chair at European Graduate School EGS, is a professor of aesthetics at the University of Verona, Italy and teaches philosophy at the Collège International de Philosophie in Paris and at the University of Macerata in Italy] “Means Without End: Notes on Politics”, p. 93-95)

Because human beings neither are nor have to be any essence, any nature, or any specific destiny, their condition is the most empty and the most insub­stantial of all: it is the truth. What remains hidden from them is not something behind appearance, but rather appearing itself, that is, their being nothing other than a face. The task of politics is to return appearance itself to appearance, to cause appearance itself to appear. The face, truth, and exposition are today the objects of a global civil war, whose battlefield is social life in its en­tirety, whose storm troopers are the media, whose victims are all the peoples of the Earth. Politicians, the media establishment, and the advertising industry have under­stood the insubstantial character of the face and of the community it opens up, and thus they transform it into a miserable secret that they must make sure to control at all costs. State power today is no longer founded on the monopoly of the legitimate use of violence — a mo­nopoly that states share increasingly willingly with other nonsovereign organizations such as the United Nations and terrorist organizations; rather, it is founded above all on the control of appearance (of doxa). The fact that politics constitutes itself as an autonomous sphere goes hand in hand with the separation of the face in the world of spectacle — a world in which human communication is being separated from itself. Exposition thus transforms itself into a value that is accumulated in images and in the media, while a new class of bureaucrats jealously watches over its management.

This presentation of legitimacy continues crumbling the distinction between democracy and totalitarianism and reinforces death-centered thanatopolitics - the impact is genocide on the global scale.

**Hall 7** Lindsay Anne Hall [MA Political Science] “Death, Power, and the Body: A Bio-political Analysis of Death and Dying” May 7, 2007 (Research paper presented to faculty of the Virginia Polytechnic Institute and State University)¶ <http://scholar.lib.vt.edu/theses/available/etd-05152007-134833/unrestricted/etd.pdf>

Agamben, on the other hand, addresses the intertwinement of medicine, death, ¶ and power through his analysis of the modern individualís exposure to death. According ¶ to Agamben, Western culture has become “thanatopolitical,” which means that it is ¶ dominated by a politics of death that leaves us more and more exposed to both death and ¶ operations of power. For Agamben, death has become indistinct. It is both meaningful ¶ and meaningless, both individual and anonymous, both visible and invisible. Moreover, ¶ because modern society increasingly exposes individuals to death, liberal democracy ¶ becomes increasingly indistinguishable from totalitarian regimes, an issue I will explore ¶ in more detail in Chapter Three. While the issues that I am addressingólife sustaining ¶ technologiesóare merely one symptom of the greater problem that Agamben is himself ¶ concerned with, I hope that shedding more light on this particular space of power can ¶ allow us to think about and eventually challenge the greater politics of death operating in ¶ modern society.¶ In this study I will focus specifically on reconsidering the relations of power ¶ surrounding the decision to stop preserving life in the particular space of the hospital ¶ room. According to Foucaultís view, terminating life is nearly unthinkable in a biopolitical society. Thus, as Benjamin Noys elaborates, we ìtry so hard to preserve life, ¶ even at the cost of terrible suffering, because death is the limit to [bio-political] powerî ¶ (2005, 54). For Foucault, death has become ìshameful,î it is paramount to giving up, to ¶ letting go, or to admitting defeat (all things given a negative connotation in Western ¶ society) (2003c, 247). In this study I would like to reconsider these claims through ¶ Giorgio Agambenís argument that death has become more political as the boundary ¶ between life and death has become blurred. Such a state of being, he claims, exposes the ¶ body to death, and yetóas I am primarily concerned withóìsaturatesî the body with ¶ power (Agamben 1995, 164). ¶ As suggested by this synopsis, I am using Foucault as the starting point for my ¶ study. Though I ultimately bring in Agamben who question aspects of his analysis of ¶ power, I begin my first chapter with an in depth account of the ways in which Foucault ¶ believed power to be exercised upon the body. In this chapter I begin to hammer out the ¶ theoretical framework that I will then both use and challenge in order to analyze the ¶ space of the hospital room as a space of power. In The Birth of the ClinicóFoucaultís ¶ only sustained analysis of the medical disciplineóhe claimed that the body was suddenly ¶ made ìexhaustively legibleî with the birth of modern medicine. More precisely, he ¶ claims that it was ìfrom the integration of death into medicineÖthat Western man could ¶ [at last] constitute himself in his own eyes as an object of science,î grasping himself ¶ within his own language, and giving himself his own discursive existence (Foucault ¶ 1973, 197). In his later writings on power, however, Foucault gives this constitutive ¶ capacity of individuals to sexuality, not death, and as I have previously suggested, ¶ Foucault begins to look at death as a limit to power itself. Throughout this study I have ¶ attempted to reconcile this seeming contradiction in Foucaultís work through the work of ¶ Giorgio Agamben. ¶ My second chapter is an examination of what Agamben terms the ìzone of ¶ indistinctionî between life and death. For Agamben, the line between life and death has ¶ become increasingly blurred by a whole series of ìwaveringsî around both the time of¶ death and the question of who decides on this time. As Agamben claims, this decision is ¶ increasingly taken up by the medical profession, thus in the conclusion of this chapter I ¶ return to Foucaultís only sustained engagement with medical power, The Birth of the ¶ Clinic. In this section I argue that Agambenís analysis of the intertwinement between the ¶ medical discipline and power might benefit from some of the historical insights provided ¶ in Foucaultís analysis. While Agamben centers his analysis on post-World War II ¶ society, Foucaultís work demonstrates that the entanglement of medicine and sovereign ¶ power have a far longer history than perhaps Agamben realizes or is willing to engage ¶ with. ¶ In the third and final chapter of this study I examine how death is politicized. As ¶ Agamben argues, death is not a natural or biological moment but a political decision. In ¶ order to tackle the nature of this decision I look at the work of Peter Singer who ¶ compares two seemingly contradictory ethics, the ethics of the sanctity of life and the ¶ quality of life ethic. An Agambenean analysis of these ethics however, suggest some ¶ problems that Singer may have not been able to articulate because he fails to take into ¶ account the political nature of death. One of the criticisms that has been lodged against ¶ Singer is that his ethics closely parallels Nazi eugenics programs in which the medical ¶ establishment made decisions on whose life was worth living. This criticism bridges the ¶ gap between Singerís work and the point I have been making through this piece- biopower is intimately enmeshed with sovereignty. ¶ Foucault saw this combination at work primarily in totalitarian regimes. ¶ However, as Agamben argues, the distinctions between totalitarian regimes and ¶ democracies are crumbling. I argue in my Conclusion that modern power is increasingly ¶ an amalgamation between the bio-political and the thanatopolitical. For power can both ¶ manage life and expose us to death. What is crucial to take from this analysis is that we ¶ must formulate some sort of individual resistance to this power, even though techniques ¶ of modern bio-power (bureaucratic planning, statistical analysis, population control) may ¶ xpose us to death as a population rather than as individuals. This resistance must be ¶ something greater than simply a call for physician assisted suicide or an appeal for ¶ individual ownership of our bodies, it must first center on an engagement with what ¶ about life is really worth preserving.

Our alternative is to shake out the rug from under the 1ac's mode of legal analysis - this is preferable to actualizing new and less oppressive societal formulations.

Singer 84 - Associate Professor of Law (Joseph William Singer, Associate Professor of Law at Boston University, 1984, [“The Player and the Cards: Nihilism and Legal Theory,” Yale Law Journal (94 Yale L.J. 1)

What shall we do then about legal theory? I think we should abandon the idea that what we are supposed to be doing is applying or articulating a rational method that will tell us once and for all (or even for our generation) what we are supposed to believe and how we are supposed to live. We should no longer view the project of giving a "rational foundation" for law as a worthwhile endeavor. If morality and law are matters of conviction rather than logic, we have no reason to be ashamed that our deeply felt beliefs have no "basis" that can be demonstrated through a rational decision procedure or that we cannot prove them to be "true" or "right." Rorty has distinguished between two broad types of theory: systematic and edifying. n165 Systematic philosophers build systems of thought that they claim explain large bodies of material, guide theoretical development, and generate answers to difficult questions. Systematizers can be either normal or revolutionary philosophers. The normal systematizers work within established tradition; the revolutionary systematizers seek to replace the established paradigm with a new, better, or truer paradigm of thought. Both try to establish a framework that will set bounds on the legitimate content of discourse. Edifying philosophers, on the other hand, seek to shake the rug out from under existing normal or abnormal systems of thought. They seek to make us doubt the necessity and coherence of our views. They seek to free us from feeling that we have "gotten" the answer and that we no longer need to question ourselves about what we stand for. Edifying philosophers do not seek to induce people to give up their moral views. They do not [\*58] argue against profound political commitment. Rather, they strive to make us realize that our views are matters of commitment rather than knowledge. n166 Legal scholars can perform an edifying role by broadening the perceived scope of legitimate institutional alternatives. n167 One way to do this is to demonstrate the contingent and malleable nature of legal reasoning and legal institutions. The greatest service that legal theorists can provide is active criticism of the legal system. Criticism is initially reactive and destructive, rather than constructive. But our mistaken belief that our current ways of doing things are somehow natural or necessary hinders us from envisioning radical alternatives to what exists. To exercise our utopian imagination, it is helpful first to expose the structures of thought that limit our perception of what is possible. Judges rationalize their decisions as the results of reasoned elaboration of principles inherent in the legal system. Instead of choosing among available descriptions, theories, vocabularies, and course of action, the official who feels "bound" reasons from nonexistent "grounds" and hides from herself the fact that she is exercising power. n168 By systematically and constantly criticizing the rationalizations [\*59] of traditional legal reasoning, we can demonstrate, again and again, that a wider range of alternatives is available to us. I therefore advocate the persistent demonstration in all doctrinal fields that both the legal rules in force and the arguments that are presented to justify and criticize them are incoherent. n169 They are incoherent because they are constructed in ways that make it impossible for them to satisfy their own claims to determinacy, objectivity and neutrality. n170 Legal theory is at war with itself. This kind of criticism would be useful even if we could not imagine a satisfactory alternative to traditional legal theory. Such criticism reminds us that legal theory cannot answer the question of how we are going to live together. We are going to have to answer that question ourselves.

### Battlefield

.) Can’t solve 'active hostilities' - DoD secrets.

Goldsmith 13 (Jack, Henry L. Shattuck Professor at Harvard Law School, served as Assistant Attorney General, Office of Legal Counsel from 2003–2004, and Special Counsel to the Department of Defense from 2002–2003, “DOD’s Weak Rationale for Keeping Enemy Identities Secret,” 7/26/13, <http://www.lawfareblog.com/2013/07/dods-weak-rationale-for-keeping-enemy-identities-secret/>)

Cora Currier at Pro Publica has an important story on why DOD **won’t publish** the list of AUMF “associated forces” against whom we are at war. DOD’s rationale: A Pentagon spokesman told ProPublica that revealing such a list could cause “**serious damage** to national security.” “Because elements that might be considered ‘associated forces’ can build credibility by being listed as such by the United States, we have classified the list,” said the spokesman, Lt. Col. Jim Gregory. “We cannot afford to inflate these organizations that rely on violent extremist ideology to strengthen their ranks.” I am quoted in the article as finding this rationale “weak,” and would like here to expand my reasoning, and add a few points. First, DOD says it must keep the identities of our enemies secret so as not to “inflate” or enhance their “credibility.” I suppose the idea, viewed charitably, is that being a named enemy of the United States can spur recruitment and might enhance the group’s interest in targeting U.S. interests. Still, “inflating” the enemy is a pretty **soft criterion for keeping its identity secret**. After all, the premise of for including a group on an AUMF list is that the AQ-associated force is (in the Obama administration’s typical formulation) “engaged in hostilities against the United States,” and presumably the fact of being on the receiving end of U.S. or U.S-supported military operations can be known locally and a spur to recruitment regardless of USG acknowledgment.

Transparency doesnt solve secret interpretation

Rumold 13 (Mark, staff attorney at the Electronic Frontier Foundation, “A New Year, a New FISA Amendments Act Reauthorization, But the Same Old Secret Law,” January 10, 2013 <https://www.eff.org/deeplinks/2013/01/new-year-new-fisa-amendments-act-reauthorization-same-old-secret-law>)

Secret Law? What Secret Law?

Senators have repeatedly complained that provisions of FISA have been secretly interpreted in ways that differ markedly from the language of the statute. These interpretations, according to the Senators, are contained in opinions issued by the FISC. But perplexingly, both the executive branch and other members of the Senate have taken the position that, despite the secrecy of the FISC opinions, those opinions do not constitute “the law” or “secret law.” For example, Senator Feinstein, in opposing Senator Merkley’s Amendment, stated (pdf): Nevertheless, I am concerned that what is happening is the term “secret law” is being confused with what the Foreign Intelligence Surveillance Court issues in the form of classified opinions based on classified intelligence programs. Senator Feinstein’s statement is remarkably similar to an argument made by the DOJ in a brief in EFF’s Patriot Act Section 215 FOIA case, yet another case involving a secret interpretation of surveillance law. In that brief, the DOJ argued that EFF “attempts to conflate the meaning of the word ‘secret’ in the phrase ‘secret law’ with the use of the word ‘secret’ for national security purposes.” (pdf) But this much is clear: when a court issues an opinion containing a significant interpretation of a public statute, that court’s opinion is the law. When the court’s opinion is withheld from the public, that opinion is a **“secret,”** even if the statute the opinion interprets is already publicly available. Because a court’s opinion constitutes the “law,” refusing to disclose those opinions to the public results in “secret law.” The basis for the government’s secrecy claim is irrelevant: the law is still “secret” whether the opinion is classified, protected by the attorney-client privilege, or kept secret for any other of the host of legal privileges available to the government.

