# 1NC

### 1

#### Presidential power high now-historical precedent and Obama domestic and international expansion

Fein ‘12

[Bruce Fein, associate deputy attorney general under President Reagan , A History of the Expansion of Presidential Power, <http://www.nytimes.com/2012/04/28/opinion/a-history-of-the-expansion-of-presidential-power.html>, uwyo//amp]

The unilateral actions of President Obama in the domestic arena to circumvent Congress are more than matched by the president’s unilateralism in foreign affairs. Among other things, President Obama has unilaterally commenced war, authorized the assassination of American citizens abroad and denied the writ of habeas corpus to detainees not accused of a crime. Executive branch power at the expense of Congress and the Constitution’s checks and balances has mushroomed since World War II. Examples include President Truman’s undeclared war against North Korea; President Eisenhower’s executive agreements to defend Spain; President Johnson’s Gulf of Tonkin Resolution regarding Vietnam; President Nixon’s secret bombing of Cambodia and assertions of executive privilege; President Clinton’s undeclared war against Bosnia; and President Bush’s countless presidential signing statements, Terrorist Surveillance Program, waterboarding and Iraq war.

#### Padilla reversal proves-restrictions on indefinite detention encroach on presidential power

Kaplan 2013

[Lewis A. Kaplan, District Judge, 07/17/2013, Hedges v. Obama, <http://www.lawfareblog.com/wp-content/uploads/2013/07/Hedges.2d-Circuit-Opinion.pdf>, uwyo//amp]

2. Padilla Padilla, also an American citizen, was apprehended at Chicago’s O’Hare International Airport in May 2002 after allegedly receiving training from al-Qaeda in Afghanistan, becoming involved in a plan to detonate a “dirty bomb” here, and returning to the United States to conduct reconnaissance and facilitate attacks by al-Qaeda.21 In December 2003—prior to Hamdi—this Court held that because Padilla was an American citizen arrested on domestic soil away from a zone of combat, his military detention violated the Non-Detention Act and could not be justified by the President’s Article II war powers.22 The Supreme Court reversed our decision on procedural grounds on the day it decided Hamdi butdid not reach the lawfulness of Padilla’s detention.23 Following the Supreme Court’s reversal of our Padilla ruling, a new habeas petition was filed on his behalf. The Fourth Circuit in 2005 concluded that Padilla was lawfully detained under the reasoning of Hamdi because it became known that he had been “armed and present in a combat zone during armed conflict between al Qaeda/Taliban forces and the armed forces of the United States” while in Afghanistan prior to his return to the United States.24 Although Padilla had been apprehended in the United States, the Fourth Circuit concluded that Hamdi had not relied on the place of capture.25 The government subsequently indicted Padilla and transferred him to civilian criminal custody. His petition for certiorari was denied.26

#### Presidential power is zero-sum- the branches compete

Barilleaux and Kelley 2010 [Ryan J. , Professor of Political Science at Miami, OH; and Christopher S. , Lecturer (Political Science) at Miami, OH, The Unitary Executive and the Modern Presidency, Texas A&M Press, p. P 196-197, 2010// wyo-sc]

In their book *The Broken Branch,* Mann and Ornstein paint a different view. They discuss a wider range of public policy areas than just uses of force. Their argument is that although party is important as a conditioning factor for times when Congress might try to restrain an aggressive or noncompliant executive, there has also been a broader degrading of institutional power that has allowed, in a zero-sum context, the president to expand executive power at the expense of Congress. Mann and Ornstein thus posit that congressional willingness to subordinate its collective power to that of the president has occurred across domestic politics and foreign affairs. They argue that a variety of factors are at fault for this trend, including the loss of institutional identity, the willingness to abdicate responsibility to the president, the demise of "regular order," and most importantly that Congress has lost its one key advantage as a legislative body—the decay of the deliberative process. Thus, they do recognize that party politics has played an important role in the degrading of congressional power, but they see a larger dynamic at work, one that reaches beyond partisanship. While we agree with Howell and Pevehouse that Congress retains important mechanisms for constraining the president, we tend to agree with the Mann and Ornstein view that there has been a significant and sustained decline in Congress's willingness to use these mechanisms to challenge presidential power. This tendency has been more prevalent in foreign affairs but has occurred noticeably across the spectrum of public policy issues. Building from both of those perspectives, and others, we argue that it is helpful to understand the pattern of congressional complicity in the rise of presidential power by viewing Congress's aiding and abetting as the logical outcomes of a collective action problem.31 By constitutional design, the legislative branch is in competition with the president for institutional power, yet Congress is less than ideally suited for such a political conflict. Congress's comparative disadvantage begins with its 535 "interests" that are very rarely aligned, and if so, only momentarily. Because individual reelection overshadows all other goals, members of Congress naturally seek to take as much credit and avoid as much blame from their constituencies as possible.32 The dilemma this creates for members is how to use or delegate its collective powers in order to maximize credit and minimize blame in the making of public policy. Congress can choose to delegate power internally to committees and party leaders or externally to the executive branch. One can conceptualize the strategic situation of members of Congress in terms of a prisoner's dilemma.33 If members cooperate (that is, in Mann and Ornstein's parlance, if members identify with the institution), they could maintain and advance Congress's institutional power. But they would have to bypass some potential individual payoffs that could come from defection, such as "running against Congress" as an electoral strategy. A stronger institution should make all members of Congress better off, but it also makes them responsible for policymaking. If members defect from the institution, they thus seek to maximize constituency interests either by simply allowing power to fall by the wayside or by simply delegating it to the president. As more and more members choose to defect over time, the "public good" of a strong Congress is not provided for or maintained—and Congress's institutional authority erodes and presidential power fills in the gap. Why, in other words, is congressional activism so often "less than meets the eye," as Barbara Hinckley maintained in her book by that title? Or why has the ''culture of deference" that Stephen Weissman identified developed as it has?34 We argue that the collective action problem that exists in Congress leads to the development of these trends away from meaningful congressional stewardship of foreign policy and spending.

