## same 1ac

## 2ac

### at: no judicial modelling

#### They’ll model

PILPG 8, the Public International Law & Policy Group (PILPG), is a global pro bono law firm that provides legal assistance to foreign governments and international organizations on the negotiation and implementation of peace agreements, the drafting and implementation of post-conflict constitutions, and the creation and operation of war crimes tribunals. PILPG also assists states with the training of judges and the drafting of legislation, “brief of the public international law & policy group as amicus curiae in support of petitioners”, <http://www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdfs_09_10_08_1234_PetitionerAmCuPILPG.authcheckdam.pdf>

iii. transnational judicial dialogue confirms this court’s leadership in promoting adherence to rule of law in times of conflict.¶ PILPG’s on-the-ground experience demonstrating the leadership of this Court is confirmed by a study of transnational judicial dialogue. Over the past halfcentury, the world’s constitutional courts have been engaged in a rich and growing transnational judicial dialogue on a wide range of constitutional law issues. See, e.g., Melissa A. Waters, Mediating Norms and Identity: The Role of Transnational Judicial Dialogue in Creating and Enforcing International Law, 93 Geo. L.J. 487 (2005); Anne-Marie Slaughter, Judicial Globalization, 40 Va. J. Int’l L. 1103 (2000). Courts around the world consider, discuss, and cite foreign judicial decisions not out of a sense of legal obligation, but out of a developing sense that foreign decisions are valuable resources in elucidating complex legal issues and suggesting new approaches to common problems. See Waters, supra, at 493-94.¶ In this transnational judicial dialogue, the decisions of this Court have exercised a profound — and profoundly positive — influence on the work of foreign and international courts. See generally Constitutionalism and Rights: The Influence of the United States Constitution Abroad (Louis Henkin & Albert J. Rosenthal eds., 1990); Anthony Lester, The Overseas Trade in the American Bill of Rights, 88 Colum. L. Rev. 537 (1988). As Anthony Lester of the British House of Lords has noted,¶ “there is a vigorous overseas trade in the Bill of Rights, in international and constitutional litigation involving norms derived from American constitutional law. When life or liberty is at stake, the landmark judgments of the Supreme Court of the United States, giving fresh meaning to the principles of the Bill of Rights, are studied with as much attention in New Delhi or Strasbourg as they are in Washington, D.C.” Id. at 541.¶ This Court’s overseas influence is not limited to the Bill of Rights. From Australia to India to Israel to the United Kingdom, **foreign courts have looked to the seminal decisions of this Court as support for their own rulings upholding judicial review, enforcing separation of powers, and providing a judicial check on the political branches**.¶ Indeed, for foreign courts, this Court’s rulings in seminal cases such as Marbury v. Madison, 5 U.S. (1 Cranch) 137 (1803),4 Brown v. Board of Education, 347 U.S. 436 (1954),5 United States v. Nixon, 418 U.S. 683 (1974),6 and Roper v. Simmons, 543 U.S. 551 (2005)7 take on a special significance. **Reliance on the moral authority of this Court can provide invaluable support for those foreign courts struggling to establish their own legitimacy, to shore up judicial authority against overreaching by powerful executives, and to develop a strong rule of law within their own national legal systems**.¶ This Court’s potential to positively influence the international rule of law is particularly important in the nascent transnational judicial dialogue surrounding the war on terrorism and the primacy of rule of law in times of conflict. As the world’s courts begin to grapple with the novel, complex, and delicate legal issues surrounding the modern-day war on terrorism, and as states seek to develop judicial mechanisms to address domestic conflicts, foreign governments and judiciaries are confronting similar challenges. In particular, foreign governments and judiciaries must consider how to accommodate the legitimate needs of the executive branch in times of war within the framework of the law.¶ Although foreign courts are just beginning to address these issues, it is already clear that they are looking to the experience of the U.S., and to the precedent of this Court, for guidance on upholding the rule of law in times of conflict. In recent years, **courts in Israel, the United Kingdom, Canada, and Australia have relied on the precedent of this Court in decisions addressing the rights of detainees**.8 In short, as a result of this Court’s robust influence on transnational judicial dialogue, its decisions have proved extraordinarily important to the development of the rule of law around the world.¶ International courts have similarly relied on the precedent of this Court in influential decisions. For example, in the important and developing area of international criminal law, the international war crimes tribunals for Yugoslavia and Rwanda both relied heavily on the precedent of this Court in their early opinions. In the first five years of the Yugoslav Tribunal, the first in the modern iteration of the war crimes tribunals, the justices cited this Court at least seventeen times in decisions establishing the fundamental legal principles under which the Tribunal would function.9 The International Criminal Tribunal for Rwanda similarly relied on this Court’s precedent, citing this Court at least twelve times in its first five years.10 The precedent of this Court has provided a crucial foundation for international criminal law. The reliance on the precedent of this Court speaks to the Court’s international leadership on the promotion of respect for the rule of law in times of conflict.¶ By ruling in favor of the Petitioners, **this Court will reaffirm the precedent established in its prior decisions granting habeas rights to Guantanamo detainees and**, in doing so, **demonstrate to these foreign courts, and to other courts who will be addressing these issues in the future, that all branches of government must be bound by the rule of law, even in the most challenging of times**.