The plan generates new legal uncertainty and undermines international norms

**Blank, 13 –** professor of law at Emory (Laurie, “LEARNING TO LIVE WITH (A LITTLE) UNCERTAINTY: THE OPERATIONAL ASPECTS AND CONSEQUENCES OF THE GEOGRAPHY OF CONFLICT DEBATE” <http://www.pennlawreview.com/online/161-U-Pa-L-Rev-Online-347.pdf>) **LOAC = Law of Armed Conflict**

Uncertainty about the geographic scope of armed conflict leads to a variety of analytical and implementation challenges with regard to LOAC, human rights law, jus ad bellum, and other relevant legal regimes. The simple fact that within an armed conﬂict, a party to the conﬂict can use lethal force as a ﬁrst resort, while outside an armed conﬂict, such deadly force may only be used as a last resort, is the starkest reminder of why such extensive attention has been focused on this question over the past few years. For the purpose of achieving LOAC’s central goal of “alleviating, as much as possible the calamities of war,”32 greater clarity regarding where an armed conﬂict is taking place and to where the concomitant authorities and obligations extend certainly would be a signiﬁcant contribution. The international community—military lawyers, policymakers, international law scholars— should therefore address these issues head-on in a continuing eﬀort to better understand how to apply the law most eﬀectively and eﬃciently.33 Daskal’s proposal for a rules-driven new law of war framework is therefore a welcome and important contribution to the discussion and debate. At the same time, however, these eﬀorts must stay true to the needs and goals of LOAC as a pragmatic, operationally focused body of law that is, above all, designed to work in the inherent chaos and uncertainty of armed conﬂict. As I have argued elsewhere, there are signiﬁcant risks for the future implementation and development of LOAC as a result of conﬂating norms from LOAC with norms from human rights law, or of borrowing one from the other without careful delineation, including, in particular, the rules regarding surrender and capture and the different applications and purposes of proportionality in each legal regime.34 No place is this risk more profound than in relation to the legal authority to employ force against an enemy belligerent. In the context of a speciﬁc legal framework for one particular type of conﬂict, the same concerns about blurring the lines between legal regimes remain. LOAC does not require an individualized threat assessment in the targeting of combatants, who are presumed hostile by dint of their status. Over time, however, the requirement for an individualized threat assessment in certain geographical zones in a new law of war framework for conﬂicts with transnational terrorist groups may well begin to bleed into the application of LOAC in more traditional conﬂicts. In essence, therefore, a carefully designed paradigm for one complex and diﬃcult conﬂict scenario ultimately impacts LOAC writ large, even absent any perceived need or direct motivation for such change. Interpreting LOAC to require an individualized threat assessment for all targeting decisions—even those against the regular armed forces of the enemy state in an international armed conﬂict—introduces signiﬁcant tactical and operational risk for soldiers not mandated or envisioned by the law.35 The same conﬂation problem holds true for other non-LOAC obligations that might be imported into LOAC depending on the analysis of where and how a new law of war framework were to apply. It is important to recognize, notwithstanding the focus on the operational eﬀectiveness of LOAC in this Response, that conﬂation and “borrowing” oﬀer the same challenges for the implementation of human rights law, to the extent that norms from LOAC begin to bleed into the application of human rights norms. Lastly, superimposing an artiﬁcially created framework detracts attention from—or even papers over—current challenges within LOAC, such as the identiﬁcation of enemy operatives, the nature and amount of proof required for determinations of reasonableness or unreasonableness in targeting decisions, and other perennially tricky issues.

Brooks ev claims China and Russia as "totalitarian states", if thats the case they wouldn't follow norms to begin with

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

The second benefit to foreigners of distinctive U.S. legal norms is information. The costs and benefits of our norms will be visible for all to see. n268 Particularly in an era of increased empirical social science testing, over time we will be able to analyze and identify the effects of differences in norms between the United States and other nations. n269 Such diversity benefits foreigners as foreign nations can decide to adopt our good norms and avoid our bad ones. The only noteworthy counterargument is the claim that U.S. norms will have more harmful effects than those of raw international law, yet other nations will still copy them. But both parts of this proposition seem doubtful. First, U.S. law emerges from a democratic process that creates a likelihood that it will cause less harm than rules that emerge from the nondemocratic processes [\*1235] that create international law. Second, other democratic nations can use their own political processes to screen out American norms that might cause harm if copied. Of course, many nations remain authoritarian. n270 But our norms are not likely to have much influence on their choice of norms. Authoritarian states are likely to select norms that serve the interests of those in power, regardless of the norms we adopt. It is true that sometimes they might cite our norms as cover for their decisions. But the crucial word here is "cover." They would have adopted the same rules, anyway. The cover may bamboozle some and thus be counted a cost. But this would seem marginal compared to the harm of allowing raw international law to trump domestic law.

#### No modeling US military posture- the “copycat” argument is flawed

Boot 2011 (Max Boot, Jeane J. Kirkpatrick Senior Fellow in National Security Studies at the Council on Foreign Relations in New York, leading military historian and foreign-policy analyst, “We Cannot Afford to Stop Drone Strikes,” Commentary Magazine, October 9, 2011, [http://www.commentarymagazine.com/2011/10/09/drone-arms-race/)](http://www.commentarymagazine.com/2011/10/09/drone-arms-race/%29)

“The problem is that we’re creating an international norm” — asserting the right to strike preemptively against those we suspect of planning attacks, argues Dennis M. Gormley, a senior research fellow at the [University of Pittsburgh](http://www.commentarymagazine.com/2011/10/09/drone-arms-race/) and author ofMissile Contagion, who has called for tougher export controls on American drone technology. “The copycatting is what I worry about most.”¶ This is a familiar trope of liberal critics who are always claiming we should forego “X” weapons system or capability, otherwise our enemies will adopt it too. We have heard this with regard to ballistic missile defense, ballistic missiles, nuclear weapons, chemical and biological weapons, land mines, exploding bullets, and other fearsome weapons. Some have even suggested the U.S. should abjure the first use of nuclear weapons–and cut down our own arsenal–to encourage similar restraint from Iran.¶ The argument falls apart rather quickly because it is founded on a false premise: that other nations will follow our example. In point of fact, Iran is hell-bent on getting nuclear weapons no matter what we do; China is hell-bent on getting drones; and so forth. Whether and under what circumstances they will use those weapons remains an open question–but there is little reason to think self-restraint on our part will be matched by equal self-restraint on theirs. Is Pakistan avoiding nuking India because we haven’t used nuclear weapons since 1945? Hardly. The reason is that India has a powerful nuclear deterrent to use against Pakistan. If there is one lesson of history it is a strong deterrent is a better upholder of peace than is unilateral disarmament–which is what the New York Times implicitly suggests.¶ Imagine if we did refrain from drone strikes against al-Qaeda–what would be the consequence? If we were to stop the strikes, would China really decide to take a softer line on Uighurs or Russia on Chechen separatists? That seems unlikely given the viciousness those states already employ in their battles against ethnic separatists–which at least in Russia’s case already includes the suspected [assassination](http://www.independent.co.uk/news/world/europe/former-chechen-rebel-boss-assassinated-in-dubai-1657758.html) of Chechen leaders abroad. What’s the difference between sending a hit team and sending a drone?

No drone war.

Reed 9-19 - Quoting top airforce officials (John, http://killerapps.foreignpolicy.com/posts/2013/09/19/predator\_drones\_useless\_in\_most\_wars\_top\_air\_force\_general\_says, September 19th 2013, )

The drones that have proved so useful at hunting al Qaeda are "useless" in nearly every other battlefield scenario, says a top Air Force general. So, for the first time, the Air Force is proposing culling the fleet of little, propeller-driven MQ-1 Predator and MQ-9 Reaper drones in favor of stealthier, faster aircraft. This is because the slow, low-flying drones that killed terrorists in the last decade's wars have little chance of surviving against an enemy armed with even basic air defenses. Faced with declining defense budgets, Air Force officials want to retire many of the low-tech drones. "Predators and Reapers are useless in a contested environment," said Gen. Mike Hostage, chief of the air service's Air Combat Command, during the Air Force Association's annual conference outside of Washington. "Today … I couldn't put [a Predator or Reaper] into the Strait of Hormuz without having to put airplanes there to protect it," said the four-star general. This week, the Air Force's chief of staff, Gen. Mark Welsh, revealed that an F-22 -- the planet's most sophisticated stealth fighter -- intercepted Iranian F-4 Phantom jets that were closing in on a U.S. Predator drone over the strait last March. In November 2012, Iranian Su-25 ground attack jets fired on, and missed, an American Predator over the strait. In 2011, the Pentagon ordered the Air Force to have enough MQ-1s and MQ-9s to fly up to 65 combat air patrols (CAPs) around the world by this year. Each CAP consists of up to four drones. Even as the service worked to make this happen, it questioned the order, saying there was no official requirement stating the military's need for what many in the air service believe are little more than flying lawn mowers. "We're trying to convince [the Office of the Secretary of Defense] that the 65 challenge -- while made sense to the people who gave it to us when it was given, and we dutifully went after it -- is not the force structure the nation needs or can afford in an anti-access, area-denial environment," said Hostage. "Anti-access, area-denial" is the military's term for enemies armed with advanced radars, missiles, fighter jets, and electronic warfare systems meant to keep American aircraft, missiles, and ships far from their borders. U.S. military planners expect the Air Force's ability to "stare" at targets 24/7 using its drone fleet to be there in future conflicts, said Hostage. "But they want it in a contested environment, and we can't do it currently." MQ-1s and MQ-9s "have limited capability" against even basic air defenses, said Hostage. "We're not talking deep over mainland China; we're talking any contested airspace. Pick the smallest, weakest country with the most minimal air force -- [it] can deal with a Predator." To keep its ability to stare at targets, the Air Force will have to buy stealthier, faster reconnaissance planes or figure out a way to look at an enemy from beyond the reach of its defenses. The Air Force's top spy, Lt. Gen. Bob Otto, echoed Hostage's comments, saying that after the war in Afghanistan ends, he wants the Air Force to get rid of a number of Predators and Reapers and replace them with stealthier spy planes. "My argument would be, we can't afford to keep all of this capability, so we're going to have to bring some of it down," said Otto while discussing the 65 Predator and Reaper CAPs after a speech at the same conference. This will free cash to invest in high-end drones and other spy gear that can be used against heavily defended targets, according to Otto. "I think the place to take risk is in the permissive environment," said Otto of where he wants the service to spend its limited cash for buying new intelligence-gathering tools such as drones. Once major U.S. involvement in Afghanistan ends in 2014, Otto may scale back the service's intelligence-gathering efforts -- including its drones -- from the fight against terrorism and refocus much of it on high-end threats posed by other nations. This will leave much of the service's anti-terrorism intelligence work to Air Force Special Operations Command (AFSOC) and its fleet of Predators and Reapers, according to the three-star general. This shift in intelligence resources may allow Hostage, who is in charge of the forces that fly the majority of the Air Force's drones, to be free to focus on replacing the Predators and Reapers. "I need to shift the demographics of the ISR [intelligence, surveillance, and reconnaissance] fleet," said Hostage. "We have ways" of doing that, added Hostage, of his plans to modernize the unmanned spy-plane fleet. "I'm not gonna tell you exactly how I'm gonna do it, but yes, I'm looking at different ways of doing it with flying platforms [and] with non-flying platforms -- a family of capabilities," said the general. "We have shown our joint partners a way of war that they're not going to want us to back away from, so we have to have that ability and my current fleet of 65 Predator-Reapers is not the answer."

### EU

#### Apocalyptic predictions make serial policy failure and rushing into things inevitable

Kurasawa 4 – Professor of Sociology, York University of Toronto, Fuyuki, “Cautionary Tales: The Global Culture of Prevention and the Work of Foresight”, Constellations Volume 11, No 4, http://www.yorku.ca/kurasawa/Kurasawa%20Articles/Constellations%20Article.pdf

Up to this point, I have tried to demonstrate that transnational socio-political relations are nurturing a thriving culture and infrastructure of prevention from below, which challenges presumptions about the inscrutability of the future (II) and a stance of indifference toward it (III). Nonetheless, unless and until it is substantively ‘filled in,’ the argument is vulnerable to misappropriation since farsightedness does not in and of itself ensure emancipatory outcomes. Therefore, this section proposes to specify normative criteria and participatory procedures through which citizens can determine the ‘reasonableness,’ legitimacy, and effectiveness of competing dystopian visions in order to arrive at a socially self-instituting future. Foremost among thepossible distortions of farsightedness is alarmism, the manufacturing ofunwarranted and unfounded doomsday scenarios. State and market institutionsmay seek to produce a culture of fear by deliberately stretching interpretations of realitybeyond the limits of the plausible so as to exaggerate the prospects of impending catastrophes, or yet again, by intentionally promoting certain prognoses over others for instrumental purposes. Accordingly, regressive dystopiascan operate as Trojan horses advancing political agendasor commercial interests that would otherwise be susceptible to public scrutiny and opposition. Instances of this kind of manipulation of the dystopian imaginary are plentiful: the invasion of Iraq in the name of fighting terrorism and an imminent threat of use of ‘weapons of mass destruction’; the severe curtailing of American civil liberties amidst fears of a collapse of ‘homeland security’; the neoliberal dismantling of the welfare state as the only remedy for an ideologically constructed fiscal crisis; the conservative expansion of policing and incarceration due to supposedly spiraling crime waves; and so forth. Alarmism constructs and codes the future in particular ways, producing or reinforcing certain crisis narratives, belief structures, and rhetorical conventions. As much as alarmist ideas beget a culture of fear, the reverse is no less true. If fear-mongering is a misappropriation of preventive foresight, resignation about the future represents a problematic outgrowth of the popular acknowledgment of global perils. Some believe that the world to come is so uncertain and dangerous that we should not attempt to modify the course of history; the future will look after itself for better or worse, regardless of what we do or wish. One version of this argument consists in a complacent optimism perceiving the future as fated to be better than either the past or the present. Frequently accompanying it is a self-deluding denial of what is plausible (‘the world will not be so bad after all’), or a naively Panglossian pragmatism (‘things will work themselves out in spite of everything, because humankind always finds ways to survive’).37 Much more common, however, isthe opposite reaction, a fatalistic pessimism reconciled to the idea that the future will be necessarily worse than what preceded it. This is sustained by a tragic chronological framework according to which humanity is doomed to decay, or a cyclical one of the endless repetition of the mistakes of the past. On top of their dubious assessments of what is to come, alarmismand resignation would, if widely accepted, undermine a viable practice of farsightedness. Indeed, both of them encourage public disengagement from deliberation about scenarios for the future, a process that appears to be dangerous, pointless, or unnecessary. The resulting ‘depublicization’ of debate leaves dominant groups and institutions(the state, the market, techno-science) in charge of sorting out the future for the rest of us, thus effectively producing a heteronomous social order. How, then, can we support a democratic process of prevention from below? The answer, I think, lies in cultivating the public capacity for critical judgment and deliberation, so that participants in global civil society subject all claims about potential catastrophes to examination, evaluation, and contestation. Two normative concepts are particularly well suited to grounding these tasks: the precautionary principle and global justice.