#### Strong executive key to contain WMD threat of North Korea/rogue states

Nzelibe & Yoo 06

[Jide Nzelibe and John C. Yoo. , Yoo is a professor of law at the University of California at Berkeley School of Law , ,Rational war and constitutional design.(Symposium on Executive Power).

Yale Law Journal 115.9 (July 2006): p2512(30), uwyo//amp]

The declining value of costly signals is counterbalanced by the benefit of using preemptive force against terrorists and rogue states. As September 11 showed, terrorist attacks can occur without warning because their unconventional nature allows their preparation to be concealed within the normal activities of civilian life. Terrorists have no territory or regular armed forces from which to detect signs of an impending attack. To defend itself from such an enemy, the United States might need to use force earlier and more often than was the norm during a time when nation-states generated the primary threats to American national security. (63) As with terrorism, the threat posed by rogue nations may again require the United States to use force earlier and more often than it would like. (64) Rogue nations may very well be immune to pressure short of force designed to stop their quest for WMD or their threat to the United States. Rogue nations, for example, have isolated themselves from the international system, are less integrated into the international political economy, and repress their own populations. This makes them less susceptible to diplomatic or other means of resolving disputes short of force, such as economic sanctions. Lack of concern for their own civilian populations renders the dictatorships that often govern rogue nations more resistant to deterrence. North Korea, for example, appears to have continued its development of nuclear weapons despite years of diplomatic measures to change its course. (65) These new threats to American national security change the way we think about the relationship between the process and substance of the warmaking system. The international system as it existed at the end of the Cold War allowed the United States to choose a warmaking system that could have placed a premium on deliberation and the approval of multiple institutions, whether for purposes of political consensus (and hence institutional constraints that lower the expected value of war) or for purposes of signaling private information in the interests of reaching a peaceful bargain. If, however, the nature of threats has changed and the level of threats has increased, and military force is the most effective means for responding to those threats, then it may make more sense for the United States to use force preemptively. Given the threats posed by WMD proliferation, rogue nations, and international terrorism, at the very least it seems clear that we should not adopt a warmaking process that contains a built-in presumption against using force abroad or that requires long and deliberate procedures. These developments in the international system may demand that the United States have the ability to use force earlier and more quickly than in the past. In order to forestall a WMD attack, or to take advantage of a window of opportunity to strike at a terrorist cell, the executive branch needs the flexibility to act quickly, possibly in situations in which congressional consent cannot be obtained in time to act on the intelligence. These cases suggest that a permanent constitutional rule requiring congressional permission to use force would be over-inclusive. In certain situations, particularly when the United States is facing a nation-state with a similar political system or one that can draw on a sophisticated understanding of foreign nations, signaling through congressional participation may prove valuable. But costly signals may prove ineffective in other situations, particularly when the opponent is a rogue state or an international terrorist organization. There may be little value in revealing private information through legislative commitments if the opponent does not understand the meaning of congressional participation or does not share a common value system that would allow a bargain to be struck. In other words, the signaling model that underwrites the value of congressional participation breaks down when confronted with these opponents. In such cases, we might conclude that the benefits of swift, even preemptive military action might outweigh the potential effectiveness of signaling. These considerations suggest that a two-tier approach to war powers might be desirable, in which conflicts with similar nation-states should involve congressional authorization, which can only assist the executive branch in reaching a bargain with a foreign nation. But if the opponent is a terrorist organization or a rogue nation, the United States might be better off retaining a system of executive initiative in war. We should make an important clarification. Our argument does not preclude the possibility that some nondemocractic regimes could understand the informational value of legislative signaling, but it assumes that democratic regimes are more likely to appreciate such signals. In some circumstances, the President might seek legislative authorization for the use of force against nondemocractic states to improve the chances of a peaceful settlement. But it will depend on the circumstances and on whether the benefits of such a signal would be outweighed by the costs of delay. We believe that the President is best suited, as a structural matter, to determine whether to seek to signal a nondemocractic regime with legislative authorization.

**An unchecked North Korea causes global catastrophe**

**Hayes and Green, 10**

[\*Victoria University AND Executive Director of the Nautilus Institute (Peter and Michael, “-“The Path Not Taken, the Way Still Open: Denuclearizing the Korean Peninsula and Northeast Asia”, 1/5, http://www.nautilus.org/fora/security/10001HayesHamalGreen.pdf) uwyo//amp]

**The consequences of failing to address the proliferation threat posed by the North Korea developments, and related political and economic issues, are serious, not only for the Northeast Asian region but for the whole international community. At worst, there is the possibility of nuclear attack1, whether by intention, miscalculation, or merely accident, leading to the resumption of Korean War hostilities.** On the Korean Peninsula itself, **key population centres are well within short or medium range missiles.** **The whole of Japan is likely to come within North Korean missile range**. Pyongyang has a population of over 2 million, Seoul (close to the North Korean border) 11 million, and Tokyo over 20 million. **Even a limited nuclear exchange would result in a holocaust of unprecedented proportions. But the catastrophe within the region would not be the only outcome. New research indicates that even a limited nuclear war in the region would rearrange our global climate far more quickly than global warming.** Westberg draws attention to new studies modelling the effects of even a limited nuclear exchange involving approximately 100 Hiroshima-sized 15 kt bombs2 (by comparison it should be noted that the United States currently deploys warheads in the range 100 to 477 kt, that is, individual warheads equivalent in yield to a range of 6 to 32 Hiroshimas).The studies indicate that **the soot from the fires produced would lead to a decrease in global temperature by 1.25 degrees Celsius for a period of 6-8 years**.3 In Westberg’s view: **That is not global winter, but the nuclear darkness will cause a deeper drop in temperature than at any time during the last 1000 years.** The temperature over the continents would decrease substantially more than the global average. **A decrease in rainfall over the continents would also follow…The period of nuclear darkness will cause much greater decrease in grain production than 5% and it will continue for many years...hundreds of millions of people will die from hunger…To make matters even worse, such amounts of smoke injected into the stratosphere would cause a huge reduction in the Earth’s protective ozone.4** These, of course, are not the only consequences. **Reactors might also be targeted, causing further mayhem and downwind radiation effects, superimposed on a smoking, radiating ruin left by nuclear next-use.** Millions of refugees would flee the affected regions. **The direct impacts, and the follow-on impacts on the global economy via ecological and food insecurity, could make the present global financial crisis pale by comparison. How the great powers, especially the nuclear weapons states respond to such a crisis, and in particular, whether nuclear weapons are used in response to nuclear first-use, could make or break the global non proliferation and disarmament regimes. There could be many unanticipated impacts on regional and global security relationships5, with subsequent nuclear breakout and geopolitical turbulence, including possible loss-of-control over fissile material or warheads in the chaos of nuclear war, and aftermath chain-reaction affects involving other potential proliferant states.** The Korean nuclear proliferation issue is not just a regional threat but a global one that warrants priority consideration from the international community.