### abstention

#### **Single decisions don’t hurt legitimacy**

Keck 10 - graduated cum laude with a BA from the George Washington University and received his MBA with high honors from the University of Chicago Booth School of Business ( The most activist supreme court in history the road to modern judicial conservatism / Thomas M. Keck. Uchicago book)

In sum, liberal and Democratic support for the Court took a temporary hit from Bush v. Gore, but it quickly rebounded and is likely to remain strong over the long term, in large part because Justices O’Connor and Anthony Kennedy have preserved so much of the Warren Court legacy. The election decision has been roundly criticized, but most contemporary American liberals remain firmly committed to a vigorous independent judiciary as an important bulwark of liberty. All Bush v. Gore appears to have done is to solidify the commitment of contemporary conservatives to this same principle, thus making even less likely the development of an influential political constituency for curbing the Court. Just as the Marshall Court expanded federal judicial power in the early years of the nineteenth century by issuing decisions that “swelled (or at least did not diminish) the ranks of influential politicians who favored that power” (Graber 1999:39), so too with the O’Connor Court in the early years of the twenty-first. The current Court’s continued willingness to exercise its power on behalf of liberal as well as conservative ends has tended to reinforce support for judicial power among political elites.

#### Legitimacy is tanked already

Rosen 12 (Jeffrey – Legal Affairs Editor at New Republic, “The Supreme Court Has a Legitimacy Crisis, But Not For the Reason You Think “, 2012, http://www.tnr.com/article/politics/103987/the-supreme-court-has-legitimacy-crisis-not-the-reason-you-think)

Last week, a New York Times/CBS poll found that only 44 percent of Americans approve of the Supreme Court’s job performance and 75 percent say the justices are sometimes influenced by their political views. But although the results of the poll were striking, commentators may have been too quick to suggest a direct link between the two findings. In the Times article on the poll, for example, Adam Liptak and Allison Kopicki suggested that the drop in the Court's 66 percent approval ratings in the late 1980s “could reflect a sense that the court is more political, after the ideologically divided 5-to-4 decisions in Bush v. Gore and Citizens United.” At the beginning of his tenure, Chief Justice John Roberts said that he subscribed to a similar theory. “I do think the rule of law is threatened by a steady term after term after term focus on 5-4 decisions,” Roberts told me. But a new study by Nathaniel Persily of Columbia Law School and Stephen Ansolabehere of Harvard suggests that the relationship between the Court’s declining approval ratings and increased perceptions of the Court’s partisanship may be more complicated than the New York Times and the Chief Justice suggest. According to the study, Americans already judge the Court according to political criteria: They generally support the Court when they think they would have ruled the same way as the justices in particular cases, or when they perceive the Court overall to be ruling in ways that correlate with their partisan views. If this finding is correct, the most straightforward way for the Court to maintain its high approval ratings is to hand down decisions that majorities of the public agree with. And, like its predecessors, the Roberts Court has, in fact, managed to mirror the views of national majorities more often than not. In a 2009 survey, Persily and Ansolabehere found that the public strongly supported many of the Supreme Court’s recent high-profile decisions, including conservative rulings recognizing gun rights and upholding bans on partial birth abortions, as well as liberal rulings upholding the regulation of global warming and striking down a Texas law banning sex between gay men. But if the public agrees with most of the Court's decisions, why is it more unpopular than ever? Part of the answer has to do with the fact that there are a handful of high profile decisions on which the Court is out of step with public opinion, including the Kelo decision allowing a local government to seize a house under eminent domain and the Boumediene case extending habeas corpus to accused enemy combatants abroad, and recent First Amendment decisions protecting unpopular speakers, such as funeral protesters, manufacturers of violent video games, and corporations (in the Citizens United case.) All of these decisions were unpopular with strong majorities of the public. But Persily and Ansolabehere also found that even decisions that closely divide the public can lead to a decrease in the Court’s approval rating over time, by increasing the perception among half the public that the Court is out of step with its partisan preferences. Bush v. Gore is perhaps the clearest example. In the short term, the Court’s overall approval ratings didn’t suffer: Republicans liked the decision, while Democrats didn’t, and the two effects canceled each other out. But Persily and his colleagues found that ten years later, Bush v. Gore continues to define the Court for many citizens, destroying confidence in the Court among Democrats while reinvigorating it among Republicans. Since an important component of the Court’s overall approval rating is whether Americans perceive themselves to be in partisan agreement with the Court as an institution, Bush v. Gore has led to a statistically significant decline in approval among Democrats as a whole.

### at: release link

#### Credible studies disprove detainees engage in terrorism post release

**Pitter 13** (Laura- counterterrorism advisor at Human Rights Watch, 2013, “How to Close Guantanamo”, http://www.foreignpolicy.com/articles/2013/05/01/how\_to\_close\_guantanamo?page=0,1)-

Yes, there is some risk that detainees released from Guantanamo may engage in terrorism. The government has stated that some of the detainees released from Guantanamo have already been involved in terrorism, though the number is disputed and the government refuses to publicly release the information on which it is basing those claims. The director of national intelligence claims (though these claims have been discredited) that about 16 percent of the approximately 600 people released from the facility over the past 12 years are confirmed, and 11 percent are suspected, of having engaged in terrorism after their release. Independent, credible analyses of those figures by researchers at the New America Foundation indicate the number is more like 6 percent, or 1 in 17. Even if the Pentagon figures were true, clearly the vast majority of people released from Guantanamo have not engaged in terrorism; in fact, it's well below the estimated 60 percent U.S. recidivism rate for criminal convictions overall. There are many people in the world who may commit crimes in the future, but the United States has not locked them up indefinitely. The bottom line is that the administration needs to assume some risk that those released may become involved in terrorism -- even though that risk is objectively low. But even on a purely moral level, the fear that someone may engage in terrorist or criminal behavior in the future is not a legitimate basis for prolonged indefinite detention. Furthermore, the decision about whether to release a detainee should be made on an individual basis, not based on the behavior of other detainees.