#### Affect first.

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Deliberative democracy is a fantasy, and a dangerous one at that. A politics of pure deliberation is the dream of hare-brained philosophy professors who, fetishizing consensus, would reduce all political conflict to moral disagreement, purge passion from politics, and substitute the disinterested and boring experience of jury duty for the vital and indispensable experience of action, and all this just for the sake of theoretical parsimony. At its best deliberative democracy’s moralization and rationalization of politics stinks of a bad nostalgia for a classical participatory democracy that never existed. At its worst, it is a license for an exclusionary politics of elite decision making that silences the voices of the needy and degenerates into a variant of technocratic management from above. [End Page 269] Or so much of the rhetoric of its critics goes.1 That this caricature of deliberative democracy is familiar ought to be the occasion for some worry. A general skepticism concerning the claims of public reason has seeped into much of the landscape of contemporary political theory, making this kind of easy rejection of deliberation both comprehensible and all too plausible. Yet this kind of rejection is too fast and depends on a straw man account of what deliberative democracy means. The aim of this article is to make the case that this caricature is wrong and that such skepticism about public reason is unwarranted. Deliberative democracy is a robust theory of the political that, at its best, lays the groundwork for an egalitarian and even radical democratic politics. To this end, I propose to read the recent work of William E. Connolly as an expression of political theory’s skeptical critique of public reason. Connolly is exemplary of this wider skepticism in that while he offers a powerful critique of deliberative democracy, his critical alternative is only plausible when rearticulated as a variant of deliberative democracy itself. Connolly argues that contemporary findings in neuroscience and cognitive science, mixed with a healthy dose of Gilles Deleuze’s cosmological pluralism,reveal a deep, visceral register of human thinking that theories of deliberative democracy overlook at their own peril. Deliberative democracy’s rationalism turns a blind eye to this political unconscious and relegates the theory to an ineffectual “intellectualism,” but, according to Connolly, the left today needs to make this unconscious lower register its fighting grounds if it hopes to hold its ground against an insurgent neoconservative “micropolitics” of media manipulation. This is a suggestive line of argument, but ought it lead to a rejection of deliberative democracy or instead to a more robust and complex account of communicative agency in our media-saturated world? Connolly travels the first route, but I argue that his alternative to deliberation that he dubs “micropolitics,” a politics of the ordinary that politicizes habits, dispositions, feelings, the body, emotions, and thinking as potential sites of domination and resistance below the register of formal principles and procedures, can only be defended by following the second route. Given the way that Connolly presents the problem of the visceral register there does not seem to be much role for deliberation in his vision of democratic politics. While he often stresses that “intellectualism is constitutively insufficient to ethics,” he strains to remind us that saying this is not the same as saying that deliberation has no role to play (2002, 111). Issuing a series of caveats, Connolly notes that “nothing in the [End Page 270] above carries the implication of eliminating argument, rationality, language, or conscious thought from public discourse” and that he only means “to flag the insufficiency of argument to ethical life without denying its pertinence” (1999, 36; 2002, 108). The goal of his turn to micropolitics is not to replace deliberation but rather to “augment intellectualist models of thinking and culture” (2002, 13). Given the role of affective modes of appraisal in politics, I agree with Connolly that theories of public reason ought to be amended and “augmented” in many ways. Yet, for all his caveats, Connolly’s vision of micropolitical engagement seems to give short shrift to practices of public deliberation. Indeed, his theory only announces their compatibility but does not follow through in enacting it. In what follows, I try to close this circle, so to speak, by demonstrating the deliberative potential of Connolly’s agonistic pluralism.2 I agree that a politics of the visceral reveals the shortcomings of theories of deliberative democracy that prioritize small community meetings and experimental “mini-publics” as the sine qua non of democratic citizenship today, but Connolly overlooks the resources provided by an alternative account of deliberative democracy; namely, a critical and sociologically complex theory of deliberative democracy that aims at revising our self-understandings and provoking self-transformation. Intellectualism and the Visceral Register The first step in exploring the potential of William Connolly’s reluctant theory of deliberative democracy is to come to terms with the reasons why he thinks extant accounts of communicative politics are insufficient. Intellectualism, Connolly argues, is the grand failing of deliberative democracy. In accusing deliberative democracy of intellectualism, he is not issuing a by-now familiar criticism of deliberative rationalism. To say that deliberative democracy is guilty of intellectualism is not to say that it is blind to questions of power, or identity, or difference—or at least it’s not only to say this—but rather that deliberative models of democracy are working with a faulty conception of thinking. They have been captured by what Gilles Deleuze calls “the image of thought”—the idea that thinking is an autonomous, linguistically mediated process of mind that is oriented toward coherence and truth (1994, 129–67). Deliberative thinking takes place at one relatively transparent register where our reasons for action can be compared, reasoned about, and revised through the force of the better argument. This image of thought is intellectualist because it fails to see how thought is a layered process of neural, perceptual, and embodied activity not reducible to conceptual ratiocination alone. “Attempts to give priority to the highest and conceptually most sophisticated brain nodules in thinking and judgment,” Connolly argues, “may encourage those invested in these theories to underestimate the importance of body image, unconscious motor memory, and thought-imbued affect” (2002, 10). Against the intellectualist image of thought, Connolly argues that thinking is distributed across multiple registers that make possible “visceral modes of appraisal” (1999, 27). It is these deep, intensive, and reactive visceral modes of thinking and judgment that the deliberative image of thinking overlooks. Disgust, for example, is a visceral response that makes your stomach turn. It seems to well up inside you without your willing it. The values and beliefs of others can sometimes stimulate this kind of feeling, say, if they present you with a defense of cloning, or euthanasia, or gay marriage, as the case may be. You can’t always put your finger on what it is that strikes you as so disgusting and morally contaminating about such proposals, but sometimes you just feel that they are plain wrong. We’re unable to provide defensible reasons for our responses. Sometimes things just rub us the wrong way. Connolly’s point is that visceral and embodied responses like disgust, shame, and hatred come to play a role in political decision making—as they evidently do in political deliberations about matters such as cloning, euthanasia, and gay marriage—and that a deliberative approach is poorly equipped to deal with them. Deliberative democrats either require that these sorts of affective feelings are purged from the public sphere as unfortunate distortions of real communication, or they suggest that they can be subject to deliberation and argument just as any other sort of belief, interest, or prejudice can be. Connolly thinks that both of these approaches are bound to fail. Visceral reactions are not conceptually sophisticated thoughts and as such are not amenable to deliberation, argumentation, or verbal persuasion. The exchange of validity claims alone is not enough to stop your stomach from churning when you think about the right to die. Deliberative democrats need to learn “how much more there is to thinking than argument” and to begin experimenting with alternative forms of political engagement (1999, 149). Because political judgment is so often carried out at the level of this visceral or virtual register, deliberation cannot provide a privileged or efficacious form of participation, justification, or transformation. To corroborate these claims about the multiple registers of thinking, Connolly turns to recent findings in neuroscience that suggest a more intimate relationship between reason, the emotions, and the body than [End Page 272] the intellectualist account assumes. Like some other political theorists, Connolly hopes that a closer engagement with neurology and cognitive science will provide grounds for a more adequate account of subjectivity, reason, and ethics.3 The kind of thinking that intellectualists privilege—sophisticated, conceptual, reflective, deliberative, and linguistically mediatedthought—pertains to the activity of the largest part of the brain, the cerebral cortex. It is through the rich and complex layers of neural activity in the cortex that we can perform intricate activities like planning, speaking, reasoning, and arguing. What recent findings in neuroscience suggest, however, is that cortical activity is not autonomous and is in fact in some ways subservient to the parts of the brain that control emotions, memory, and affect.4 In particular, the cortex responds to information from the limbic system, the small curved part of the brain below the cortex that controls emotion and fine motor movement. Made up of the basal ganglia, the hippo-campus, and the amygdala, the limbic system enables the fast, intensive, and reactive action of affects. The jolt of fear that makes one’s hair stand on end or the disgust that we feel in the pit of our stomachs is the work of the part of the limbic system called the amygdala. The sort of reactions governed by this system are an evolutionary necessity for a species that needs to appraise and respond to dangerous situations quickly and effectively without much cognitive expenditure. The decision to jump out of the way of a speeding car needs to happen in a split second. It is not the sort of situation that allows you to deliberate about the relative merits of your different options before acting. But this is not to say that the limbic system is entirely thoughtless. It is not concerned with sophisticated, conceptual, and deliberative thinking, but its actions certainly are symbolically mediated or “thought imbued” in some sense (the expression is Connolly’s). These intense affective responses are not entirely biologically determined but instead take a fair deal of cultural learning. The limbic system in a sense learns or records cultural standards of what is dangerous and what is disgusting and then habituates them as automated response.5 Between the cortex and limbic system there is a “feedback loop” of mutual influence through which these fast, affective, “proto-thoughts” of the limbic system shape the slow, reflective thinking of the cortex (2002). The existence of these intensive, instinctive elements moving below the register of reflective judgment means that human reason is not pure and autonomous but rather is shaped in a complex way at the neural level by the influence of the emotions and affects.6 David Hume, it would seem, [End Page 273] was right to say that reason is in fact the slave of the passions. And what this means for politics is that the emotions and affects that shape and guide thinking are themselves deeply influenced by values and opinions that we may or may not actually want to endorse. Racist, sexist, homophobic, and other ideological sentiments may lodge themselves deeply into this “body-brain-culture network” (2002). Where this is the case, valid and sound argumentation is at a loss to dislodge them and the force of the better argument may be powerless to persuade us to respect, tolerate, or trust each other in the ways that democratic cooperation require. Connolly explains: Culturally preorganized charges shape perception and judgment in ways that exceed the picture of the world supported by the models of calculative reason, intersubjective culture, and deliberative democracy. They show us how linguistically complex brain regions respond not only to events in the world but also, proprioceptively, to cultural habits, skills, memory traces, and affects mixed into our muscles, skin, gut, and cruder brain regions. (2002, 36) This all culminates in a critique of deliberative models of democracy: the inability of practical reason to influence these potentially dangerous or hateful “culturally preorganized charges” points to its undoing. Visceral Politics Before analyzing the merits of Connolly’s critique of deliberative democracy I want to first situate his charge of intellectualism within its political context. At its heart, Connolly’s objection to the deliberative turn in democratic theory boil down to his belief that too much focus on the terms of justification and legitimation ignores the everyday sensibilities expressed and reproduced in the actions of citizens. These sensibilities are not identical to doctrinal beliefs or articulate reasons; or, as he prefers to put it in his most recent book, spirituality is not identical with doctrinal creed (2008). Rather, the sensibility that determines how it is that we hold our beliefs or “creed” is unreflectively informs this visceral register of judgment and thinking. Where these sensibilities have been cultivated to promote respect, responsiveness, and generosity a pluralistic liberalism can thrive. The political problem, however, is that in contemporary America this noble ethos is largely absent. Instead Connolly argues that this visceral register has become a vehicle for a “stingy” sensibility animated by resentment, fear, and a desire for revenge (1999, 7). The deep roots of existential resentment in an increasingly disempowered American working class today provide the spiritual common ground for the an emerging coalition of competing neoconservative and neoliberal elites who share a punitive and vengeful ethic while disagreeing on matters of doctrine. The resulting theological-corporate-media apparatus Connolly calls “the evangelical-capitalist resonance machine” wreaks havoc on American democracy today as it proceeds to undermine the terms of liberal pluralism and roll back the hard-won achievements of the liberal democratic struggles of the last hundred years (2008, 39–68). Democratic theory’s idea of deliberation seems poorly equipped to confront this threat. Connolly’s contention is that the failing of the left in America today is due in no small part to its resistance to accepting the role of the visceral register in politics. Instead, it is still caught up in a potentially antiquated search for some better argument that would bring reason and truth together to serve the ends of justice. The American right, however, has been a much better student of the visceral elements of thinking and has crafted an array of strategies that seek to manipulate it to punitive ends. Among working-class Americans who have suffered unemployment with the collapse of the industrial economy, cultural alienation from a powerfully secular and liberal cultural elite, and social fragmentation from the increasing speed, ethnic pluralism, and diversity of a globalizing world, there exists a reserve of resentment to be tapped. Neoliberals and neoconservatives on the American right have overcome their traditional antagonism to draw on this resentment and channel it into a shared spirituality of revenge that vilifies foreigners, immigrants, nonwhites, women, queers, liberals, and secularists.7 Crucial to the success of this resonance machine has been its most powerful echo chamber: the media. Savvy exploitation of new media technologies enable conditions of mass persuasion through which the sentiments of resentment are validated, entering “the thought-imbued feelings of viewers before being subjected to critical scrutiny” (2008, 55), and channeled to political ends. Twenty-four-hour news shows, aggressive and partisan pundits, and the constant fluctuation of terror alerts all combine to excite, code, and steer visceral fear and anxiety. The result is the proliferation of “ugly dispositions” that the powerful media machinery of the right “can foment and amplify, installing them in habitual patterns of perception,identity, interest, and judgments of entitlement” (2008, 53). Micropolitics as the manipulation of embodied, intensive affects along the visceral register of thinking is a familiar tactic in the repertoire of [End Page 275] commercial capitalism and the state. Marketers and advertisers have long drawn on findings inpsychology, neurobiology, and related fields to manufacture the desires their commodities satisfy. Branding is only the most recent affective technique of assuring consumer loyalty in a long history of unconscious and unwilled consumption. Marketers now talk about “low-involvement advertising” that bypasses the higher-level cognitive functions of viewers to appeal to nonconscious mental processing. Similarly, the manipulation of intensive reactions and affect has been crucial in sustaining consent for America’s open-ended “war on terror.” The color-coded terror alert system in place to warn Americans of the likelihood of terrorist attacks functions as a perceptual marker by which public fear and anxiety are calibrated. The aggressive rhetorical tactics, facial gestures, and vocal timbre of conservative media pundits like Bill O’Reilly and Rush Limbaugh as well as the explosive graphics, and fast cutting techniques of twenty-four-hour news channels all have the effect of expressing the spinelessness of the “liberals” they browbeat.8 And the list goes on. Techniques of affective persuasion that function through “sub-discursive modes of communication” are ubiquitous and powerful in the modern world (2008, 66). The challenge of confronting them today, Connolly wagers, means learning to play their game. The left is done arguing. It’s time to learn how “fight fire with fire” (2006, 74). What Kind of Politics Are Micropolitics? A more fundamental source of Connolly’s skepticism about deliberative democracy than the findings of neurological science is Gilles Deleuze’s cosmological pluralism. In Connolly’s texts, these scientific and metaphysical sources dovetail elegantly, but one is always left with the impression that the scientific arguments are deployed only to the extent that they readily accord with these more basic philosophical commitments to a deep and radical pluralism in the world.9 Deleuze’s concepts of multiplicity, rhizomes, micropolitics, deterritorialization, and war machines infuse Connolly’s writing and offer an alternative discourse to the allegedly problematic language of public reason. In fact, Deleuze himself, in his magisterial collaboration with Félix Guattari, could be said to prefigure a certain denigration of deliberative politics.10 It would of course be anachronistic to describe Deleuze and Guattari as critics of deliberative democracy, or even worse, as denizens of the American culture wars. But that said, there are passing remarks concerning deliberation in their texts that seem to connect with [End Page 276] Connolly’s claims. More important than decision making and deliberation are the molecular and unconscious forces that open us up to new ways of thinking and experiencing the world. When Deleuze and Guattari do mention political deliberation it is invariably to dismissit as an example of what they call arboreal, state thinking: Politics operates by macrodecisions and binary choices, binary interests; but the realm of the decidable remains very slim. Political decision making necessarily descends into a world of microdeterminations, attractions, and desires, which it must sound out or evaluate in a different fashion. Beneath linear conceptions and segmentary decisions, an evaluation of flows and their quanta. (1987, 221) A politics that addresses these microdeterminations, what Deleuze and Guattari call micropolitics, is more basic than deliberation because it concerns the boundaries of “the realm of the decidable.” The appeal of reason can only function within existing narrow and rigid boundaries. Strategic appeals to affect, however, can help close or expand this realm and open up new issues to deliberation and participation. In this sense, Deleuze and Guattari consider micropolitics as essentially underlying deliberation. Creative becoming, not practical reason, is at the heart of their vision of politics. How does a democratic micropolitics, then, attempt to reshuffle the rigid segments of a stingy American public culture? Connolly argues that the only way we can achieve a “public ethos of pluralism” is by cultivating the “civic virtues” of agonistic respect and critical responsiveness (2005, 65). If the work of politics aspires to more than a further round in a vicious circle of existential revenge, citizens must first nurture an ethics of “micropolitical receptivity” to the interdependence of their conflicting identities claims in a complex, ever faster late-modern world (1999, 149). To this end, Connolly draws on Deleuze and Guattari’s thinking to devise tactics and techniques of “nudging” or exerting “modest influence” on the visceral register of the self and of public culture more widely (2002, 77; 1999, 29). In some passages, Connolly describes this as the search for “more expansive modes of persuasion,” while in others he appeals to the force of a sort of “mystical experience” (1999, 8; 2002, 120). Yet this dependence on Deleuze and Guattari’s “micropolitics” draws Connolly away from his own best insights and leads him to marginalize the democratic core of a leftist response to an insurgent neoconservative micropolitics. [End Page 277] Deleuze and Guattari’s philosophy provides a powerful tool for theorizing the symbolic meanings and dispositions carried at visceral register of experience. While they do not frame their project in terms of embodied registers or the differential processing structures of brain, they provide an analogous conception of experience, drawing on Henri Bergson’s concept of “the virtual” (Bergson 1990; Deleuze 1988). Emotions, memory traces, infrasensible experiences, habitual gestures, and the unconscious exist “virtually,” such that we cannot always articulate them at the level of language, yet they play a role in shaping our higher-register experiences of the world. The virtual represents a lower register of experience than the conscious and reflective register of ideas, doctrines, and interests. To the extent that A Thousand Plateaus can be regarded as a text of political philosophy, it can be said to be a treatise concerned with political potential of this virtual register as both a site of subjectification and resistance. Micropolitics is Deleuze and Guatarri’s name for this politics of the virtual. In A Thousand Plateaus, Deleuze and Guattari introduce the concept of micropolitics in their analysis of political regimes. Against the received image of the state as a centralized, stable, and sovereign territorial entity, Deleuze and Guattari argue that the state is better described as a macropolitical assemblage that depends on more ubiquitous, fluid, and supple micropolitical assemblages. The molar organization of the state depends on a micro- or molecular organization of forces such as affects, moods, memories, and habits that sustain and propagate the state’s ends. “In short,” they write, “everything is political, but every politics is simultaneously a macropolitics and a micropolitics” (1987, 213). Despite appearances to the contrary, even the most monolithic and centralized assemblages of power, such as the state, are in fact fluid and lively micro-assemblages resonating together in an only relatively stable manner. Taking the stark example of the fascist state, Deleuze and Guattari make the case that it too is in fact only a decentered plurality that depends on the micropolitics that sustain it: The concept of the totalitarian State applies only at the macropolitical level, to a rigid segmentarity and a particular mode of totalization and centralization. But fascism is inseparable from a proliferation of molecular focuses in interaction, which skip from point to point, before beginning to resonate together in the National Socialist State. Rural fascism and city or neighborhood fascism, youth fascism and war veteran’s fascism, fascism on [End Page 278] the Left and fascism on the Right, fascism of the couple, family, school, and office: every fascism is defined by a micro-black hole that stands on its own and communicates with the others, before resonating in a great, generalized central black hole.