### 2

#### Congress will successfully avert a government shutdown now, but time is super tight

Fox News, 9-11-2013, “House pulls spending bill amid backlash as government shutdown looms,” http://www.foxnews.com/politics/2013/09/11/house-leaders-pull-temporary-spending-bill-after-conservative-backlash/

House Republican leaders pulled their plan Wednesday to temporarily fund the federal government after rank-and-file party members said it sidestepped “defunding” ObamaCare. The action further narrowed Congress’ time to strike a budget deal before an Oct. 1 government shutdown. House Speaker John Boehner and his team pulled the plan, which could have gotten a full chamber vote as early as Thursday, after a conservative backlash led by the Tea Party movement and Heritage Action for America. The plan essentially called for the House to vote on defunding ObamaCare and the temporary spending bill, then send the package to the Democrat-controlled Senate, which almost certainly would have jettisoned the defund part and allowed the chambers to negotiate on a “clean” funding bill. “The Ruling Elite is up to it again,” the Tea Party Patriots group said Wednesday. “They want you to think they have voted for defunding ObamaCare. But it’s another shell game.” Meanwhile, Congress must also work on several other pressing issues, especially agreeing to increase the debt ceiling, which the government could hit as soon as mid-October, according to a recent Treasury Department assessment. Boehner defended his defund-spending plan Tuesday, saying his chamber has already voted 40 times to “defund, repeal and change” ObamaCare, so the Senate must now take up the fight. Although Boehner pulled the bill because he didn’t have the votes, sources tell Fox News the speaker has no intention of changing the plan and might revisit it next week -- after members realize its strengths. Meanwhile members from both parties appear optimistic about avoiding a partial government shutdown, despite the looming deadline and the potential for another internal House struggle. “We've got some time left,” Kentucky Republican Rep. Hal Rogers, chairman of the House Appropriations Committee, told Fox News. “It's not time to panic.” The postponement of a Capitol Hill vote on a military strike on Syria will indeed eliminate the related hearings and classified briefings that slowed work on other pending issues, including immigration reform, the Farm Bill and whether to limit the extent to which the National Security Agency can collect data on Americans in its efforts to thwart terrorism.

#### The plan would trade off with Congress’s ability to avert the shutdown - GOP has momentum and will, but they need literally every hour to get it done

Frank James, 9-13-2013, “Congress Searches For A Shutdown-Free Future,” NPR, http://www.npr.org/blogs/itsallpolitics/2013/09/13/221809062/congress-searches-for-a-shutdown-free-future

The only thing found Thursday seemed to be more time for negotiations and vote-wrangling. Republican leaders recall how their party was blamed for the shutdowns of the mid-1990s and earnestly want to avoid a repeat, especially heading into a midterm election year. Cantor alerted members Thursday that during the last week of September, when they are supposed to be on recess, they will now most likely find themselves in Washington voting on a continuing resolution to fund the government into October. It looks like lawmakers will need every hour of that additional time. While talking to reporters Thursday, Boehner strongly suggested that House Republicans weren't exactly coalescing around any one legislative strategy. "There are a lot of discussions going on about how — about how to deal with the [continuing resolution] and the issue of 'Obamacare,' and so we're continuing to work with our members," Boehner said. "There are a million options that are being discussed by a lot of people. When we have something to report, we'll let you know."

#### Shutdown wrecks the economy

Yi Wu, 8-27-2013, “Government Shutdown 2013: Still a Terrible Idea,” PolicyMic, http://www.policymic.com/articles/60837/government-shutdown-2013-still-a-terrible-idea

Around a third of House Republicans, many Tea Party-backed, sent a letter last week calling on Speaker John Boehner to reject any spending bills that include implementation of the Affordable Care Act, otherwise known as Obamacare. Some Senate Republicans echo their House colleagues in pondering this extreme tactic, which is nothing other than a threat of government shutdown as neither congressional Democrats nor President Obama would ever agree on a budget that abolishes the new health care law. Unleashing this threat would amount to holding a large number of of the federal government's functions, including processing Social Security checks and running the Centers for Disease Control, hostage in order to score partisan points. It would be an irresponsible move inflicting enormous damage to the U.S. economy while providing no benefit whatsoever for the country, and Boehner is rightly disinclined to pursue it. Government shutdowns are deleterious to the economy. Two years ago in February 2011, a similar government shutdown was looming due to a budget impasse, and a research firm estimated that quater's GDP growth would be reduced by 0.2 percentage points if the shutdown lasted a week. After the budget is restored from the hypothetical shutdown, growth would only be "partially recouped," and a longer shutdown would result in deeper slowdowns. Further, the uncertainties resulting from a shutdown would also discourage business. A shutdown was avoided last-minute that year, unlike in 1995 during the Clinton administration where it actually took place for four weeks and resulted in a 0.5 percentage-point dent in GDP growth. Billions of dollars were cut from the budget, but neither Boehner nor the Republicans at the time were reckless enough to demand cancellation of the entire health care reform enacted a year before.