#### Seriously the risk of this link is 5 thousandths of a percent

Eppinger 13 (Monica-Assistant Professor, Saint Louis University School of Law and Department of Sociology and Anthropology; J.D., Yale Law School; Ph.D. Anthropology, University of California Berkeley, Winter, “REALITY CHECK: DETENTION IN THE WAR ON TERROR”, Catholic University Law Review-Lexis)

Second, serious consideration should be given to the low rates of recidivism by those held in preventive detention in Afghanistan. In 2010, Vice Admiral Harward, U.S./ISAF commander of detainee operations in Afghanistan, said that of a detainee population numbering over 3,000 in all the years of conflict in Afghanistan, he had documented only seventeen cases in which those released from preventive detention returned to the battlefield. 219 That is a recidivism rate of roughly one-half of one percent. Reasons for that astonishingly low rate of battlefield recapture need to be investigated and analyzed. Is the low rate because of treatment or training that took place during detention? Is it related to community guarantees extracted at the time of release? Is it because too many were detained in the first place, including wrong place/wrong time non-combatants? Or is the figure a result of under-reporting, understandably missing, in the fog of war, released detainees who did return to the battlefield? Reasons for the low rate of recidivism or, in the case of the wrongly detained, first-time fighting by released detainees should be carefully analyzed and lessons extracted for future conduct.

### tea party

#### The Tea Party is over

Friedman 1-22

Brad, 'Tea Party' Brand Now a Liability to 'Tea Party' ... and Republicans

American blogger, journalist, actor, radio broadcaster, director and software programmer, most known for his criticism of election integrity issues in the USA, http://www.bradblog.com/?p=9827#more-9827

But it's little wonder these folks are running from the name. Their popularity, and their name brand, is now plummeting along with the fortunes of the Congressional Republican Party. As Bennet notes, even Rightwing pollsters like Rasmussen are finding that support for the "Tea Party" movement is absolutely cratering... Rasmussen, a favorite polling firm of conservatives, found in a survey this month that only 8 percent of voters identify themselves as tea party members, down from a high of 24 percent shortly after passage of the federal health care law in 2010. The Rasmussen poll found 30 percent of voters had a favorable view of the tea party and 49 percent had a negative view. ... An October Rasmussen poll found 44 percent of voters considered “tea party” a negative label, eclipsing “liberal” as the most potent negative adjective. And, again, he's the Republican pollster. NBC News/Wall Street Journal finds, according to Benen, that attitudes about the "Tea Party" are "abysmal". "Just 9% have a 'very positive' impression of the so-called movement --- an all-time low," he writes, "while 32% have a 'very negative' impression --- an all-time high. All told, the Tea Party's favorability rating is down to just 23%, which is even lower than the GOP's support and that of the NRA." "If the 'movement' still exists," Benen argues, "it's gasping for air --- and relevance." But the problems for the Republican Party itself are much deeper than simply their association with the tainted "Tea Party". Benen explains, for example, that "After discovering that there aren't any Republicans left in the center," the Republican Main Street Partnership, a D.C. outfit promoting moderate GOP lawmakers and policies, "dropped the 'R' word and became simply the Main Street Partnership."

### at: politics

#### Healthcare thumps

Peckingpaugh et al. 1/16 (Tim L. Peckinpaugh (Partner of K&L Law Firm- focus on Energy), Darrell L. Conner (Government Affairs Counselor), Sean P. McGlynn (Government Affairs Analyst), “2014 Legislative & Regulatory Outlook”, <http://www.klgates.com/2014-legislative--regulatory-outlook-01-16-2014/>, January 16, 2014)

Healthcare Almost without exception, over the last two years, Congressional Republicans ignored most health care issues with the exception of repealing the Affordable Care Act (ACA). As a result, the normal congressional checks and balances on regulatory action have been virtually non-existent. The Administration was quick to fill this gap through a number of significant regulatory changes related to both the implementation of the Affordable Care Act, as well as changes in Medicare payment policies. Congressional Action However, by the end of 2013, a change in Republican internal politics brought the Congress back into the debate about regulatory policy changes. For example, a large bipartisan group moved to include a provision delaying the implementation of the two (2) midnight rule until October 1, 2014—the two midnight rule would have dramatically altered the definition of an inpatient and an outpatient. This issue will continue to receive congressional attention over the next year. In addition, Congress will turn to a host of other administrative problems plaguing the Medicare program, such as Medicare Recovery Audit Contractor (RAC) reform. Although Republicans continue to give lip-service to repealing the Affordable Care Act, House Republicans will emphasize smaller bills aimed at making the implementation of the Act more difficult. Several Republican Senators have publicly acknowledged that repealing the ACA is not possible, but amendments to the Act are possible. Several key Republican Senators have been working with Democrats to draft substantive amendments to the Act. Some of the issues this bi-partisan group hopes to address are the medical device tax, taxation of health plans, medical loss ratios, continuation of existing “non-conforming” health policies beyond 2015, and the establishment of non-governmental exchanges. Regulatory Action After the disastrous rollout of the Affordable Care Act and continued problems with the implementation of the Act, such as matching online enrollment with health plans and subscribers, the Administration will continue to use its regulatory authority to delay or soften many of the provisions of the Act. This may include continuing to allow individuals to keep existing policies beyond 2014, delaying the employer mandate for at least one more year, and flexibility in enforcing benefits, reporting, and other requirements. The Administration will not show similar flexibility with regard to provider payments. In all likelihood, through regulation and policy guidance, the Administration will continue to “ratchet down” provider payments. The Center for Medicare and Medicaid Services (CMS) will continue to instruct the RACS to “rigidly” judge the appropriateness of payments, such as the need for rehabilitation or long term care hospital services, payments for observation days, and payments for short-term stays. In addition, CMS will continue to expand the use of site-neutral payments.