Vietnam disproves transatlantic collapse

Moravcsik ‘3, Professor of Government and Director of the European Union Program at Harvard (Andrew, Foreign Affairs, July/August, Lexis)

Transatlantic optimists are also right when they argue that the **recent shifts need not lead inexorably to the collapse of** NATO, the UN, or **the EU**. Historically, they note, **transatlantic crises have been cyclical events, arising most often when conservative Republican presidents pursued assertive unilateral military policies.** During the Vietnam era and the Reagan administration, as today, **European polls recorded 80-95 percent opposition to U.S. intervention,** millions of protesters flooded the streets, NATO was deeply split, and European politicians compared the United States to Nazi Germany**. Washington went into "opposition" at the UN**, where, since 1970, it has vetoed 34 Security Council resolutions on the Middle East alone, each time casting the lone dissent.

Cooperation inevitable- predictions to the contrary have proven incorrect

Rosecrance ‘3, Political Professor at UCLA (Richard, National Interest, Summer, p. Marilyn)

Europeans and Americans alike have been predicting the demise of NATO and the end of U.S. and European cooperation since Suez in 1956. **The alliance**, however, **has not collapsed-and it won't.** In the last thirty years, Europe has carried the primary financial burden, allowing the United States to maintain an essentially unbalanced economy while acting as the world's gendarme. Europe has not built up its military strength, but instead has done something much more important: it has created the financial conditions that have allowed the United States to act. Americans may complain about the recent actions of Monsieur Chirac and Herr Schro der, but if they insist onremaining oblivious to Europe's critical financial role, they only contribute to an atmosphere in which that role is weakened. And Europe, which will not act militarily on its own in any serious way, should stop squawking about the use of American force as though, cases aside, there is something wrong about it in principle. **The Atlantic economic and military partnership serves both Americans and Europeans, and it will become firmer as the true basis of the relationship dawns on both sides of the Atlantic.**

#### Yes partnership - but if not, Syria is to blame.

Friedman 9-26 - founder and chairman of Stratfor, a Texas-based global intelligence company. (George, September 26th 2013, http://www.euractiv.com/global-europe/us-european-relationship-analysis-530725)

"Most discussions on my present European trip concern U.S. President Barack Obama's failure to move decisively against Syria and how Russian President Vladimir Putin outmatched him. One of the most important aspects of the Syrian crisis what it told us about the state of U.S.-European relations and of relations among European countries. We have spoken of the Russians, but for all the flash in their Syria performance, they are economically and militarily weak. It is Europe, taken as a whole, that is the competitor for the United States. Its economy is still slightly larger than the U.S. economy, but its military is weak, though unlike Russia this is partly by design. The U.S.-European relationship helped shape the 20th century. American intervention helped win World War I, and American involvement in Europe during World War II helped ensure an Allied victory. The Cold War was a trans-Atlantic enterprise, resulting in the withdrawal of Soviet forces from the European Peninsula. What will the relationship be between these two great economic entities, which together account for roughly 50 percent of the world's gross domestic product, in the 21st century? The events surrounding Syria hint at the answer. The Syrian crisis began with calls to arms from the United Kingdom, France and Turkey. Though reluctant, Washington ultimately joined in. Only then did European opinions diverge. In the United Kingdom, the parliament voted against intervention. In Turkey, the government favored intervention on a much larger scale. And in France, the president favored intervention but faced a less enthusiastic parliament. Each European country crafted its own response -- or lack of response -- to the Syrian crisis. Nothing is more striking than the foreign policy split between France and Germany not only on Syria but on Mali and Libya as well. The need to bind France and Germany economically was a central driver behind the creation of the European Union and its postwar precursors. French and German divergence was the root of European wars. Yet that divergence has returned. Their differences have not manifested as virulently as they did before 1945, but still, it can no longer be said that their foreign policies are synchronized. In fact, the three major powers on the European Peninsula currently are pursuing very different foreign policies. The United Kingdom is moving in its own direction, limiting its involvement in Europe and trying to find its own course between Europe and the United States. France is focused to the south, on the Mediterranean and Africa. Germany is trying to preserve the trade zone and is looking east at Russia. Nothing has ruptured in Europe, but then Europe as a concept has always been fluid. The European Union has not become more organized since 1945; in some fundamental ways, it has become less organized. Where previously there were only geographical divisions, now there are also conceptual divisions. Differences between the United States and Europe were also made clear in the Syrian crisis. Had President Obama chosen to intervene, he could have acted in Syria as he saw fit -- he didn't necessarily need congressional approval but sought it anyway. Europe could not act because there really isn't a singular European foreign or defense policy. But more important, no individual European nation has the ability by itself to conduct an air attack on Syria. Here in Europe, Obama is criticized for his handling of the Syria intervention. I am old enough to remember that Europeans have always thought of U.S. presidents as either naive, as they did with Jimmy Carter, or as cowboys, as they did with Lyndon Johnson, and held them in contempt in either case. After some irrational exuberance from the European left, Obama has now been deemed naive, just as George W. Bush was deemed a cowboy. My response to such criticism has always been a tricky one. Imagine the fine sophisticates of 1914 and 1939 with nuclear weapons. Do you think the ones responsible for entering two horrible wars could have resisted using nuclear weapons? These weapons were controlled by American cowboys and fools and by Russian "conspirators" -- the European vision of all Russian leaders. Yet amid profound differences and distrust, U.S. and Soviet leaders managed to avoid the worst. The Europeans think well of the sophistication of their diplomacy. I have never understood why they feel that way. We saw this in Syria. First, Europe was all over the place. Then the coalition that coaxed the Americans in fell apart, leaving the United States virtually alone. When Obama went back to his original position, they decided that he had been outfoxed by the Russians. Had he attacked, he would have been dismissed as another cowboy. Whichever way it had gone, and whatever role Europe played in it, it would have been the Americans that simply didn't understand one thing or another. The sentiment differs throughout Europe. The British were indifferent to the entire matter; they were far more interested in what the Federal Reserve would say. The Eastern Europeans, feeling the pressure of the Russians -- both in reality and in their nightmares -- can't imagine why the Americans would let this happen to them. Whenever I visit Europe -- and I was born in Europe -- I am struck by how profoundly different the two places are. I am struck at how the United States is disliked and held in contempt by Europeans. I am also struck at how little Americans notice or care. There is talk of the trans-Atlantic relationship. It is not gone, nor even frayed. Europeans come to the United States and Americans go to Europe and both take pleasure in the other. But the connection is thin. Where once we made wars together, we now take vacations. It is hard to build a Syria policy on that framework, let alone a North Atlantic strategy.

#### They won't forget about Snowden

TIME 10-4 (http://nation.time.com/2013/10/04/u-s-allies-still-angry-at-snowdens-revelations-of-u-s-spying/?iid=us-main-belt, U.S. Allies Still Angry at Snowden’s Revelations of U.S. Spying, October 4th 2013)

The European Parliament this week named Edward Snowden a finalist for its prestigious human rights award, the Sakharov Prize for Freedom of Thought, the latest expression of international outrage over the former U.S. intelligence contractor’s revelations that America spies on allies and enemies alike. Snowden in late June showed National Security Agency documents to the German magazine Der Spiegel that allegedly revealed that the U.S. monitored Germany as closely as it does China or Russia, intercepting some 500 million communications monthly. German Chancellor Angela Merkel in July called on President Barack Obama to disclose the full details on U.S. spying on Germany. “Germany is not a surveillance state, it’s a country of freedom,” she said during her annual summer appearance before the Berlin press corps. Given East Germany’s big brother history, invasion of privacy is a serious issue in Germany. “There is a huge outcry against the [Snowden scandal],” Dan Hamilton, executive director of the American Consortium on European Union Studies at Johns Hopkins, tells TIME. “I’m not sure how many in the U.S. understand the depth of anger and surprise amongst the Germans about the surveillance.” Snowden, at the time camping out in the transit lounge in Moscow’s international airport waiting for Russia to grant him asylum, also showed Der Spiegel documents that described how the agency bugged the European Union’s Washington and New York as well as the Justus Lipsius Building in Brussels, which houses the European Council and the EU Council of Ministers. “If it is true, it is a huge scandal,” European Parliament President Martin Schulz told Der Spiegel. “That would mean a huge burden for relations between the EU and the U.S. We now demand comprehensive information.” Some European Union politicians have called for Europe to open proceedings against the U.S. at the International Court of Justice in The Hague. The same week, The Guardian printed a story also attributed to Snowden documents that the NSA also spies on 38 embassies and missions. So-called “targets” include France, Italy, Greece, Japan, South Korea, India and Turkey. Mexico and Brazil have demanded answers from the U.S. over Guardian revelations in September, again sourced to Snowden’s trove of stolen NSA documents, that the U.S. spied on both countries’ presidential offices as well as Petrobras, Brazil’s state-owned oil giant. Brazilian President Dilma Rousseff, who was once imprisoned and tortured by Brazil’s military hunta, delayed an October state visit to Washington in protest. She also took to the floor of the United Nations General Assembly last week to express her outrage to Obama, who was waiting in the wings to speak. “Tampering in such a manner in the affairs of other countries is a breach of international law and is an affront of the principles that must guide the relations among them, especially among friendly nations,” Rousseff thundered. “A sovereign nation can never establish itself to the detriment of another sovereign nation. The right to safety of citizens of one country can never be guaranteed by violating fundamental human rights of citizens of another country.” Though the U.S. hasn’t commented on Europe’s anger, the White House did put out a statement following Obama’s call with Rousseff on Sept. 17 during which she informed him she was postponing her state visit—the first of Obama’s second term. “The President has said that he understands and regrets the concerns disclosures of alleged U.S. intelligence activities have generated in Brazil and made clear that he is committed to working together with President Rousseff and her government in diplomatic channels to move beyond this issue as a source of tension in our bilateral relationship,” Caitlin Hayden, a spokesman for the National Security Council said. “As the President previously stated, he has directed a broad review of U.S. intelligence posture, but the process will take several months to complete.”