#### Global nuclear war

Harris & Burrows 9 Mathew, PhD European History @ Cambridge, counselor of the U.S. National Intelligence Council (NIC) and Jennifer, member of the NIC’s Long Range Analysis Unit “Revisiting the Future: Geopolitical Effects of the Financial Crisis” http://www.ciaonet.org/journals/twq/v32i2/f\_0016178\_13952.pdf

Of course, the report encompasses more than economics and indeed believes the future is likely to be the result of a number of intersecting and interlocking forces. With so many possible permutations of outcomes, each with ample Revisiting the Future opportunity for unintended consequences, there is a growing sense of insecurity. Even so, history may be more instructive than ever. While we continue to believe that the Great Depression is not likely to be repeated, the lessons to be drawn from that period include the **harmful effects on fledgling democracies** and multiethnic societies (think Central Europe in 1920s and 1930s) and on the sustainability of multilateral institutions (think League of Nations in the same period). There is no reason to think that this would not be true in the twenty-first as much as in the twentieth century. For that reason, the ways in which **the potential for** greater **conflict could grow** would seem to be even more apt in a constantly volatile economic environment as they would be if change would be steadier. In surveying those risks, the report stressed the likelihood that terrorism and nonproliferation will remain priorities even as resource issues move up on the international agenda. **Terrorism**’s appeal will decline if economic growth continues in the Middle East and youth unemployment is reduced. For those terrorist groups that remain active in 2025, however, the diffusion of technologies and scientific knowledge will place some of the world’s most dangerous capabilities within their reach. Terrorist groups in 2025 will likely be a combination of descendants of long established groups\_inheriting organizational structures, command and control processes, and training procedures necessary to conduct sophisticated attacks and newly emergent collections of the angry and disenfranchised that become self-radicalized, particularly in the absence of economic outlets that would become narrower in an economic downturn. The most dangerous casualty of any **economically-induced drawdown** of U.S. military presence would almost certainly be the Middle East. Although Iran’s acquisition of nuclear weapons is not inevitable, worries about a nuclear-armed Iran could lead states in the region to develop new security arrangements with external powers, **acquire additional weapons**, and consider pursuing their own **nuclear ambitions**. It is not clear that the type of stable deterrent relationship that existed between the great powers for most of the Cold War would emerge naturally in the Middle East with a nuclear Iran. Episodes of low intensity conflict and terrorism taking place under a nuclear umbrella could lead to an **unintended escalation** and **broader conflict** if clear red lines between those states involved are not well established. The close proximity of potential **nuclear rivals** combined with underdeveloped surveillance capabilities and mobile dual-capable Iranian missile systems also will produce inherent difficulties in achieving reliable indications and warning of an impending nuclear attack. The lack of strategic depth in neighboring states like Israel, short warning and missile flight times, and uncertainty of Iranian intentions may place more focus on **preemption** rather than defense, potentially leading to **escalating crises**. 36 Types of conflict that the world continues to experience, such as over resources, could reemerge, particularly if protectionism grows and there is a resort to neo-mercantilist practices. Perceptions of renewed energy scarcity will drive countries to take actions to assure their future access to energy supplies. In the worst case, this could result in **interstate conflicts** if government leaders deem assured access to energy resources, for example, to be essential for maintaining domestic stability and the survival of their regime. Even actions short of war, however, will have important geopolitical implications. Maritime security concerns are providing a rationale for naval buildups and modernization efforts, such as China’s and India’s development of blue water naval capabilities. If the fiscal stimulus focus for these countries indeed turns inward, one of the most obvious funding targets may be military. Buildup of regional naval capabilities could lead to increased tensions, rivalries, and counterbalancing moves, but it also will create opportunities for multinational cooperation in protecting critical sea lanes. With water also becoming scarcer in Asia and the Middle East, cooperation to manage changing water resources is likely to be increasingly difficult both within and between states in a more dog-eat-dog world.

### 3

#### Text: the Executive Branch of the United States should issue an executive order establishing a National Security Court with sole jurisdiction over cases pursuant to Section 1021 of the National Defense Authorization Act for Fiscal Year 2012.

#### Obama can increase administration transparency- new commitment key

Tuuti 2013

[Camille Tuuti, journalist, March 10th, 2013, Transparency advocates give administration mixed marks, http://fcw.com/articles/2013/03/10/open-gov-advocates.aspx, uwyo//amp]

President Barack Obama vowed four years ago to make his administration the most open in history. But despite thousands of hours invested in laying the foundation for transparency, a new study finds actual agency adoption of policies has been uneven and occasionally weak. The Center for Effective Government’s March 10 report examines the Obama administration's progress on open government in three main areas: creating an environment supportive of transparency, improving the usability of government information, and reducing secrecy related to national security. “Overall, we found that the administration has taken a lot of positive steps on the policy side to strengthen open government,” Gavin Baker, open government policy analyst at the Center for Effective Government, told FCW. “The weakness has been that those policies are inconsistent in how they’re trickling down to agencies, so over the next four years we’re hoping to see reinvigorated approach to implementation and getting these new policies into practice.”

### 4

#### The law is a complex system that we never know truly what is happening when we modify it. This is especially true in the case in increasing the rights of the detainees only leads to an increase in drone strikes. We can’t predict how the system will respond and adapt

Crandall 13

[Carla Crandall, Law Clerk to the Honorable Carolyn Dineen King, U.S. Court of Appeals for the Fifth Circuit. J.D., J. Reuben Clark Law School, Brigham Young University, 2013 Seton Hall University School of Law¶ Seton Hall Law Review 2013 Seton Hall Law Review¶ ¶ 43 Seton Hall L. Rev. 595 “If You Can't Beat Them, Kill Them: Complex Adaptive Systems Theory and the Rise in Targeted Killing”, <http://erepository.law.shu.edu/cgi/viewcontent.cgi?article=1466&context=shlr>, \\wyo-bb]