**Courts shield the link on detention policy**

**Stimson 9** (Charles "Cully" D. Stimson is a leading expert in criminal law, military law, military commissions and detention policy at The Heritage Foundation's Center for Legal and Judicial Studies.Punting National Security To The Judiciary <http://blog.heritage.org/2009/09/25/punting-national-security-to-the-judiciary/>)

So what is really going on here? To those of us who have either served in senior policy posts and dealt with these issues on a daily basis, or followed them closely from the outside, it is becoming increasingly clear that **this administration is trying to create the appearance of a tough national-security policy regarding** the **detention** of terrorists at Guantanamo, **yet allow the courts to make the tough calls on releasing** the **bad guy**s. **Letting the courts do the dirty work** would **give the administration plausible cover** and distance **from the decision-making process**. The numbers speak for themselves. Of the 38 detainees whose cases have been adjudicated through the habeas process in federal court in Washington, 30 have been ordered released by civilian judges. That is close to an 80 percent loss rate for the government, which argued for continued detention. Yet, how many of these decisions has this administration appealed, knowing full well that many of those 30 detainees should not in good conscience be let go? The answer: one. **Letting the courts do it** for him **gives the president distance from** the **unsavory release decisions**. It also allows him to state with a straight face, as he did at the Archives speech, “We are not going to release anyone if it would endanger our national security, nor will we release detainees within the United States who endanger the American people.” No, the president won’t release detainees; he’ll sit back and let the courts to do it for him. And **the president won’t seek congressional authorization for prolonged detention of the enemy**, as he promised, because it will anger his political base on the Left. The ultra-liberals aren’t about to relinquish their “try them or set them free” mantra, even though such a policy threatens to put terrorists back on the battlefield. Moreover, **the president would have to spend political capital to win congressional authorization for a prolonged detention policy**. Obviously, **he would rather spend that capital on other policy priorities.**

#### Ending indefinite detention gives Obama PC for other battles

Klaidman 12/12 (Daniel, Congress Cooperates, Obama Pushes Hard, and Closing Gitmo Has a Chance<http://www.thedailybeast.com/articles/2013/12/12/congress-cooperates-obama-pushes-hard-and-closing-gitmo-has-a-chance.html>)

Are we closer to closing Guantanamo? It’s beginning to look that way. Earlier this week the Republican-led House and the Democratic-led Senate reached a compromise as part of an annual defense policy bill that would make it easier to transfer detainees from Guantanamo to foreign countries willing to take them. And while many in the press interpreted the news as evidence that [Gitmo](http://www.thedailybeast.com/witw/articles/2013/09/02/lifting-the-veil-with-souad-mekhennet-breaking-bread-with-a-former-guantanamo-prisoner-as-the-hunger-strike-wears-on.html)was here to stay, the bipartisan deal was actually a watershed moment in the long saga. It was the first time since Obama signed his original executive order that Congress moved to make it easier–not harder–to close the 12-year-old facility. “It’s as if the president finally decided to flip the on-switch and the White House and Defense Department got up and running to work towards closing Guantanamo,” says Christopher Anders, senior legislative counsel at the American Civil Liberties Union. “And it paid off, with a big Senate vote supporting easing some of the transfer restrictions.” There were many factors that led to this rare bit of tangible progress on Gitmo. Among them was a political climate that had been steadily shifting away from concerns about national security--especially as the country absorbs the reality that U.S. forces will be largely out of Afghanistan by year’s end. Meanwhile, Washington has been preoccupied with all-consuming battles over debt ceilings and sequestration. And in a time of austerity, arguments about the high cost of maintaining the controversial prison started to gain considerable traction with moderate Democrats and even some Republicans. But it is also the case that the Guantanamo stalemate began to give way to progress because of a resolute push by Obama as well as a willingness to spend political capital that was not always present during the president’s first term. Obama drove his advisers hard and pushed them to regularly update him on progress. And crucially, he made sure that his team engaged Congress, both to win the cooperation of lawmakers but also to signal that closing Guantanamo was one of the highest priorities of his second term.

### 1nc

#### No econ impact

Miller 2k – economist, adjunct professor in the University of Ottawa’s Faculty of Administration, consultant on international development issues, former Executive Director and Senior Economist at the World Bank (Morris, Winter, “Poverty as a cause of wars?”)