No I/L to their advantages - their Kelly evidence says "the relationship could completely dissolve", and then goes on to say this is because " EU is too bureaucratic and costly (the most common argument). Whereas at one time the EU was considered a highly popular institution, today only 31.9% of citizens polled in a Eurobarometer test believe that the EU views the EU positively."

Their evidence says that relations in the context of a FREE TRADE AGREEMENT between the EU and the US is key - no reason the plan allows for this.

Cant solve bashing - Ramirez and Rong say other issues trigger the bashing like grievances relate to China’s political system, human rights, Tibet, repression.

No war

**Multiple factors ensure cooperation**

**Zhu ’12** – professor in the School of International Studies and the deputy director of the Center for International and Strategic Studies at Beijing University (Zhu Feng, “No One Wants a Clash,” May 3, New York Times, <http://www.nytimes.com/roomfordebate/2012/05/02/are-we-headed-for-a-cold-war-with-china/no-one-wants-a-cold-war-between-the-us-and-china>)

However there is little worry that the two powers will collide into a “new cold war.” First of all, China’s authoritarian system has been tremendously mobilized for international integration. Beijing has been pretty conservative and doesn’t welcome democratization. But it does not strictly adhere to traditional communism either. Any new confrontation like the cold war would risk a huge backlash in China by greatly damaging the better-off Chinese people. Such a conflict could ultimately undermine the Communist Party’s ruling legitimacy. Second, the power disparity between Washington and China hasn’t significantly narrowed, regardless of Chinese achievements in the past decades. My view is that Beijing remains an adolescent power, and should learn how to be a great power rather than unwisely rushing to any confrontation. Though some Chinese want the nation to assert itself more forcefully, the huge disparity in power should keep China in place. China is in no position to challenge the U.S. But China will be more enthusiastic and straightfoward about addressing and safeguarding its legal interests. Competition between Washington and Beijing will intensify, but that does not automatically mean that the relationship will be unmanageable. Lastly, the cycle of action and reaction has mostly turned out to be fruitful for the U.S. and China. Further competition is promising. The U.S. doesn’t want to put China in a corner, or force Beijing to stand up desperately. The dealings over many thorny issues have respond? The country’s cold war experience offers a useful strategy. The stalemate imposed by “mutually assured destruction” that prevented the US-Soviet conflict from igniting created a sense of stability. Today, the US and China are locked in a new form of “proved that each side wants to handle the conflict, not escalate it. Chen Guangcheng’s departure from the U.S. Embassy is telling evidence. Neither side wants diplomatic confrontation. Rather, it seems that both sides are struggling to react constructively. In the years to come, China-U.S. relations will continue to be very complicated, but also very important. The glue to keep these two nations together is not pragmatism only, but mutual interest — especially in trade.

### \*\*2NC\*\*

### OV

The impact is serial policy failure - view their impact scenarios as suspect because they operate under a problematic legalist framework.

Michael Dillon [Professor of Politics at the University of Lancaster, UK]AND Julian Reid [Lecturer in International Relations at Kings College London, UK, and Professor of International Relations at the University of Lapland, Finland] 2000, “Global Governance, Liberal Peace, and Complex Emergency,” Alternatives: Social Transformation & Humane Governance, Jan-Mar 2000, Vol. 25, Issue 1, [Ebsco Host]

As a precursor to global governance, governmentality, according to Foucault's initial account, poses the question of order not in terms of the origin of the law and the location of sovereignty, as do traditional accounts of power, but in terms instead of the management of population. The management of population is further refined in terms of specific problematics to which population management may be reduced. These typically include but are not necessarily exhausted by the following topoi of governmental power: economy, health, welfare, poverty, security, sexuality, demographics, resources, skills, culture, and so on. Now, where there is an operation of power there is knowledge, and where there is knowledge there is an operation of power. Here discursive formations emerge and, as Foucault noted, in every society the production of discourse is at once controlled, selected, organised and redistributed by a certain number of procedures whose role is to ward off its powers and dangers, to gain mastery over its chance events, to evade its ponderous, formidable materiality. More specifically, where there is a policy problematic there is expertise, and where there is expertise there, too, a policy problematic will emerge. Such problematics are detailed and elaborated in terms of discrete forms of knowledge as well as interlocking policy domains. Policy domains reify the problematization of life in certain ways by turning these epistemically and politically contestable orderings of life into "problems" that require the continuous attention of policy science and the continuous resolutions of policymakers. Policy "actors" develop and compete on the basis of the expertise that grows up around such problems or clusters of problems and their client populations. Here, too, we may also discover what might be called "epistemic entrepreneurs." Albeit the market for discourse is prescribed and policed in ways that Foucault indicated, bidding to formulate novel problematizations they seek to "sell" these, or otherwise have them officially adopted. In principle, there is no limit to the ways in which the management of population may be problematized. All aspects of human conduct, any encounter with life, is problematizable. Any problematization is capable of becoming a policy problem. Governmentality thereby creates a market for policy, for science and for policy science, in which problematizations go looking for policy sponsors while policy sponsors fiercely compete on behalf of their favored problematizations. Reproblematization of problems is constrained by the institutional and ideological investments surrounding accepted "problems," and by the sheer difficulty of challenging the inescapable ontological and epistemological assumptions that go into their very formation. There is nothing so fiercely contested as an epistemological or ontological assumption. And there is nothing so fiercely ridiculed as the suggestion that the real problem with problematizations exists precisely at the level of such assumptions. Such "paralysis of analysis" is precisely what policymakers seek to avoid since they are compelled constantly to respond to circumstances over which they ordinarily have in fact both more and less control than they proclaim. What they do not have is precisely the control that they want. Yet serial policy failure--the fate and the fuel of all policy--compels them into a continuous search for the new analysis that will extract them from the aporias in which they constantly find themselves enmeshed. Serial policy failure is no simple shortcoming that science and policy--and policy science--will ultimately overcome. Serial policy failure is rooted in the ontological and epistemological assumptions that fashion the ways in which global governance encounters and problematizes life as a process of emergence through fitness landscapes that constantly adaptive and changing ensembles have continuously to negotiate. As a particular kind of intervention into life, global governance promotes the very changes and unintended outcomes that it then serially reproblematizes in terms of policy failure. Thus, global liberal governance is not a linear problem-solving process committed to the resolution of objective policy problems simply by bringing better information and knowledge to bear upon them. A nonlinear economy of power/knowledge, it deliberately installs socially specific and radically inequitable distributions of wealth, opportunity, and mortal danger both locally and globally through the very detailed ways in which life is variously (policy) problematized by it. In consequence, thinking and acting politically is displaced by the institutional and epistemic rivalries that infuse its power/ knowledge networks, and by the local conditions of application that govern the introduction of their policies. These now threaten to exhaust what "politics," locally as well as globally, is about.[36] It is here that the "emergence" characteristic of governance begins to make its appearance. For it is increasingly recognized that there are no definitive policy solutions to objective, neat, discrete policy problems. The "subjects" of policy increasingly also become a matter of definition as well, since the concept population does not have a stable referent either and has itself also evolved in biophilosophical and biomolecular as well as Foucauldian "biopower" ways.

Achille Mbembe [Post colonial theorist, is a senior researcher at the Institute of Social and Economic Research at the University of the Witwatersrand, has spent time working at Columbia University, New York, Brookings Institute] 2003 \*\*translated by Libby Meintjes, “Necropolitics,” Duke University Press, 2003, <http://racismandnationalconsciousnessresources.files.wordpress.com/2008/11/achille-mbembe-necropolitics.pdf>

Here, the colonial state derives its fundamental claim of sovereignty and legitimacy from the authority of its own particular narrative of history and identity. This narrative is itself underpinned by the idea that the state has a divine right to¶ exist; the narrative competes with another for the same sacred space. Because the¶ two narratives are incompatible and the two populations are inextricably intertwined, any demarcation of the territory on the basis of pure identity is quasiimpossible. Violence and sovereignty, in this case, claim a divine foundation: peoplehood itself is forged by the worship of one deity, and national identity is¶ imagined as an identity against the Other, other deities.53 History, geography, cartography, and archaeology are supposed to back these claims, thereby closely¶ binding identity and topography. As a consequence, colonial violence and occu- pation are profoundly underwritten by the sacred terror of truth and exclusivity¶ (mass expulsions, resettlement of “stateless” people in refugee camps, settlement of new colonies). Lying beneath the terror of the sacred is the constant excavation of missing bones; the permanent remembrance of a torn body hewn in a¶ thousand pieces and never self-same; the limits, or better, the impossibility of¶ representing for oneself an “original crime,” an unspeakable death: the terror of¶ the Holocaust.54¶ To return to Fanon’s spatial reading of colonial occupation, the late-modern¶ colonial occupation in Gaza and the West Bank presents three major characteristics in relation to the working of the speci c terror formation I have called¶ necropower. First is the dynamics of territorial fragmentation, the sealing off and expansion of settlements. The objective of this process is twofold: to render any movement impossible and to implement separation along the model of the¶ apartheid state. The occupied territories are therefore divided into a web of intri- cate internal borders and various isolated cells. According to Eyal Weizman, by¶ departing from a planar division of a territory and embracing a principle of cre- ation of three-dimensional boundaries across sovereign bulks, this dispersal and¶ segmentation clearly rede nes the relationship between sovereignty and space.55 For Weizman, these actions constitute “the politics of verticality.” The resultant form of sovereignty might be called “vertical sovereignty.” Under a regime of vertical sovereignty, colonial occupation operates through schemes of over- and¶ underpasses, a separation of the airspace from the ground. The ground itself is divided between its crust and the subterrain. Colonial occupation is also dictated¶ by the very nature of the terrain and its topographical variations (hilltops and valleys, mountains and bodies of water). Thus, high ground offers strategic assets not found in the valleys (effectiveness of sight, self-protection, panoptic fortication that generates gazes to many different ends). Says Weizman: “Settlements could be seen as urban optical devices for surveillance and the exercise of power.” Under conditions of late-modern colonial occupation, surveillance is both inward- and outward-oriented, the eye acting as weapon and vice versa. Instead of the¶ conclusive division between two nations across a boundary line, “the organization of the West Bank’s particular terrain has created multiple separations, provisional boundaries, which relate to each other through surveillance and control,”¶ according to Weizman. Under these circumstances, colonial occupation is not only akin to control, surveillance, and separation, it is also tantamount to seclusion. It is a splintering occupation, along the lines of the splintering urbanism¶ characteristic of late modernity (suburban enclaves or gated communities).56 From an infrastructural point of view, a splintering form of colonial occupation¶ is characterized by a network of fast bypass roads, bridges, and tunnels that weave over and under one another in an attempt at maintaining the Fanonian¶ “principle of reciprocal exclusivity.” According to Weizman, “the bypass roads attempt to separate Israeli traf c networks from Palestinian ones, preferably without allowing them ever to cross. They therefore emphasize the overlapping¶ of two separate geographies that inhabit the same landscape. At points where the networks do cross, a makeshift separation is created. Most often, small dust roads are dug out to allow Palestinians to cross under the fast, wide highways on which Israeli vans and military vehicles rush between settlements.”57 Under conditions of vertical sovereignty and splintering colonial occupation, communities are separated across a y-axis. This leads to a proliferation of the sites of violence. The battlegrounds are not located solely at the surface of the earth. The underground as well as the airspace are transformed into conflict zones. There is no continuity between the ground and the sky. Even the boundaries in airspace are divided between lower and upper layers. Everywhere, the symbolics of the top (who is on top) is reiterated. Occupation of the skies therefore acquires a critical importance, since most of the policing is done from the air. Various other technologies are mobilized to this effect: sensors aboard unmanned air vehicles (UAVs), aerial reconnaissance jets, early warning Hawkeye planes, assault helicopters, an Earth-observation satellite, techniques of “hologrammatization.” Killing becomes precisely targeted. Such precision is combined with the tactics of medieval siege warfare adapted to the networked sprawl of urban refugee camps. An orchestrated and systematic sabotage of the enemy’s societal and urban infrastructure network complements the appropriation of land, water, and airspace resources. Critical to these techniques of disabling the enemy is bulldozing: demolishing houses and cities; uprooting olive trees; riddling water tanks with bullets; bombing and jamming electronic communications; digging up roads; destroying electricity transformers; tearing up airport runways; disabling television and radio transmitters; smashing computers; ransacking cultural and politico-bureaucratic symbols of the proto- Palestinian state; looting medical equipment. In other words, infrastructural warfare.58 While the Apache helicopter gunship is used to police the air and to kill from overhead, the armored bulldozer (the Caterpillar D-9) is used on the ground as a weapon of war and intimidation. In contrast to early-modern colonial occupation, these two weapons establish the superiority of high-tech tools of latemodern terror.59 As the Palestinian case illustrates, late-modern colonial occupation is a concatenation of multiple powers: disciplinary, biopolitical, and necropolitical. The combination of the three allocates to the colonial power an absolute domination over the inhabitants of the occupied territory. The state of siege is itself a military institution. It allows a modality of killing that does not distinguish between the external and the internal enemy. Entire populations are the target of the sovereign. The besieged villages and towns are sealed off and cut off from the world. Daily life is militarized. Freedom is given to local military commanders to use their discretion as to when and whom to shoot. Movement between the territorial cells requires formal permits. Local civil institutions are systematically destroyed. The besieged population is deprived of their means of income. Invisible killing is added to outright executions.

### Perm

Vague statutes will be sidestepped by the executive.