A. Targeted Killing: A Primer¶ ¶ As defined here, targeted killing is the "extra-judicial, premeditated killing by a state of a specifically identified person not in its custody." n217 Though there are numerous mechanisms by which such operations might be carried out, the United States has largely pursued its recent targeted killing strategy with the use of armed drones. n218 To be sure, the United States has employed drones since the infancy of the war on terror; reports indicate, for instance, that on the very evening of the Afghanistan invasion, the United States used a Predator drone to reconnoiter Taliban leader Mullah Omar. n219 That said, commentators widely acknowledge that in recent years, the use of drones to carry out targeted killings has increased exponentially. n220¶ [\*631] Given this recent expansion, drone warfare largely has been associated with President Obama. Indeed, as one reporter explained, "no president has ever relied so extensively on the secret killing of individuals to advance the nation's security goals." n221 Yet, while it is certainly true that targeted killing via drones has increased significantly under the Obama Administration, n222 the escalation actually began in the summer of 2008 when - just one month after the Boumediene decision - President Bush issued an "order that dramatically expanded the scope of Predator drone strikes against militants ... ." n223 During the remainder of 2008, the number of drone attacks conducted in Pakistan alone "vastly exceeded the number of strikes over the prior four years combined." n224¶ As noted, this escalation has continued under the Obama Administration. Reports indicate, for instance, that between 2009 and 2010, the number of drone strikes in Pakistan more than doubled - from 54 in 2009, to 122 in 2010. n225 Although this number has since been in decline (73 such attacks took place in 2011, while 48 occurred in 2012), the current rate still significantly outpaces that [\*632] seen pre-Boumediene. n226 Beyond this quantitative increase in drone use during President Obama's tenure, there has also been an equally important qualitative expansion. In 2011, the Wall Street Journal reported that "the U.S. military is deploying a new force of armed drones to eastern Africa in an escalation of its campaign to strike militant targets in the region and expand intelligence on extremists." n227 This new arsenal is expected to support the recent trend of expanding the geographic scope of drone warfare farther away from America's ground wars. n228 More strikingly, in September of 2011, government officials confirmed that a Hellfire missile launched from a CIA drone killed Anwar al-Awlaki in Yemen. n229 While news of a targeted killing carried out in Yemen might have been noteworthy in itself, n230 even more remarkable was the fact that al-Awlaki was a U.S. citizen. n231 The strike was thus evidence of another expansion in drone warfare, permitting attacks even against Americans who, though alleged to have been involved in terrorists operations, had not been afforded traditional due process protections. n232¶ To be sure, there are a number of possible explanations for this expanded use of drones to carry out targeted killings. First, in recent years, drones undoubtedly have become more sophisticated in terms of their capabilities. This is especially true as pertaining to their payload capacity and target recognition features. n233 The burgeoning [\*633] use of drones also may have been triggered by the withdrawal of ground troops from areas where targeted killing has more recently been pursued. n234 In that vein, some have intimated that the rise in drone use is a factor of the growing hesitancy to place American troops in harm's way on a battlefield. n235 Finally, some have suggested that drone use is more prevalent now because, as a tactical strategy, targeted killing is simply more effective in the asymmetrical, global war on terror. n236¶ While these explanations are certainly plausible, even granting that these factors have contributed to the rise in drone use does not exclude the possibility that the strategy actually constitutes a form of self-organization emerging from the complex properties inherent within the systems of law and war. Indeed, while not using this language, many commentators are beginning to acknowledge the correlation between the expanded use of drones and the fact that the executive no longer has a comprehensive detention strategy. n237 As one senior military official has stated, "when you don't have a detention policy," operational tactics have to change. n238 Indeed, the fact is that since the Supreme Court decided Boumediene in 2008, there have been few reports of the United States capturing high-value targets. n239 This reality may well indicate that efforts to grant detainees more rights have instead instigated an unforeseen and unintended shift away from capture and toward targeted killing.¶ [\*634]¶ B. Complexity, Adaptability, Self-Organization, and Unpredictability: Like Squeezing Jell-O¶ ¶ In 2009, former OLC director Jack Goldsmith discussed the growing "shell game" taking place regarding war on terror detentions and explained that, when one military tactic becomes unavailable, other strategies emerge to take its place n240:¶ ¶ ¶ Demands to raise legal standards for terrorist suspects in one arena often lead to compensating tactics in another arena that leave suspects (and, sometimes, innocent civilians) worse off... . Closing Guantanamo or bringing American justice there does not end the problem of terrorist detention. It simply causes the government to address the problem in different ways. A little-noticed consequence of elevating standards at Guantanamo is that the government has sent very few terrorist suspects there in recent years... . The Bush and Obama administrations have relied more on other tactics... . They have increasingly employed targeted killings, a tactic that eliminates the need to interrogate or incarcerate terrorists but at the cost of killing or maiming suspected terrorists and innocent civilians alike without notice or due process. n241¶ Using language strikingly reminiscent of terminology employed by complex adaptive systems theorists, one legal scholar, Kenneth Anderson, said of Goldsmith's commentary that "one way you might look at this is that there is a sort-of national security constant that remains in equilibrium over time, using one tactic or another, gradually evolving but representing over time a reversion to the national security mean." n242 More colloquially, Anderson suggested "that national security, seen over time, looks like squeezing [Jell-O] - if squeezed one place it pops out another." n243 Complex adaptive systems theory provides a model for explaining how and why this process occurs.¶ [\*635] Throughout the war on terror, national security law has exhibited many properties of a complex adaptive system. For example, as outlined above, the various interdependent agents that were involved in shaping the government's detention policies - namely, the Executive Branch, Congress, and the Supreme Court - created part of the complexity inherent within the system. Not only did these agents constitute dynamic systems themselves, as significantly, they each had important nested subsystems, such as OLC, individual pieces of legislation, and the ideological positions of each particular Supreme Court justice. As U.S. detention policy developed, these components of the legal system interacted not only with each other, but also with interdependent external systems like the American public and the military troops who were actually prosecuting the war.¶ As this interaction took place, and as the war effort progressed, the legal system's internal agents each learned from one another, as well as from the events occurring around them. This led to a process whereby the legal system as a whole evolved, but also whereby each agent within the system was forced to "react to what law [was] doing to them." n244 Moreover, as alluded to above, because the components of the legal system are humans, and therefore possess the ability to "steer" the system, they were able during the war on terror to "devise ways to influence [other] actors in the legal system." n245¶ The complex and adaptive properties inherent within the systems of war and law were perhaps most starkly evident in the behavior these systems exhibited as the Supreme Court adjudicated the habeas cases. With its Hamdi decision, for example, the Court signaled to the executive that it would be required to take a more deliberative approach to detainee issues than it had theretofore pursued. n246 In particular, Hamdi explained that "although Congress authorized the detention of combatants ... due process demands that a citizen ... held as an enemy combatant be given a meaningful opportunity to contest the factual basis for that detention." n247 Though many observers viewed the Court's "input" as significant, n248 [\*636] and therefore expected a linearly momentous effect, the Court's opinion actually caused only a small change in "outcome." More specifically, the executive adapted to the Court's input by issuing a directive establishing the Combatant Status Review Tribunals (CSRTs), which provided only minimal additional protections to detainees. n249