The question may be reformulated. Do wars spring from a popular reaction to a sudden economic crisis that exacerbates poverty and growing disparities in wealth and incomes? Perhaps one could argue, as some scholars do, that it is some dramatic event or sequence of such events leading to the exacerbation of poverty that, in turn, leads to this deplorable denouement. This exogenous factor might act as a catalyst for a violent reaction on the part of the people or on the part of the political leadership who would then possibly be tempted to seek a diversion by finding or, if need be, fabricating an enemy and setting in train the process leading to war. According to a study under- taken by Minxin Pei and Ariel Adesnik of the Carnegie Endowment for International Peace, there would not appear to be any merit in this hypothesis. After studying ninety-three episodes of economic crisis in twenty-two countries in Latin America and Asia in the years since the Second World War they concluded that:19 Much of the conventional wisdom about the political impact of economic crises may be wrong ... The severity of economic crisis – as measured in terms of inflation and negative growth – bore no relationship to the collapse of regimes ... (or, in democratic states, rarely) to an outbreak of violence ... In the cases of dictatorships and semi-democracies, the ruling elites responded to crises by increasing repression (thereby using one form of violence to abort another).

#### No Israeli strikes – most conclusive evidence

Derfner 12 – fromer columnist and feature writer for The Jerusalem Post, as well as the correspondent in Israel for the U.S. News and World Report, for many years (Larry, 08/01, “It's over - there will be no Israeli attack on Iran,” http://972mag.com/its-over-there-will-be-no-israeli-attack-on-iran/52230/)

It’s not often that the story out of Israel, and out of America’s relationship with Israel, is good, but the story that’s emerged over the last few days is much more than good, and given Israel’s build-up toward war with Iran for the last five years at least, the story is so out of character that it’s hard to absorb. But here it is – Israel is not going to attack Iran. Not before the November 6 presidential election, not afterward if Obama wins, and maybe not afterward even if Romney wins, which is unlikely. It’s not that Netanyahu doesn’t want to bomb Iran - he does, and he makes that clearer every day. What’s happened is that there’s been such a torrent of opposition in the Israeli media this week from the security establishment, starting with IDF chief Benny Gantz, and backed by the Obama Administration and Pentagon, that there’s no way Bibi can get his cabinet to vote for a war, and without the cabinet’s backing, he can’t do it. The ministers will not support Bibi in an extremely risky war opposed by the heads of the IDF, IDF Intelligence, the Air Force, the Mossad, the Shin Bet and the United States of America. There’s been a price for all this, though; the Obama Administration has as much as promised Israel that if Iran gets within reach of nuclear capability – which it isn’t now – the U.S. military will smash it up to an extent that Israel can’t. Yedioth Ahronoth’s Shimon Shiffer, dean of Israeli diplomatic correspondents, reported that the Americans are telling Israel that the time for a U.S. attack wouldn’t be for at least another year-and-a-half. If that’s what it took to convince Gantz and his military/intelligence colleagues to get out the word that Israel should leave the job in America’s hands, it was worth it. An imminent catastrophe has been averted. As Gantz was reported by Channel 10 to say, an Iranian missile counterrattack on the Israeli homefront “will not resemble anything we have known in the past.” So I think the game is up. Making the case for war with Iran is now a losing battle, and people are going to start running away from it, beginning, I expect, with Ehud Barak, who has been Bibi’s equal partner in this whole scaremongering affair. There are other political/personal tensions pulling the two apart, but the air of futility that now surrounds the Iran file is enough for Barak to get off it. At some point even AIPAC may get the hint. Either before or after AIPAC, Bibi himself will give up, he’ll “move on,” until the only people still backing an Israeli war on Iran will be Sheldon and his boy Mitt. As a rule, the Israeli security/ intelligence establishment is less hawkish and much more sane than the political right wing and the public at large; its current antiwar campaign is a vivid illustration. This has been one of its finest hours. Also for the Israeli media. I didn’t expect it; I thought the bad guys were going to win like they’ve been winning for so long. This episode reminds me that there are good things about this country, good people, and why Israel is worth saving.

### frontline

#### Pragmatic reasoning is correct- prior questions cause policy failure

Kratochwil, IR Prof @ Columbia, 8 [Friedrich Kratochwil is Assistant Professor of International Relations at Columbia University, Pragmatism in International Relations “Ten points to ponder about pragmatism” p11-25]

Firstly, a pragmatic approach does not begin with objects or “things” (ontology), or with reason and method (epistemology), but with “acting” ( *prattein*), thereby preventing some false starts. Since, as historical beings placed in a specific situations, we do not have the luxury of deferring decisions until we have found the “truth”, we have to act and must do so always under time pressures and in the face of incomplete information. Precisely because the social world is characterised by strategic interactions, what a situation “is”, is hardly ever clear *ex ante*, because it is being “produced” by the actors and their interactions, and the multiple possibilities are rife with incentives for (dis)information. This puts a premium on quick diagnostic and cognitive shortcuts informing actors about the relevant features of the situation, and on leaving an alternative open (“plan B”) in case of unexpected difficulties.

 Instead of relying on certainty and universal validity gained through abstraction and controlled experiments, we know that completeness and attentiveness to detail, rather than to generality, matter.