Eric A. Posner and Adrian Vermeule 11, law profs at the University of Chicago and Harvard, Demystifying Schmitt, January, <http://www.law.uchicago.edu/files/file/333-eap-Schmitt.pdf>

If Congress cannot regulate in advance of emergencies, might it not be able to regulate once the emergency begins? The problem is that in the early stages of the emergency, the legislature is hampered by its many-headed structure. Large bodies of people deliberate and act slowly (unless they act as mobs). The best that the legislature can do is ratify the executive’s actions by blessing it with a retroactive authorization, or call a halt to the executive’s response by defunding it. As the emergency matures, the legislature continues to be hampered. Crises unfold in an unpredictable fashion; secrecy will be at a premium. Public deliberation compromises secrecy; the unpredictability of the threat eliminates the value of lawmaking. The legislature’s role in the emergency is marginal. It can grant or withhold political support; and it can legislate along the margins. The legislature may be able to undermine the executive response by defunding it, but it will rarely do so because some response is always better than none. The problem for the legislature is that it cannot make policy in a fine-grained way; its choice—broad support or none at all—is no choice at all. Anticipating a body of literature in positive political theory, Schmitt noted that “the extraordinary lawmaker [i.e. the President of the Reich] can create accomplished facts in opposition to the ordinary legislature. Indeed, especially consequential measures, for example, armed interventions and executions, can, in fact, no longer be set aside.”31 The President’s first-mover role – the “presidential power of unilateral action”32 – implies that he can create a new status quo that constrains Congress’ subsequent response, both in practical terms and because the President can use his veto powers to block legislative attempts to restore the status quo ante. Courts face similar problems. Detailed statutes enacted before the emergency will seem antiquated and inapt. Courts will feel pressure to interpret them loosely or use procedural obstacles to avoid their application. For this reason, violations of FISA and the Anti-Torture Act never led to prosecutions. Vague statutes enacted before and after the emergency provide no rule of decision, and courts are reluctant to substitute their views about policy for those of the executive, which has far more expertise and resources. Commentators have urged courts to use constitutional norms or even international law to control the executive, but these norms also prove to be ambiguous standards rather than clear-cut rules. To apply such standards, courts would have to engage in judicial policymaking. But judges do not believe that they have the information or expertise to make policy during emergencies and so they have seldom taken this approach.

#### Dworkin concedes "hostilities" is a vague term - also proves no modeling because Europe would choose a more narrow interpretation.

Dworkin 13 (Anthony, http://ecfr.eu/content/entry/commentary\_actually\_drones\_worry\_europe\_more\_than\_spying, July 13th 2013)

First, a good deal about Obama’s new standards is still unclear. How does he define a “zone of hostilities,” where the new rules will not apply? And what is his understanding of an “imminent” threat? European countries are likely to interpret these key terms in a much narrower way than the United States.

zones of active hostilities” is a legal fiction

Corn, 13 -- South Texas College of Law Presidential Research Professor of Law

[Geoffrey, former JAG officer and chief of the law of war branch of the international law division of the US Army, Lieutenant Colonel, U.S. Army (Retired), Senate Armed Services Committee Hearing, "The law of armed conflict, the use of military force, and the 2001 Authorization for Use of Military Force," Congressional Documents and Publications, 6-16-13, l/n, accessed 8-23-13, mss]

I believe much of the momentum for asserting some arbitrary geographic limitation on the scope of operations conducted to disrupt or disable al Qaeda belligerent capabilities is the result of the commonly used term "hot battlefield." This notion of a "hot" battlefield is, in my opinion, **an**operational and legal fiction. Nothing in the law of armed conflict or military doctrine defines the meaning of "battlefield."Contrary to the erroneous assertions that the use of combat power is restricted to defined geographic locations such as Afghanistan (and previously Iraq), the geographic scope of armed conflict must be dictated by a totality assessment of a variety of factors, ultimately driven by the strategic end state the nation seeks to achieve. The nature and dynamics of the threat -including key vulnerabilities - is a vital factor in this analysis. These threat dynamics properly influence the assessment of enemy capabilities and vulnerabilities, which in turn drive the formulation of national strategy, which includes determining when, where, and how to leverage national power (including military power) to achieve desired operational effects. Thus, threat dynamics, and not some geographic "box", have historically driven and must continue to drive the scope of armed hostilities. The logic of this premise is validated by (in my opinion) the inability to identify an armed conflict in modern history where the scope of operations was legally restricted by a conception of a "hot" battlefield. Instead, threat dynamics coupled with policy, diplomatic considerations and, in certain armed conflicts the international law of neutrality, dictate such scope. Ultimately, battlefields become "hot" when persons, places, or things assessed as lawful military objectives pursuant to the law of armed conflict are subjected to attack.

#### A norm works until precisely in that moment when it doesn't - legal law is a banana peel that is tossed asie and slipped on moments later.

**Fatovic 9**—Director of Graduate Studies for Political Science at Florida International University [added the word “is” for correct sentence structure—denoted by brackets]

(Clement, *Outside the Law: Emergency and Executive Power* pg 1-5, dml)

But the problem for any legal order is that law aims at fixity in a world beset by flux. The greatest challenge to legally established order comes not from the resistance of particular groups or individuals who object to any of its substantive aims but from the unruliness of the world itself. The stability, predictability, and regularity sought by law eventually runs up against the unavoidable instability, unpredictability, and irregularity of the world. Events constantly threaten to disrupt and destabilize the artificial order established by law. Emergencies-sudden and extreme occurrences such as the devastating terrorist attacks of September 11, an overwhelming natural disaster like Hurricane Katrina, a pandemic outbreak of avian flu, a catastrophic economic collapse, or a severe food shortage, to name just a few-dramatize the limitations of the law in dealing with unexpected and incalculable contingencies. Designed for the ordinary and the normal, law cannot always provide for such extraordinary occurrences in spite of its aspiration to comprehensiveness. When such events arise, the responsibility for formulating a response usually falls to the executive. The executive has a unique relationship to the law and the order that it seeks, especially in a liberal constitutional system committed to the rule of law. Not only is the executive the authority most directly responsible for enforcing the law and maintaining order in ordinary circumstances, it is also the authority most immediately responsible for restoring order in extraordinary circumstances. But while the executive is expected to uphold and follow the law in normal times, emergencies sometimes compel the executive to exceed the strict letter of the law. Given the unique and irrepressible nature of emergencies, the law often provides little effective guidance, leaving executives to their own devices. Executives possess special resources and characteristics that enable them to formulate responses more rapidly**,** flexibly**, and** decisivelythan can legislatures, courts, and bureaucracies. Even where the law seeks to anticipate and provide for emergencies by specifying the kinds of actions that public officials are permitted or required to take, emergencies create unique opportunities for the executive to exercise an extraordinary degree of discretion. And when the law seems to be inadequate to the situation at hand, executives often claim that it [is] necessary to go beyond its dictates by consolidating those powers ordinarily exercised by other branches of government or even by expanding the range of powers ordinarily permitted. But in seeking to bring order to the chaos that emergencies instigate, executives who take such action also bring attention to the deficiencies of the law in maintaining order, often with serious consequences for the rule of law. The kind of extralegal action that executives are frequently called upon to take in response to emergencies is deeply problematic for liberal constitutionalism, which gives pride of place to the rule of law, both in its self-definition and in its standard mode of operation. If emergencies test the limits of those general and prospective rules that are designed to make governmental action limited and predictable, that is because emergencies are largely unpredictable and potentially limitless.1 Yet the rule of law, which has enjoyed a distinguished position in constitutional thought going back to Aristotle, has always sought to place limits on what government may do by substituting the arbitrariness and unpredictability of extemporary decrees with the impartiality and regularity of impersonal rules promulgated in advance. The protection of individual freedom within liberal constitutionalism has come to be unimaginable where government does not operate according to general and determinate rules.2 The rule of law has achieved primacy within liberal constitutionalism because it is considered vital to the protection of individual freedom. As Max Weber famously explained of the modern bureaucratic state, legitimacy in the liberal state is not based on habitual obedience to traditions or customs sanctified by time or on personal devotion to a charismatic individual endowed with superhuman gifts but on belief in the legality of a state that is functionally competent in administering highly impersonal but "rational rules." 3 In fact, its entire history and aim can be summed up as an attempt to curtail the kind of discretionary action associated with the arbitrary "rule of men"-by making government itself subject to the law. The apparent primacy of law in liberal constitutionalism has led some critics to question its capacity to deal with emergencies. Foremost among these critics is German political and constitutional theorist Carl Schmitt, who concluded that liberalism is incapable of dealing with the "exception" or "a case of extreme peril" that poses "a danger to the existence of the state" without resorting to measures that contradict and undermine its commitments to the rule of law, the separation of powers, the preservation of civil liberties, and other core values.4 In Schmitt's view, liberalism is wedded to a "normativistic" approach that seeks to regulate life according to strictly codified legal and moral rules that not only obscure the "decisionistic" basis of all law but also deny the role of personal decision-making in the interpretation, enforcement, and application of law. 5 Because legitimacy in a liberal constitutional order is based largely on adherence to formal legal procedures that restrict the kinds of actions governments are permitted to take, actions that have not been specified or authorized in advance are simply ruled out. According to Schmitt, the liberal demand that governmental action always be controllable is based on the naive belief that the world is thoroughly calculable. 6 If it expects regularity and predictability in government, it is because it understands the world in those terms, making it oblivious to the problems of contingency. Not only does this belief that the world is subject to a rational and predictable order make it difficult for liberalism to justify actions that stand outside that order, it also makes it difficult for liberalism even to acknowledge emergencies when they do arise. But Schmitt's critique goes even further than this. When liberal constitutionalism does acknowledge the exception, its commitment to the rule of law forces it to choose between potential suicide if it adheres strictly to its legalistic ideals and undeniable hypocrisy if ignores those ideals? Either way, the argument goes, emergencies expose the inherent shortcomings and weaknesses of liberalism. It is undeniable that the rule of law occupies a privileged position within liberal constitutionalism, but it is a mistake to identify liberal constitutionalism with an excessively legalistic orientation that renders it incapable of dealing effectively with emergencies. Schmitt is correct in pointing out that liberal normativism seeks to render government action as impersonal and predictable as possible in normal circumstances, but the history of liberal 'I· constitutional thought leading up to the American Founding reveals that its main proponents recognized the need to supplement the rule of law with a personal element in cases of emergency. The political writings of John Locke, David Hume, William Blackstone, and those Founders who advocated a strong presidency indicate that many early liberal constitutionalists were highly attuned to the limitations of law in dealing with events that disrupt the regular order. They were well aware that rigid adherence to the formalities of law, both in responding to emergencies and in constraining the official who formulates the response, could undermine important substantive aims and values, thereby sacrificing the ends for the means. Their reflections on the chronic instability and irregularity of politics reveal an appreciation for the inescapable-albeit temporary-need for the sort of discretionary action that the law ordinarily seeks to circumscribe. As Locke explained in his classic formulation, that "it is impossible to foresee, and so by laws to provide for, all Accidents and Necessities, that may concern the publick means that the formal powers of the executive specified in law must be supplemented with "prerogative," the "Power to act according to discretion, for the publick good, without the prescription of the Law, and sometimes even against it." 8 Unlike the powers of the Hobbesian sovereign, which are effectively absolute and unlimited, the exercise of prerogative is, in principle, limited in scope and duration to cases of emergency. The power to act outside and even against the law does not mean that the executive is "above the law”—morally or politically unaccountable—but it does mean that executive power is ultimately irreducible to law.

#### Military lawyers are much more clever than you and I and will turn the law into swiss cheese.

Goldsmith 13 (Jack, Henry L. Shattuck Professor at Harvard Law School, served as Assistant Attorney General, Office of Legal Counsel from 2003–2004, and Special Counsel to the Department of Defense from 2002–2003, “Response to Jennifer and Steve on Statutory Authority and Next-Generation Threats,” March 18, 2013 <http://www.lawfareblog.com/2013/03/response-to-jennifer-and-steve-on-statutory-authority-and-next-generation-threats/>)

Extra-AUMF threats directed at the United States are a problem today, and are **will only grow worse over time.** No administration will ignore these threats. The only issues are how the threats will be addressed, and on what legal basis. Jennifer and Steve agree with us that such problems should be addressed through some combination of law enforcement authorities and military authorities. And we all agree on the legal basis for law enforcement authorities. That leaves only the question of the legal foundation for the exercise of military authorities against extra-AUMF threats. Jennifer and Steve prefer a combination of the current AUMF and Article II. They think that such an approach will be more **limited or cabined** than the one we propose. I am skeptical. As the administration’s “associates of associates” gambit suggests, and as the history of the past dozen years shows, and as the unilateral opening of the Niger base implies, **Executive branch lawyers have many tricks up their sleeves for** secret expansion of the AUMF. Especially if these AUMF authorities are deployed only for targeting, they will likely never be reviewed by a court. Jennifer’s and Steve’s **limitation of statutory authorities** to the current AUMF is thus **not a recipe for ending armed conflict** – it is, in light of the realities of ever-present threats, **a recipe for** continued armed conflict **via secret and ever-more-tenuous expansions of the AUMF.** (I am a bit surprised about the ease with which Steve and Jennifer conclude that AQAP is covered by the current AUMF, so perhaps they, like the administration, embrace a relatively open-ended interpretation of the AUMF; but I note, for reasons stated in our piece, that such interpretive expansions of the AUMF are not a stable solution and are increasingly illegitimate.) Moreover, I agree with Steve and Jennifer that Article II is a possible solution to terrorist threats; but I also believe, as we said in our piece, that “presidential action based on statutory authority has more political and legal legitimacy than action based on Article II alone.” In addition, Steve’s and Jennifer’s proposal would include none of the clarifying (or potentially narrowing) interventions by Congress that our proposal contains. Nor would their proposal contain the accountability mechanisms that we propose, including the relatively robust and public and deliberate administrative process for adding threatening new groups (as opposed to the secret and ad hoc way they are added now), and much “more thorough ex post reporting and auditing” than is currently the case.

Thats a legalistic trick - will still use Article II powers.