#### SOCIETY HAS BEEN REPEATEDLY CONFOUNDED AT THE FAILURE OF LAW TO CONTAIN VIOLENCE—WE SEE LAW AS A ‘LESSER EVIL’ THAT IS NECESSARY TO HUMANIZE WAR. QUITE TO THE CONTRARY, THE LAWS OF WAR LEGITIMIZE AND PROTECT STATIST FORMS OF VIOLENCE AND CRUSH DISSENT

BERMAN (Prof of Law at Brooklyn Law School) 2004

[Nathaniel, “Privleging Combat?”, Columbia Journal of Transnational Law, p. ln //wyo-tjc]

**Through examining the legal doctrines crucial to defining the combatants' privilege**, in my view the key concept of jus in bello, **this Article seeks to undo the circumlocutions that often block frank discussion of the relationship of law to war. Contrary to conventional wisdom**, I argue that **it is misleading to see law's relationship to war as primarily one of the limitation of organized violence, and even more misleading to see the laws of war as historically progressing toward an ever-greater** **limitation of violence. n6 Instead**, I put forward three central propositions. First, **rather than standing in opposition to war, law has long been directly involved in the construction of war - the construction of war as a separate sphere of human activity in [\*5] which the "normal" rules of social life, codified, for example, in the domestic criminal law regulating violence, do not operate. n7 Rather than opposing violence, the legal construction of war n8 serves to channel violence into certain forms of activity engaged in by certain kinds of people, while excluding other forms** engaged in by other people. n9

#### THE ALTERNATIVE IS TO REFUSE ACTION IN THE FACE OF THE CRISIS PRESENTED BY THE AFFIRMATIVE AND DO NOTHING

#### WITHDRAWAL FROM THE SYSTEM DEPRIVES IT OF ITS ENERGY THAT SUSTAINS SOCIAL FORCES OF DOMINATION. THE ALTERNATIVE IS A NECESSARY PRECONDITION FOR MORE RADICAL CHANGE

ZIZEK, 2008

[Slavoj, Philosopher and cultural critic, Violence, Picador Books] /Wyo-MB

Last but not least, the lesson of the intricate rela­ tionship between subjective and systemic violence is that violence is not a direct property of some acts, but is distributed between acts and their contexts, between activity and inactivity. The same act can count as violent or non-violent, depending on its context; some­ times a polite smile can be more violent than a brutal outburst. A brief reference to quantum physics might be of some help here; one of the most unsettling notions in quantum physics is that of the Higgs field. Left to their own devices in an environment to which they can pass their energy, all physical systems will eventually assume a state of lowest energy. To put it in another way, the more mass we take from a system, the more we lower its energy, till we reach the vacuum state at which the energy is zero. There are, however, phenomena which compel us to posit the hypothesis that there has to be something (some substance) that we cannot take away from a given system without RAISING that sys­ tem's energy-this "something" is called the Higgs field: once this field appears in a vessel that has been pumped empty and whose temperature has been lowered as much as possible, its energy will be further lowered. The "something" which thus appears is a something that contains less energy than nothing. In short, sometimes zero is not the "cheapest" state of a system, so that, paradoxically, "nothing" costs more than "something." In a crude analogy, the social "nothing" (the stasis of a system, its mere reproduction without any changes) "costs more than something" (a change), that is, it demands a lot of energy, so that the first gesture to provoke a change in the system is to withdraw activity, to do nothing.¶ Jose Saramago's novel Seeing (the literal translation of the original title is An Essay on Lucidity)3 can effectively be perceived as a mental experiment in Bartlebian politics.4 It tells the story of the strange events in the unnamed capital city of an unidentified democratic country. When the election day morning is marred by torrential rain, voter turnout is disturbingly low, but the weather breaks by mid-afternoon and the population heads en masse to their voting stations. The government's relief is short lived, however, when vote counting reveals that over 70 per cent of the ballots cast in the capital have been left blank. Baffled by this apparent civic lapse, the government gives the citizenry a chance to make amends just one week later with another election day. The results are worse: now 83 per cent of the ballots are blank. The two major political parties-the ruling party of the right (p.o.t.r.) and their chief adversary, the party of the middle (p.o.t.m.)-are in a panic, while the haplessly marginalised party of the left (p.o.t.I.) produces an analysis claiming that the blank ballots are essentially a vote for their progressive agenda.¶ Is this an organised conspiracy to overthrow not just the ruling government but the entire democratic sys­ tem? If so, who is behind it, and how did they manage to organise hundreds of thousands of people into such subversion without being noticed? When asked how they voted, ordinary citizens simply respond that such information is private, and besides, is not leaving the ballot blank their right? Unsure how to respond to a benign protest but certain that an anti-democratic conspiracy exists, the government quickly labels the move­ ment "terrorism, pure and unadulterated" and declares a state of emergency, allowing the government to suspend all constitutional guarantees.¶ Five hundred citizens are seized at random and dis­ appear into secret interrogation sites, and their status is coded red for secrecy. Their families are informed in Orwellian style not to worry about the lack of information concerning their loved ones, since "in that very silence lay the key that could guarantee their personal safety." When these moves bear no fruit, the right-wing government adopts a series of increasingly drastic steps, from declaring a state of siege and concocting plots to create disorder to withdrawing the police and seat of government from the capital, sealing all the city's en­ trances and exits, and finally manufacturing its own terrorist ringleader. The city continues to function near­¶ normally throughout, the people parrying each of the government's thrusts in inexplicable unison and with a truly Gandhian level of non-violent resistance.¶ In his perspicacions review of the novel, Michael Wood noted a Brechtian parallel:¶ In a famous poem, written in East Germany in 1953, Brecht quotes a contemporary as saying that the people have lost the trust of the government. Would it not therefore be easier, Brecht slyly asks, to dissolve the people and have the government elect another one? Saramago's novel is a parable ofwhat happens when neither government nor people can be dissolved.5 While the parallel holds, the concluding characterisation seems to fall short: the unsettling message of See­ ing is not so much the indissolubility of both people and government as the compulsive nature of democratic rituals of freedom. What happens is that by abstaining from voting, people effectively dissolve the government-not only in the limited sense of overthrowing the existing government, but more radically. Why is the government thrown into such a panic by the voters' abstention? It is compelled to confront the fact that it exists, that it exerts power, only insofar as it is accepted as such by its subjects-accepted even in the mode of rejection. The voters' abstention goes further than the intra-political negation, the vote of no confidence: it rejects the very frame of decision.¶ In psychoanalytic terms, the voters' abstention is something like the psychotic Verwerfung (foreclosure, rejection/repudiation), which is a more radical move than repression (Verdriingung). According to Freud, the repressed is intellectually accepted by the subject, since it is named, and at the same time is negated because the subject refuses to recognise it, refuses to recognise him or herself in it. In contrast to this, foreclosure rejects the term from the symbolic tout court. To circumscribe the contours of this radical rejection, one is tempted to evoke Badiou's provocative thesis: "It is better to do nothing than to contribute to the invention of formal ways of rendering visible that which Empire already recognizes as existent.''6 Better to do nothing than to engage in localised acts the ultimate function of¶ which is to make the system run more smoothly (acts such as providing space for the multitude of new subjectivities). The threat today is not passivity, but pseudo­ activity, the urge to "be active," to "participate," to mask the nothingness of what goes on. People intervene all the time, "do something"; academics participate in meaningless debates, and so on. The truly difficult thing is to step back, to withdraw. Those in power often prefer even a "critical" participation, a dialogue, to silence-just to engage us in "dialogue," to make sure our ominous passivity is broken. The voters' abstention is thus a true political act: it forcefully confronts us with the vacuity of today's democracies.