**Moral absolutism makes them complicit in injustice – unintended consequences matter just as much as intentions**

Jeffrey C. **Isaac**, James H. Rudy Professor of Political Science and Director of the Center for the Study of Democracy and Public Life at Indiana University, Spring **2002**, Dissent, Vol. 49, No. 2

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

**Critical thinking – roleplaying encourages intellectual flexibility and fights dogmatism – key to critical questioning of government policy**

**Esberg and Sagan 12** – (2/17/12, Jane, special assistant to the director at the Center on International Cooperation, New York University, and Scott, professor of political science and director of the Center for International Security and Cooperation, Stanford University, “Negotiating Nonproliferation: Scholarship, Pedagogy, and Nuclear Weapons Policy,” The Nonproliferation Review, 19:1, 95-108, taylor and francis)

These government or quasi-government think tank simulations often provide very similar lessons for high-level players as are learned by students in educational simulations. Government participants learn about the **importance of understanding foreign perspectives**, the need to practice internal coordination, and the necessity to compromise and coordinate with other governments in negotiations and crises. During the Cold War, political scientist Robert Mandel noted how crisis exercises and war games forced government officials to **overcome “bureaucratic myopia,”** moving beyond their normal organizational roles and thinking more creatively about how others might react in a crisis or conflict.6 The skills of imagination and the subsequent ability to predict foreign interests and reactions remain critical for **real-world foreign policy makers**. For example, simulations of the Iranian nuclear crisis—held in 2009 and 2010 at the Brookings Institution's Saban Center and at Harvard University's Belfer Center, and involving former US senior officials and regional experts—highlighted the dangers of misunderstanding foreign governments’ preferences and misinterpreting their subsequent behavior. In both simulations, the primary criticism of the US negotiating team lay in a failure to predict accurately how other states, both allies and adversaries, would behave in response to US policy initiatives.7

By university age, students often have a pre-defined view of international affairs, and the literature on simulations in education has long emphasized how such exercises **force students to challenge their assumptions about how other governments behave and how their own government works**.8 Since simulations became more common as a teaching tool in the late 1950s, educational literature has expounded on their benefits, from encouraging **engagement** by breaking from the typical lecture format, to improving **communication skills**, to promoting **teamwork**.9 More broadly, simulations can deepen understanding by asking students to link fact and theory, providing a context for facts while bringing theory into the realm of practice.10 These exercises are particularly valuable in teaching international affairs for many of the same reasons they are useful for policy makers: they force participants to “**grapple with the issues arising from a world in flux**.”11 Simulations have been used successfully to teach students about such disparate topics as European politics, the Kashmir crisis, and US response to the mass killings in Darfur.12 Role-playing exercises certainly encourage students to learn political and technical facts—but they learn them in a more active style. Rather than sitting in a classroom and merely receiving knowledge, students actively research “their” government's positions and actively argue, brief, and negotiate with others.13 Facts can change quickly; simulations teach students how to contextualize and act on information.14

**Focus on critical theory makes effective action impossible – defer to empirics**

David **Owen,** Reader of Political Theory at the Univ. of Southampton, Millennium Vol 31 No 3 **2002** p. 655-7

Commenting on the ‘philosophical turn’ in IR, Wæver remarks that ‘[a] frenzy for words like “epistemology” and “ontology” often signals this philosophical turn’, although he goes on to comment that these terms are often used loosely.4 However, loosely deployed or not, it is clear that debates concerning ontology and epistemology play a central role in the contemporary IR theory wars. In one respect, this is unsurprising since it is a characteristic feature of the social sciences that periods of disciplinary disorientation involve recourse to reflection on the philosophical commitments of different theoretical approaches, and there is no doubt that such reflection can play a valuable role in making explicit the commitments that characterise (and help individuate) diverse theoretical positions. Yet, such a philosophical turn is not without its dangers and I will briefly mention three before turning to consider a confusion that has, I will suggest, helped to promote the IR theory wars by motivating this philosophical turn. The first danger with the philosophical turn is that it has an inbuilt tendency to **prioritise** issues of ontology and epistemology over explanatory and/or interpretive power as if the latter two were merely a **simple function** of the former. But while the explanatory and/or interpretive power of a theoretical account is not wholly independent of its ontological and/or epistemological commitments (otherwise criticism of these features would not be a criticism that had any value), it is by no means clear that it is, in contrast, wholly dependent on these philosophical commitme

nts. Thus, for example, one need not be sympathetic to rational choice theory to recognise that it can provide powerful accounts of certain kinds of problems, such as the tragedy of the commons in which dilemmas of collective action are foregrounded. It may, of course, be the case that the advocates of rational choice theory cannot give a good account of why this type of theory is powerful in accounting for this class of problems (i.e., how it is that the relevant actors come to exhibit features in these circumstances that approximate the assumptions of rational choice theory) and, if this is the case, it is a philosophical weakness—but this **does not undermine** the point that, for a certain class of problems, rational choice theory may **provide the best account available to us.** In other words, while the critical judgement of theoretical accounts in terms of their ontological and/or epistemological sophistication is one kind of critical judgement, it is not the only or even necessarily the most importantkind. The second danger run by the philosophical turn is that because prioritisation of ontology and epistemology promotes theory-construction from philosophical first principles, **it cultivates a theory-driven rather than problem-driven approach to IR.** Paraphrasing Ian Shapiro, the point can be put like this: since it is the case that there is always a plurality of possible true descriptions of a given action, event or phenomenon, the challenge is to decide which is the most apt in terms of getting a perspicuous **grip on** the **action,** event or phenomenon in question given the purposes of the inquiry; yet, from this standpoint, ‘theory-driven work is part of a **reductionist program’** in that it ‘dictates always opting for the description that calls for the explanation that flows from the **preferred model** or theory’.5 The justification offered for this strategy rests on the mistaken belief that it is necessary for social science because general explanations are required to characterise the classes of phenomena studied in similar terms. However, as Shapiro points out, **this is to misunderstand the enterprise of science** since ‘whether there are general explanations for classes of phenomena is a question for social-scientific inquiry, **not to be prejudged** before conducting that inquiry’.6 Moreover, this strategy easily slips into the promotion of the pursuit of **generality over** that of **empirical validity.** The third danger is that the preceding two combine to encourage the formation of a particular image of disciplinary debate in IR—what might be called (only slightly tongue in cheek) ‘the Highlander view’—namely, an image of warring theoretical approaches with each, despite occasional temporary tactical alliances, dedicated to the strategic achievement of sovereignty over the disciplinary field. It encourages this view because the turn to, and **prioritisation of, ontology and epistemology stimulates the idea that there can only be one theoretical approach which gets things right**, namely, the theoretical approach that gets its ontology and epistemology right. This image feeds back into IR exacerbating the first and second dangers, and so a potentially **vicious circle arises.**