Goldsmith 13 (Jack, Henry L. Shattuck Professor at Harvard Law School, served as Assistant Attorney General, Office of Legal Counsel from 2003–2004, and Special Counsel to the Department of Defense from 2002–2003, “Eight Thoughts on the Broad Reading of Article II Inherent in Bobby’s Conjecture,” May 28, 2013, <http://www.lawfareblog.com/2013/05/eight-thoughts-on-the-broad-reading-of-article-ii-inherent-in-bobbys-conjecture/#more-19381>)

Third, Ben asks: “[H]ow do we feel about what we might term a militarily active peace—that is, a peace in which drone strikes and special forces operations take place regularly, a peace that is so minimally different from warfare that nobody (except Bobby) even noticed that we had transitioned from wartime to peacetime?” As Ben implies, if Bobby is right, the Obama administration’s post-AUMF “peace” or “no more war” trope **should not be taken too seriously**. It would be little more than a (domestic law) legalistic trick to say that we are not at “war” if we are regularly exercising the use of force around the globe, albeit in pinpoint fashion, just because the President would be acting in self-defense under Article II rather than pursuant to an AUMF. We are currently engaged in numerous and manifold military and paramilitary and intelligence operations in **many countries outside Afghanistan** (see Mark Mazzetti’s book for a recent description). The scale and persistence of the operations means that many of them would amount to “armed conflicts” even if they were justified as self-defense. And with some caveats about Obama administration practice below, they should (when conducted by DOD) at a minimum trigger at least the reporting provisions (and perhaps more) under the War Powers Resolution. Fourth, the stealth self-defensive war that Bobby describes and that I think the administration envisions in a post-AUMF world is even less bounded than the AUMF-war in this sense: force can be used wherever a threatening group meets the (slippery-at-best and auto-interpreted) “imminent threat” threshold, as long as the nation in question consents or is unwilling or unable to prevent the threat. The Article II war, unlike the AUMF war, requires no nexus to al Qaeda or its associates. Fifth, if it continues at anything like its current scale in a post-AUMF world, war based on Article II would be in even more need of congressional oversight and transparency than the AUMF war – especially in light the unboundedness described above, the Armed Services Committee’s apparent cluelessness about how DOD interprets its authorities today, and the Obama-era innovations **of classified annexes** to War Powers Resolution reports and the potential exclusion of many drone attacks from the WPR framework altogether. The revised AUMF that Bobby, Ben, Matt, and I proposed was designed precisely to bring accountability and oversight to such an extra-AUMF war. We have been criticized for wanting to expand the “war.” That was not our intention, for we assumed that the “war” would continue beyond the AUMF in any event and aimed to bring more accountability and oversight to it. Whether one likes our proposal or not, the nation must find some framework that interjects Congress into reviewing and approving the forthcoming self-defensive extra-AUMF Article II war. (A good place to begin, and indeed a book devoted in large part to establishing a congressional legal framework to check unilateral self-defensive presidential uses of force, and excessive reliance on covert action, is Harold Koh’s The National Security Constitution.)

Only ev specific to the aff- Obama wants to strike terrorists wherever he can

Xinhua, 9 ["U.S. targets terrorists "wherever they take root": Obama," news.xinhuanet.com/english/2009-10/07/content\_12189089.htm, accessed 9-22-13, mss]

The U.S. anti-terror efforts are not restricted in Afghanistan and Pakistan, and terrorists will be targeted "wherever they take root," U.S. President Barack Obama said Tuesday. "The United States and our partners have sent an unmistakable message: We will target al-Qaida wherever they take root," he said during a tour of the National Counterterrorism Center in McLean, Virginia, near Washington D.C.. "It should now be clear," he added. The president noted that terror threats to the United States not only come from Afghanistan and Pakistan, but from places around the world, including East Africa, Southeast Asia, Europe and the Persian Gulf. He said the United States is determined to fight terrorism "relentlessly." "We will not yield in our pursuit; and we are developing the capacity and the cooperation to deny a safe haven to any who threaten America and its allies."

no reason to vote affirmative—there is no connection between the recommendations of the 1AC and material agency.

Schlag ‘90 (Pierre, professor of law at the University of Colorado, Stanford Law Review, lexis, AM)

In fact, normative legal thought is so much in a hurry that it will tell you what to do even though there is not **the slightest chance** that you might actually be in a position to do it. For instance, when was the last time you were in a position to put the difference principle n31 into effect, or to restructure [\*179] the doctrinal corpus of the first amendment? "In the future**, we should.** . . ." When was the last time you were in a position to rule whether judges should become pragmatists, efficiency purveyors, civic republicans, or Hercules surrogates? Normative legal thought doesn't seem overly concerned with such worldly questions about the character and the effectiveness of its own discourse. It just goes along and proposes, recommends, prescribes, solves, and resolves. Yet despite its obvious desire to have worldly effects, worldly consequences, normative legal thought remains seemingly unconcerned that for all **practical purposes,** its only consumers are legal academics and perhaps a few law students -- persons who are virtually never in a position to put any of its wonderful normative advice into effect.

### Alt

#### Multilaterialism through legal frameworks are doomed to fail - the alt is a pre-req for global governance.

**Langenhove, 11** – Luk Van, Director of the Comparative Regional Integration Studies Institute of the United Nations University (“Multilateralism 2.0: The transformation of international relations,” UN University, 5/31/11, http://unu.edu/publications/articles/multilateralism-2-0-the-transformation-of-international-relations.html)

Two major developments are currently transforming the multilateral system. The first is the trend towards multi-polarity as expressed by the rising number of states that act as key players. There have been times when only a few or even one player dominated the geopolitical game. But today it seems that several states are becoming dominant players as global or regional actors. The (voting) behavior of the BRICS countries (Brazil, Russia, India, China and South Africa) in the UN and their presence in the G20 illustrates this trend. The second development, meanwhile, is that new types of actors are changing the nature of the playing multilateral field. Regions with statehood properties are increasingly present in the area of international relations. Since 1974, the European Union (EU) for instance has been an observer in the United Nations General Assembly (UNGA). But on 3 May 2011, UNGA upgraded the EU’s status by giving it speaking rights. And that same resolution opens the door for other regional organizations to request the same speaking rights. Undoubtedly, this is what is what will happen in the near future. But as stated by some UN members in discussions on this resolution, this could unbalance the ‘one state, one vote’ rule within the UN. On the other hand, this opening towards regional organizations brings with it new opportunities. Together these two developments illustrate that multilateralism is no longer only a play between states: various regions as well as other actors are present and are profoundly changing the multilateral game. **But thinking about multilateralism is still very much based upon the centrality of states**: they are regarded as the constitutive elements of the multilateral system and it is their interrelations that determine the form and content of multilateralism. This implies that international politics is regarded as a closed system in at least two ways: firstly, it spans the whole world; and, secondly, there are huge barriers to enter the system. Many authors have pointed to all kinds of dys-functions such as the complexity of the UN system with its decentralized and overlapping array of councils and agencies, or to the divides between developed and developing countries. The emergence of truly global problems such as climate change, proliferation of weapons of mass destruction and many others have indeed **led to an increasing paradox** of governance. As Thakur and Van Langenhove put it in Global Governance (2006, 12:3) “[t]he policy authority for tackling global problems still belong to the states, while the sources of the problems and potential solutions are situated at transnational, regional or global level”. As such the building blocks of multilateralism, the states, seem to be **less and less capable of dealing with the challenges** of globalization. But because the multilateral world order is so dependent on the input of states, **multilateralism itself is not functioning well.** From an open to a closed system One way to capture the above-mentioned developments is to use the metaphor of ‘multilateralism 2.0’ in order to stress how the playing field and the players in multilateralism are changing. The essence of the Web 2.0 metaphor is that it stresses the emergence of network thinking and practices in international relations, as well as the transformation of multilateralism from a closed to an open system. In multilateralism 1.0 the principle actors in the inter-state space of international relations are states. National governments are the ‘star players’. Intergovernmental organizations are only dependent agents whose degrees of freedom only go as far as the states allow them to go. The primacy of sovereignty is the ultimate principle of international relations. In contrast, in multilateralism 2.0, there are players other than sovereign states that play a role and some of these players challenge the notion of sovereignty. Regions are one such type of actor. Conceived by states, other players can have statehood properties and as such aim to be actors in the multilateral system. Regional organizations especially are willing and able to play such a role. But sub-national regions as well increasingly have multilateral ambitions as demonstrated by their efforts towards para-diplomacy. As a result ‘international relations’ is becoming much more than just inter-state relations. Regions are claiming their place as well. This has major consequences for how international relations develop and become institutionalized, as well as for how international relations ought to be studied. What was once an exclusive playing ground for states has now become a space that states have to share with others. It is a fascinating phenomenon: both supra- and sub-national governance entities are largely built by states and can therefore be regarded as ‘dependent agencies’ of those states. However, once created, these entities start to have a life of their own and are not always totally controllable by their founding fathers. These new sub- and supra-entities are knocking on the door of the multilateral system because the have a tendency to behave ‘as if’ they were states. This actorness gives them, at least in principle, the possibility to position themselves against other actors, including their founding fathers! All of this has weakened the Westphalian relation between state and sovereignty. ‘One state, one vote’ Organizing multilateralism in a state-centric would only be possible if all states are treated as equal. This means that irrespective of the differences in territorial size, population size, military power or economic strength, all states have the same legal personality. Or in other words, the Westphalian principle of sovereign equality means working with the principle of ‘one state, one vote’, although it is universally acknowledged that this principle does not correspond to the reality. In multilateralism 2.0 this could be balanced through a more flexible system that compares actors in terms of certain dimensions (such as economic power) regardless of the type of actors they are. In other words, one can for instance compare big states with regions or small states with sub-national regions. This allows not only a more flexible form of multilateralism. It could perhaps also lead to a more just system with a more equal balance of power and representation. Within the present multilateral system, the UN occupies a major position. But, in order to adapt to the emerging ‘mode 2.0’ of multilateralism, it needs to open up to regions. This is a problem, as the UN is a global organization with sovereign states as members. Indeed, the way the UN is organized, only sovereign states, the star players, can be full members (see Article four of the UN Charter). Even though the EU was granted speaking rights, it was not granted voting rights. Chapter VIII of the Charter also mentions the possibility of cooperation with regional organizations and right from its conception there have been attempts to go beyond a state-centric approach. However, for many years now, the UN has struggled with the question of what place supra-national regional organizations should and could take in achieving UN goals. On one end of the spectrum is the position that regionalism blocks the necessary global and universal approach needed to solve the problems of today. At the other end there is the position that regionalism can serve the overall goals of the UN. Obviously, the question is not only a philosophical one. Rather, it is also about power of institutions. Are regional organizations weakening the UN or can they be considered as allies of the UN in dealing with supra-national problems? Further recognition required The key issue in relation to any institutional reform aimed at reinforcing multilateralism is how to create a balance of power among UN members and a balance of responsibilities and representation for the people of our planet. **Such a complex set of balances cannot be found if reform propositions continue to be based upon states as the sole building blocks of multilateralism. A radical rethinking is needed**, which recognizes that, next to states, world regions based upon integration processes between states have to play a role in establishing an effective multilateralism. Today’s reality is that, next to states, world regions are becoming increasingly important tools of global governance. There needs to be, however, a lot of creative and innovative thinking based upon careful analysis of the regional dimensions of ongoing conflicts and of existing cooperation between the UN and regional organizations. The upgrading of the EU’s status in the UN is an important step forward. But it is not enough. Other regional organizations such as the African Union, ASEAN or the League of Arab States should follow. And next to speaking rights, collaboration between the UN and regional organizations needs to be further developed. This is the only way to increase regional ownership of what the UN and its Security Council decide. As a matter of fact, this recently happened with the UNSC resolution 1973 regarding Libya: explicit reference is made to the African Union, the League of Arab States and the Organization of Islamic Conference. Moreover, the League of Arab States’ members are requested to act in the spirit of Chapter VIII of the UN Charter in implementing the resolution. Reviving Chapter VIII seems to be a promising way to combine global concerns with local (regional) legitimacy and capacity to act. The challenge is that in line with the complexity of the emerging new world order, any proposal to rethink multilateralism in such a way that it incorporates regionalism needs to be flexible. A simplistic system of regional representations that replace the national representations will not work. And not only the UN, but also the regional organizations themselves need to adjust to the reality of multilateralism 2.0. In this respect it remains to be seen to what extent the EU Member States will allow the EU to speak with one vision. And above all, in order to become politically feasible, the idea of a multi-regional world order needs to be supported and promoted by civil society. As long as this is not the case, **old habits and organizational structures will not change, and the world will not become a more secure place to live in.**

Our model of debate engages in the core question of ‘what is the political?’- it is an ongoing process that opens space for micro political resistance to domination. This fluid approach is essential in academic debates, means we

Casas-Cortés, María Isabel et al. 11 [Michal Osterweil- lecturer and director of internships, PhD in Cultural Anthropology with a certificate in Cultural Studies from UNC Chapel Hill, Dana E. Powell- Assistant Professor of Anthropology Ph.D. 2011 University of North Carolina-Chapel Hill M.A. 2005 University of North Carolina-Chapel Hill, María Isabel Casas-CortésMA, currently PhD student in Anthropology at University of North Carolina
Chapel Hill] Blurring Boundaries: Recognizing Knowledge-Practices in the Study of Social Movements. 2008 Institute for Ethnographic Research. Anthropological Quarterly 81.1 (2008) 17-58

In sum, when movements are understood as knowledge-practitioners, and not simply as campaigners, or subjects to be understood by social movement researchers, their importance is rearticulated, challenging our habits of practice and modes of engagement as researchers. Even beyond the specific cases we have described above, we can understand many movement-related activities as knowledge-practices, which not only critically engage and redraw the map of what comprises the political, but also produce practices and subjects according to different logics. As such, knowledge-practices are part of the investigative and creative work necessary for (re)making politics, both from the micro-political inscribed on our bodies and lived in the everyday, to broader institutional and systemic change. It is in this sense that movements can be understood in and of themselves as spaces for the production of situated knowledges of the political. Despite these multiple and rich expressions of knowledge-practice, many social movements' visibility in public and academic debates is still confined to media-grabbing mobilizations, concrete and measurable victories, or moments when bodily repression is suffered and sustained. The methodological and theoretical shift in social movement studies that we propose makes visible different goals and effects of knowledge production. Instead of detached, academic knowledge about movements that operate "out there," we argue for the value of seeing the continuous generation, circulation and networked nature of heterogeneous knowledges, which in themselves work to make different futures possible—futures that do not exist in a narrow or campaign-specific space that closes once a certain demand has been met or a mobilization realized. In fact, rather than engage solely or primarily with the macro-political, knowledge-practices seem to work as much on the level of the micro-political, a level of experimentation, memory, analysis and intentional and ongoing critique, rather than the production [End Page 51] of new and final solutions (Deleuze and Guattari 1987; see also D'Iganazio 2004). We, too, offer not a new and final solution, but what we hope is an opening for greater recognition, valorization and engagement with the conceptual praxis of movements themselves.