¶ If one means by violence a radical upheaval of the basic social relations, then, crazy and tasteless as it may sound, the problem with historical monsters who slaughtered millions was that they were not violent enough. Sometimes doing nothing is the most violent thing to do.

### Terrorism

#### First, Low risk of terrorist attack against the U.S.

Shinkman ‘12

[Paul D., Washington newsman, naturalized Capitol Hill citizen, now national security reporter at US News & World Report. Formerly with WTOP News, “Study: U.S. at 'Low' Risk of Terror Attack,” U.S.News & World Report LP, 12.05.2012. <<http://www.usnews.com/news/articles/2012/12/05/study-america-has-relatively-low-chance-of-terrorist-attack->>//wyo-hdm]

In an era of terrorist plots and WMD proliferation, this news may come as a slight relief: Among countries with the highest risk of terrorist attacks, the United States ranks "relatively low," according to a new study. The University of Maryland collected data on 104,000 instances of terrorism in 158 nations, and ranked the likelihood of each country witnessing a terrorist attack within its borders. Iraq, Pakistan and Afghanistan earn the top positions. The U.S. slides in at No. 41. "In global terms, this is a relatively low level of activity," according to the study, first reported by The Washington Times . "North America is the least-likely region to be involved in a terrorist attack, though this is not the general impression among many of its residents," says Steve Killelea with the Institute for Economics and Peace, which published the study using statistics and analysis from the University of Maryland's National Consortium for the Study of Terrorism and Responses to Terrorism . "The fatality rate in the U.S. is 19 times lower than Western Europe," he tells the Times. "Still, the level of terrorism elsewhere is too high. We're hoping the index can prompt a practical debate about the future of terrorism and some appropriate policy responses." Major U.S. allies land much higher on the list. Britain is ranked 28th, behind Turkey and Israel, which are 19th and 20th, respectively. The Philippines just squeaks into the top 10, right behind Russia at No. 9.

#### No risk of nuclear terror- cannot build and detonate

Mueller and Stewart 2012(John, Senior Research Scientist at the Mershon Center for International Security Studies and Adjunct Professor in the Department of Political Science at Ohio State University, Senior Fellow at the CATO institute, and Mark, Australian Research Council Professorial Fellow and Professor and Director at the Centre for Infrastructure Performance and Reliability at the University of Newcastle, Summer, "The Terrorism Delusion", International Security, Volume 37, Number 1, MUSE)