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**Debating about state policy is good – it can fix the worst parts of the state**

**WALT 1991** (Stephen, Professor at the University of Chicago, *International Studies Quarterly* 35)

A second norm is relevance, a belief that even highly abstract lines of inquiry should be guided by the goal of solving real-world problems. Because the value of a given approach may not be apparent at the beginning–game theory is an obvious example–we cannot insist that a new approach be immediately applicable to a specific research puzzle. On the whole, however, the belief that scholarship in security affairs should be linked to real-world issues has prevented the field from degenerating into self-indulgent intellectualizing. And from the Golden Age to the present, security studies has probably had more real-world impact, for good or ill, than most areas of social science. Finally, the renaissance of security studies has been guided by a commitment to democratic discourse. Rather than confining discussion of security issues to an elite group of the best and brightest, scholars in the renaissance have generally welcomed a more fully informed debate. To paraphrase Clemenceau, issues of war and peace are too important to be left solely to insiders with a vested interest in the outcome. The growth of security studies within universities is one sign of broader participation, along with increased availability of information and more accessible publications for interested citizens. Although this view is by no means universal, the renaissance of security studies has been shaped by the belief that a well-informed debate is the best way to avoid the disasters that are likely when national policy is monopolized by a few self-interested parties.

**Bleiker’s analysis is flawed – it raises more questions than it answers**

**Martin 2000** (Brian Martin, “Review of Popular Dissent, Human Agency and Global Politics, by Roland Bleiker,”Social Alternatives, Vol. 20, No. 1, January 2001, pp. 68-70, <http://www.bmartin.cc/pubs/01BRsa.html>) GANGEEZY

The book is ostensibly aimed at international relations scholars, who conventionally focus on the actions of governments and the dynamics of the state system. They normally ignore citizen protest altogether or see it as a minor factor in international affairs. Bleiker argues that 'popular dissent' - his expression that covers nonviolent action as well as less dramatic forms of resistance - should be taken into consideration. A local protest can now be broadcast globally, cutting across the national borders that international relations scholars usually take as the frameworks for political activity. Furthermore, people can decide for themselves to act. In other words, they can exert 'human agency', something for which international relations scholars have no theory. Bleiker sets out to develop a theory for human agency, especially for 'transversal dissent', namely action that cuts across conventional boundaries such as national borders and normal ways of thinking. How to proceed on such an ambitious enterprise? Bleiker takes an original route. He starts by following the trajectory of the idea of withdrawing consent from power, most clearly articulated in Étienne de la Boétie who in 1552 wrote Discourse on Voluntary Servitude, arguing that oppressive government only survived because people acquiesced to it. La Boétie's text and ideas bubbled through the centuries, being used by later figures including Rousseau, Tolstoy, Gandhi and Gene Sharp. By tracing the legacy of la Boétie, Bleiker follows the way conceptions of popular dissent have been articulated through the centuries. While he is quite sympathetic with dissent itself, Bleiker is critical of theories of dissent - such as Gene Sharp's consent theory of power - that propose one framework to explain the dynamics of dissent in all times and places. In general, he rejects any approach that claims to have found a solid foundation for drawing generalisations. Instead, he argues that dissent must be analysed in specific situations. To illustrate the multiple ways of looking at power, he takes as his case study the collapse of the East German communist regime in 1989. He starts with a standard picture of the role of nonviolent action, in which emigration and massive rallies were the primary challenges to the regime. He then points out that a focus on citizen action alone is inadequate because it overlooks the wider political context, including changes in the Soviet Union, the role of West Germany as a haven for East German refugees, and the East German system of privileges. He then presents yet another way of looking at the East German events, namely in terms of the impact on women, which in many dimensions was negative. This points to the need to reveal patriarchal aspects of both German unification and popular protest. Finally, he looks at changes in values in East Germany during the 1980s. The bases for resistance included the Protestant churches, which had some autonomy from the state, and West German mass media, showing a political and economic alternative as well as providing subversive cultural influences through music and novels. Could the quiet transformation of values through such cultural influences have been more important than the massive 1989 protests? Bleiker thinks so. To try to show how, he looks at dissent through writing, specifically at East German underground poetry in the 1980s. The bohemian poets challenged conventional ways of thinking by using unconventional linguistic forms. The case materials in the book - a genealogy of la Boétie's ideas, the 1989 East German revolution and 1980s East German underground poetry - are fascinating in themselves, but they primarily serve as props for a high-level engagement with theory. Ideas from Nietzsche, Heidegger, Foucault, Baudrillard and others are deployed with great insight but with few concessions to the reader who is not versed in scholarship in postmodernism. The writing is clear but intellectually is challenging in the sense of being difficult as well as the sense of being stimulating. An analysis of linguistic modes of resistance in East German underground poetry is hardly enough to show that "a gradual and largely inaudible transversal transformation of values" (p. 271) is of central importance in global politics. That this mode of social change is important remains to be shown. Bleiker's tremendous achievement is to put this process on the intellectual agenda, opening the door for further investigation. The book raises as many questions as it answers. While both large-scale and subtle forms of resistance to domination are discussed, their interactions require more analysis. Bleiker argues that a slow transformation of values, fostered by small changes in language and behaviour, can lay the basis for major events such as the collapse of East Germany, but he does not discuss how major public forms of nonviolent action may foster a transformation of values. The concept of a slow transformation of values through forms of micro-resistance sounds great, but what about a contrary slow transformation of values through processes of micro-domination? Advertisements, mass media news values and technological environments such as roads and buildings can all shape people's consciousness. There are struggles at the micro as well as the macro level. Use of new linguistic forms in poetry can be a form of resistance to domination, but advertisers also use challenges to linguistic forms for very different goals. Bleiker uses a refusal to buy non-reusable milk containers as an example of a form of tactical resistance that escapes the usual picture where there is a definite adversary. However, this form of consumer refusal also may be interpreted as a means for feeling that one is doing the right thing while leaving unchallenged the dominant forces promoting excess resource use, an argument long made by critical environmentalists. This example, while minor in itself, reveals some limitations to the 'small action' approach to social change. What does Popular Dissent, Human Agency and Global Politics have to say to activists? Bleiker is right that nonviolent action is increasingly visible across national borders, but nonviolent action that challenges political and conceptual boundaries is certainly not new in practice. The book's main value is not in providing insight to activists but rather in bringing theory up to scratch with what is happening on the ground. Bleiker shows that international relations theory is hopelessly inadequate to understand citizen action and furthermore that nonviolence theory is too blunt to understand forms of micro-action. He performs impressive intellectual feats in his engagement with theory, highlighting useful concepts, juxtaposing contrasting ideas, and reorienting frameworks. In all this, the impression might be gained that action depends on getting the theory sorted out. But of course activists have long proceeded in big and small ways largely in ignorance of theorists (and some would say wisely so!). It may well be that activists as well social theorists can pick up on the 'changing of the social climate'. So as well as looking to explain new modes of struggle by recourse to the ideas of Foucault, perhaps it would be just as useful to explain Foucault's ideas as responding to new attitudes and modes of struggle. Bleiker argues for acceptance of contingent foundations, saying that "grand theories of dissent run the risk of objectifying and entrenching forms of domination" (p. 140). I am sceptical that theories of dissent - such as the consent theory of power - have such an influence on dissent itself. Many contemporary activists are far more flexible than the stereotype of the dogmatic Marxist. Grand theories are more commonly used as resources than as straitjackets.