### \*\*1NR\*\*

### Case

EU-US relations resilient - economic ties

Bertie Ahern, president of the European Council, 04(Irish Times, June 23, city edition; opinion and analysis;

Pg. 14, “EU-US ties are vital to security, prosperity and jobs; EU-US interdependence gives special meaning to

President Bush's visit, writes Bertie Ahern,”)

**Of all Europe's** international **partners**, the **most** critically **important is the U**nited **S**tates**. In the current political climate,** however, **it is easy to overlook the importance of its economic relationship** with the US **and** the **role it plays in promoting EU-US relations**. Naturally, **tensions over Iraq** in recent times **placed a strain on** EU-US political **relations. Despite this, the economic relationship** has **continued to blossom**, largely because the commercial ties are bound more by foreign direct investment than by trade. Foreign affiliate sales, not exports, are the primary means by which the US delivers goods and services to Europe, and vice versa. The transatlantic economy generates some E2.06 trillion ($ 2.5 trillion) a year in total commercial sales and employs directly or indirectly over 12 million workers on both sides of the Atlantic. During 2003, Europe accounted for nearly 65 per cent of total US foreign direct investment (FDI), equivalent in monetary terms to E72 billion ($ 87 billion). This represented a substantial increase of 30.5 per cent from 2002 figures, and was more than double the rate of growth in total US investment outflows for 2003. Europe accounts for over half of the total annual foreign profits of US companies. The bulk of their foreign assets - roughly 60 per cent - are in Europe. Some 43 per cent of their overseas workforce is in Europe and 60 per cent of US corporate research conducted abroad is in Europe. Europe, too, has invested heavily in the US and its economic relationship with the US is the deepest it has been since the end of the Cold War. In 2001, European companies were the top foreign investors in 45 US states, and ranked second in the remainder. European firms and business increased their investments in the United States last year, with FDI inflows up from E21.5 billion ($ 26 billion) in 2002 to E30.5 billion ($ 36.9 billion). Perhaps the most telling statistic that reveals the contradiction between the perception and the reality of EUUS relations over the past 18 months is the fact that, at a time when conventional wisdom would have us believe that all things French were regarded with disdain in the US because of tension over Iraq, US investment flows to France rose by more than 10 per cent to E1.9 billion ($ 2.3 billion) and US affiliates in France more than doubled their profits. French firms were also among the largest European investors and largest foreign sources of jobs in the US last year.

China bashing inevitable

AP 10-30-12 (Bickering political parties share China as target, http://news.yahoo.com/s/ap/20101030/ap\_on\_bi\_ge/us\_midterm\_trade\_rage)

In these angry political times, Democrats and Republicans agree on next to nothing. China is an exception. Democrats and Republicans are accusing each other of cozying up to Beijing and backing policies that send U.S. jobs and IOUs to the world's second-largest economy. Hot rhetoric in the closing days of the election has helped to fan protectionism sentiment in the U.S., casting doubt on the fate of free-trade agreements and complicating U.S. dealings with a muscle-flexing China. This America-first sentiment — against a background of continued highunemployment, a snail's pace recovery and heated political attack ads — seems likely to carry over to the next Congress, no matter who wins control of the House and Senate in Tuesday's voting. That anti-trade message is not good news for President Barack Obamaas he heads to Asia in early November. His trip includes a 20-nation summit in South Korea of the world's largest and fastest-growing economies. That gathering had been seen as an opportunity to ease global trade tensions and to recent flare-ups between the U.S. and China over currency, exchange rates, climate change and security. Instead, it could end up emphasizing unresolved differences. In this election season, foreign policy is seldom mentioned, yet China has become a prime economic target. California Sen. Barbara Boxer upbraids Republican rival Carly Fiorina for sending jobs to "Shanghai instead of San Jose" as Hewlett Packard's former chief executive. Senate Majority Leader Harry Reid, D-Nev., calls tea-party backed Republican challenger Sharron Angle "a foreign worker's best friend" for supporting tax breaks for "outsourcing to China and India." Connecticut Democratic Senate candidate Richard Blumenthal slams Republican Linda McMahon, former chief executive of World Wrestling Entertainment, because her company gets its action figure toys from China, not the U.S. Democrat Lee Fisher of Ohio says his GOP rival for the Senate, Rob Portman, "knows how to grow the economy — in China." Portman was the top trade and budget official for President George W. Bush. Democrats long have accused the GOP of policies that ship U.S. jobs overseas. This season, Republicans are returning fire. In West Virginia, Republican House candidate Elliott "Spike" Maynard aired an ad featuring Asian music and a photo of revolutionary leader Mao Zedong to reproach Democratic Rep. Nick Rahall for backing stimulus legislation that gave tax breaks to companies that bought wind turbines from China. House Minority Leader John Boehner, R-Ohio, blamed Obama and House Speaker Nancy Pelosi, D-Calif., for a "stimulus that shipped jobs overseas to China instead of creating jobs here at home." He's expected to replace Pelosi as speaker if Republicans win control of the House. Republicans generally have supported reducing barriers to free trade; Democrats have been more skeptical, due to opposition from labor unions and environmental groups. But this year, everything is upended with the retirement or rejection of moderate Republicans, the rising tea party movement and public hostility toward trade in general and China in particular. The House Republicans' "Pledge to America" doesn't mention free trade. The House voted 348 to 79 last month to bolster the government's power to slap tariffs on Chinese imports. "Buy American" provisions in legislation are winning by wide bipartisan margins. Polls suggest many in the U.S. blame China for the continued loss of U.S. jobs, particularly in Rust Beltstates. Many also seem troubled that China remains the world's largest holder of U.S. debt and has bounced back so quickly from the global economic crisis. It raised interest rates last week — while most other major economies are keeping them low — to keep its economy from overheating. In a recent NBC-Wall Street Journal poll, 53 percent of those surveyed said free-trade agreements have hurt the U.S. Among those who identified themselves as tea-party supporters, the proportion was 61 percent. "Think of it. The ground troops for both parties — tea party Republicans and union Democrats — believe free trade is bad," suggests Robert Reich, who was labor secretary in the Clinton administration and is now a professor at the University of California, Berkeley. Alan Tonelson, research fellow at the U.S. Business and Industry Council, which represents small and mid-sized manufacturers, said the jury's still out on how tea-party influence will shape trade decisions. He notes a split between libertarian-leaning conservatives who may favor ending all government restrictions on trade and those who want to do more to protect home industries. "The tea party certainly at its grass roots is an economic populist movement. And populist movements tend to take a very dim view of U.S. trade policy," he said. "Tea party social conservatives are also very worked up about China." Languishing free-trade pacts with South Korea, Colombia and Panama — negotiated during the Bush administration — may be casualties of the rise in protectionism sentiment. Obama has pledged to revive these pacts, saying they're good ways to expand exports and increase American jobs. But the trade measures have generated little enthusiasm or support on Capitol Hill. That could be awkward for Obama since South Korea is the host of the Nov. 11-12 Group of 20 summit. Even if the U.S. and South Korea can announce a framework agreement, it's no sure bet in Congress. The campaign-trail rhetoric against China "makes it a lot more awkward" for Obama to deal in Seoul with both South Korean and Chinese leaders, said Fariborz Ghadar, a senior adviser at the Washington-based Center for Strategic and International Studies. But he said he hoped "more reasonable" minds would prevail after the heat of the election dies down. But Jeffrey Schott, a senior fellow at the Peterson Institute for International Economics, says the "bigger problem for Obama is that unemployment still hovers just below 10 percent. And when you have rates of unemployment that high, you are going to see extensive protectionist pressure. It's just the nature of things when people are out of work."

CIA still controls drone strikes in Pakistan – no DOD control there

Bennett 13 - managing editor of Lawfare and a Fellow in National Security Law at the Brookings Institution [Wells Bennett, Exactly what targeted killings duties are shifting from CIA to DOD?, Lawfare, 3/21/13, http://www.lawfareblog.com/2013/03/exactly-what-targeted-killing-duties-are-shifting-from-cia-to-dod/]

To that, we can add this afternoon’s dispatch from the New York Times’ Scott Shane and Mark Mazetti. According to their piece, the CIA’s duties will be preserved, with respect to drone strikes in Pakistan:¶ “Under the proposal, two American officials said, the Defense Department would gradually assume control over drone operations outside Pakistan. The officials said that Mr. Obama, who has spoken publicly about his desire to make the program more transparent, had not yet made a decision about the proposal. Because it would probably leave drone operations in Pakistan under the C.I.A., the practical impact of such a move in the short term would appear to be limited.…¶ General Cartwright’s comments came amid a debate inside the Obama administration about bringing greater transparency to drone operations. But the impact of shifting drone operations to the Pentagon — a possibility first reported this week by the Web site The Daily Beast — would be blunted because a vast majority of the C.I.A.’s strikes have been carried out in Pakistan. The C.I.A. operates on its own there, having carried out 365 strikes, by the count of the Bureau of Investigative Journalism in London, compared with about 45 in Yemen and a handful in Somalia.¶ Officials say it is unlikely that the strikes in Pakistan, where the numbers have come down steadily since 2010, will be handed off to the military, a move that might further inflame popular anger at the American intrusion. Rather, the C.I.A. will probably keep control as the number of strikes continues to decline.”¶ So: the executive branch plans to move drone operations from the CIA to DOD—whatever that may mean, given that the DOD already flies the CIA’s drones and controls the drones’ weapons. And in any event, the handover also won’t touch operations in drone-centric Pakistan, where the CIA’s longstanding role (such as it is) will go unchanged. I sense an evolving story, one which likely will become clearer over time. Until that happens, though, it is hard to know what the interagency transition really will look like.

### APOC Rheps

#### Ontology comes first – the state of pure war is an internalized dread which manifests itself in populations conditioned by the dramatization of catastrophic events. This is invisible, psychic, violence comes first because it occurs at the individual level and makes material war and violence possible.

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Paul Virilio and Sylvere Lotringer’s concept of “pure war” refers to the potential of a culture to destroy itself completely (12).2We as psychoanalysts can—and increasingly must—explore the impact of this concept on our practice, and on the growing number of patients who live with the inability to repress or dissociate their experience and awareness of the pure war condition. The realization of a patient’s worst fears in actual catastrophic events has always been a profound enough psychotherapeutic challenge. These days, however, catastrophic events not only threaten friends, family, and neighbors; they also become the stuff of endless repetitions and dramatizations on radio, television, and Internet.3 Such continual reminders of death and destruction affect us all. What is the role of the analyst treating patients who live with an ever-threatening sense of the pure war lying just below the surface of our cultural veneer? At the end of the First World War, the first “total war,” Walter Benjamin observed that “nothing [after the war] remained unchanged but the clouds, and beneath these clouds, in a field of force of destructive torrents and explosions, was the tiny, fragile human body”(84). Julia Kristeva makes a similar note about our contemporary situation, “The recourse to atomic weapons seems to prove that horror...can rage absolutely” (232). And, as if he too were acknowledging this same fragility and uncontainability, the French politician Georges Clemenceau commented in the context of World War I that “war is too serious to be confined to the military” (qtd. in Virilio and Lotringer 15). Virilio and Lotringer gave the name “pure war” to the psychological condition that results when people know that they live in a world where the possibility for absolute destruction (e.g., nuclear holocaust) exists. As Virilio and Lotringer see it, it is not the technological capacity for destruction (that is, for example, the existence of nuclear armaments) that imposes the dread characteristic of a pure war psychology but the belief systems that this capacity sets up. Psychological survival requires that a way be found (at least unconsciously) to escape inevitable destruction—it requires a way out—but this enforces an irresolvable paradox, because the definition of pure war culture is that there is no escape. Once people believe in the external possibility— at least those people whose defenses cannot handle the weight of the dread that pure war imposes— pure war becomes an internal condition, a perpetual state of preparation for absolute destruction and for personal, social, and cultural death.

#### Even if the rational arguments in favor of the plan are logical, the representations of apocalypse colonize the debate towards pressure for fast invasion and warmongering

Goodnight 2010 (G. Thomas Goodnight is Professor and Director of Doctoral Studies at the Annenberg School for Communication, the University of Southern California in Los Angeles; "The Metapolitics of the 2002 Iraq Debate: Public Policy and the Network Imaginary", Rhetoric & Public Affairs Volume 13, Number 1, Spring 2010)

Opponents of the Democratic Party argued the risks of war, but their pragmatic policy challenges did not grab sufficient traction to slow the unreeling web of justification. Of course, there was little denial that the war would create more terrorists, generate a lower threshold for intervention, receive weak international support, and in the end leave the dangerous business of Afghanistan unfinished. But the Democrats became entangled in reflexive posturing about the effects of the debate itself—the importance of "message sending" to the United Nations and "consensus" backing for the president as negotiator-in-chief. With 9/11 not far behind, "tough" messages appeared to provide a much desired supplement to boost confidence, while pragmatism, caution, and planning took a back seat. Presidential hopefuls cut loose from this morass and took advantage of Republican-offered political cover. Republicans did appear to benefit from tough war rhetoric in the immediate election aftermath, enabling Bush to run successfully in 2004 as a wartime president. As WMD continued not to turn up, the intervention dragged on, costs mounted, political fortunes reversed—although the entanglements remained and remain. [End Page 87] The debate of 2002 found that a systematic presidential campaign—when bolstered by cherry-picked evidence—can be particularly powerful, especially when administration supporters in Congress veer shamelessly from long-held positions on policy and the leadership of the opposing party takes shelter in offered political cover. Further, the debate illustrates how the events that should prompt policy debate become colonized, in this case making common sense difficult to muster because the network imaginary laces a web of associative fears with compensatory toughness. On the whole, the debates were not the nation's finest hour. The debate of 2002 strove to convert a traumatic national event into a conservative-articulated, Republican-captured, presidentially initiated rise in power, and ended by setting the stage for congressional investigation, the rise of the Democrats, reassertion of congressional power, and a new presidency committed to public diplomacy. WMD were at the heart of the six-year-long controversy. It was hardly remembered that [WMD] weapons of mass destruction were not deployed by terrorists on September 11th. Rather, fast, anonymous, networked, modern systems of circulation were turned, through ingenuity, into first-strike weapons. Seen with fresh militancy, 9/11 suggests that the modern world remains vulnerable to mutating events that change, shock, and command attention, actions that attain expanding scope and influence by virtue of a network imaginary, where such moments self-organize and multiply in varied directions. The development of policy studies as rhetoric, then, calls attention to the disruptive events as these become situated in the restricted focus of national debate and recovered, through critique, as an unfinished metapolitics, which demands rethinking of the taken-for-granted grounds and alliances upon which post-event consensus became fabricated. In its time, the "War on Terror" was framed as a "clash of civilizations" and a new Munich. In retrospect, 9/11 should be understood as signaling a much closer, changing, entangled, future world where the complications of security spread and interlock to haunt twenty-first-century network imagainares.