### Roleplaying Good

**Policy education – roleplaying is key to understand how government works and how it fails—traditional education is less effective**

**GONZALES 2008** (Angelo, Ph.D. Candidate, Travers Department of Political Science, University of California at Berkeley, “Teaching American Political Institutions Using Role Playing Simulations,” Feb 22, http://www.allacademic.com//meta/p\_mla\_apa\_research\_citation/2/4/5/6/3/pages245631/p245631-1.php)

Political institutions are central to many courses on American politics and government. From the institutions of government – represented by legislatures, executive agencies, and courts at all levels – to the intermediary institutions that structure citizens’ interactions with their government (e.g., parties and interest groups), a thorough knowledge of political institutions is necessary to truly grasp the inner workings of the American political system. Unfortunately, it can be difficult for students to learn about the dynamic nature of these institutions from the pages of a textbook. For example, it is important to know the textbook description of Congress as a bicameral institution, with representatives elected every two years and senators every six years, but such information does little to explain how these constitutional differences between the House and Senate can create incentives for members to act in different ways. Congress is a complex institution with numerous rules governing the consideration of business and multiple incentives structuring the behavior of members. The best way to truly understand the effects of these rules and incentives, I argue, is to get inside the heads of the members themselves, and the most effective way to do so pedagogically is through the use of role-playing simulations. Congress is not the only political institution with interesting internal dynamics that can be taught using simulations. Political parties are continually struggling to manage the diverse interests of their internal coalitions, while staking out policy positions that will give them an electoral advantage in the next election. Interest groups comprise nearly every conceivable interest, exhibit widely varying degrees of political sophistication, and interact with many different aspects of the political system (e.g., lobbying bureaucratic agencies during the rule-making process, testifying before committees, lobbying individual members of Congress, and engaging in electioneering to influence the results of elections). The bureaucracy and the courts, though underappreciated, are essential actors in the policy process from start to finish. The Executive Office of the President walks a fine line between serving the individual interests of the President and respecting the statutory mandates of Congress. And the President (and most governors) wear several institutional hats that are often in conflict with one another (e.g., head of state, party leader, and chief policy maker). Understanding the ways in which these institutions manage all of their internal conflicts is critical for understanding why the American political system works (or fails to work) as it does. In this paper, I argue that role-playing simulations are an essential technique in any professor's repertoire for teaching American political institutions. I also discuss two case studies from my own teaching experience: (1) a congressional committee hearing designed to simulate the role of interest groups in the policy process, and (2) a Senate floor debate designed to simulate the interplay between Senate rules and the major interests that structure senators’ behaviors (i.e., committees, parties, and re-election). In both of these exercises, I argue that students came away with a better understanding of the complex and dynamic nature of each institution than had they simply been asked to memorize the textbook. Finally, I present results from a brief survey my former students to solicit their thoughts about the effectiveness of these simulations.