Over the course of time, such essentially delusionary thinking has been internalized and institutionalized in a great many ways. For example, an extrapolation of delusionary proportions is evident in the common observation that, because terrorists were able, mostly by thuggish means, to crash airplanes into buildings, they might therefore be able to construct a nuclear bomb. Brian Jenkins has run an internet search to discover how often variants of the term “al-Qaida” appeared within ten words of “nuclear.” There were only seven hits in 1999 and eleven in 2000, but the number soared to 1,742 in 2001 and to 2,931 in 2002.[47](http://muse.jhu.edu/journals/international_security/v037/37.1.mueller.html#f47) By 2008, Defense Secretary Robert Gates was assuring a congressional committee that what keeps every senior government leader awake at night is “the thought of a terrorist ending up with a weapon of mass destruction, especially nuclear.”[48](http://muse.jhu.edu/journals/international_security/v037/37.1.mueller.html#f48)¶ Few of the sleepless, it seems, found much solace in the fact that an al-Qaida computer seized in Afghanistan in 2001 indicated that the group’s budget for research on weapons of mass destruction (almost all of it focused on primitive chemical weapons work) was $2,000 to $4,000.[49](http://muse.jhu.edu/journals/international_security/v037/37.1.mueller.html#f49) In the wake of the killing of Osama bin Laden, officials now have many more al-Qaida computers, and nothing in their content appears to suggest that the group had the time or inclination, let alone the money, to set up and staff a uranium-seizing operation, as well as a fancy, super-high-technology facility to fabricate a bomb. This is a process that requires trusting corrupted foreign collaborators and other criminals, obtaining and transporting highly guarded material, setting up a machine shop staffed with top scientists and technicians, and rolling the heavy, cumbersome, and untested finished product into position to be detonated by a skilled crew—all while attracting no attention from outsiders.[50](http://muse.jhu.edu/journals/international_security/v037/37.1.mueller.html#f50)¶ If the miscreants in the American cases have been unable to create and set off even the simplest conventional bombs, it stands to reason that none of them were very close to creating, or having anything to do with, nuclear weapons—or for that matter biological, radiological, or chemical ones. In fact, with perhaps one exception, none seems to have even dreamed of the prospect; and the exception is José Padilla (case 2), who apparently mused at one point about creating a dirty bomb—a device that would disperse radiation—or even possibly an atomic one. His idea about isotope separation was to put uranium into a pail and then to make himself into a human centrifuge by swinging the pail around in great arcs.[51](http://muse.jhu.edu/journals/international_security/v037/37.1.mueller.html#f51) ¶ Even if a weapon were made abroad and then brought into the United States, its detonation would require individuals in-country with the capacity to receive and handle the complicated weapons and then to set them off. Thus far, the talent pool appears, to put mildly, very thin. ¶ There is delusion, as well, in the legal expansion of the concept of “weapons of mass destruction.” The concept had once been taken as a synonym for nuclear weapons or was meant to include nuclear weapons as well as weapons yet to be developed that might have similar destructive capacity. After the Cold War, it was expanded to embrace chemical, biological, and radiological weapons even though those weapons for the most part are incapable of committing destruction that could reasonably be considered “massive,” particularly in comparison with nuclear ones.[52](http://muse.jhu.edu/journals/international_security/v037/37.1.mueller.html#f52) And as explicitly rendered into U.S. law, the term was extended even further to include bombs of any kind, grenades, and mines; rockets having a propellant charge of more than four ounces; missiles having an explosive or incendiary charge of more than one-quarter ounce; and projectile-spewing weapons that have a barrel with a bore more than a half inch in diameter.[53](http://muse.jhu.edu/journals/international_security/v037/37.1.mueller.html#f53) It turns out then that the “shot heard round the world” by revolutionary war muskets was the firing of a WMD, that Francis Scott Key was exultantly, if innocently, witnessing a WMD attack in 1814; and that Iraq was full of WMD when the United States invaded in 2003—and still is, just like virtually every other country in the world.

**A terror attacks is unlikely and the response by Nations is just guessing.**

**Ayson ’10**

Robert Ayson, Centre for Strategic Studies, Victoria University of Wellington. “After a Terrorist Nuclear Attack: Envisaging Catalytic Effects”. Studies in Conflict & Terrorism, Volume 33, Issue 7 July 2010 , pages 571 – 593. InformaWorld

It is just possible that a terrorist nuclear attack could catalyze an inter-state nuclear war. The likelihood of a terrorist group gaining access to nuclear weapons is lower than some fear, and terrorists might not use a nuclear weapon as soon as they had acquired one. But if a terrorist group was to explode a nuclear device in a country that was itself armed with nuclear weapons, and especially if that country was in a conflict-prone relationship with another nuclear-armed state, the broader consequences of even a single terrorist nuclear detonation could be much more serious than some assume. To consider what might follow the terrorist use of a nuclear weapon upon an industrialized country, and especially on a country that is itself armed with nuclear weapons, is to engage a whole cosmos of uncertainties and assumptions. Moreover, in order to acquire a nuclear weapon in the first place, the terrorist group in question would need to surmount considerable hurdles. Having done so, the successful delivery and detonation of the nuclear device is no automatic process. And even once past this second set of obstacles, there remains a battery of questions, likelihoods, and interactions regarding what might happen once the world's first dramatic act of nuclear terrorism has occurred. It is all too easy, as Mueller has explained, for the discussion of catastrophic terrorism to descend into exaggeration and alarmism.1 But the strategic consequences of nuclear terrorism deserve attention for at least two reasons. First, no matter how improbable, the terrorist use of a nuclear weapon could have even wider and more harmful implications than some might suppose. The detonation of a single weapon by a terrorist group could certainly be locally catastrophic in and of itself. But it is also important to consider whether that initial explosion might just spark a general nuclear exchange between states with much larger arsenals than the terrorists could ever hope to acquire and use. Either by accident or design is it possible that a terrorist nuclear detonation could ultimately result in a catastrophe of truly intercontinental proportions? Second, even though it is unclear whether these much graver developments have any real likelihood of occurring, the analytical consideration of this possibility presents an intellectual challenge that tests strategic imaginations, and that indicates that, at least in theory, even terrorists cannot escape the logic of the nuclear age. Before it considers the ways in which a terrorist nuclear detonation might just lead to such a wider strategic conflagration involving the arsenals of two or more of the world's nuclear weapons states, this article addresses the significant obstacles standing in the way of the possession, deployment, and detonation of a nuclear weapon by a terrorist group. After considering the possible motivations behind these actions, it then canvasses the range of responses that an attacked country might adopt following the initial nuclear explosion on its territory. These options span a spectrum from relative inaction to the substantial use of force and brings the article to the heart of the argument. Recalling early Cold War concern about the possibility of minor nuclear powers setting off a major exchange between the superpowers, the remainder of this preliminary study considers the possibility that a terrorist group might set off a wider nuclear exchange either inadvertently or by design.

**No nuclear retaliation**

**Kimball ‘9**

Daryl. President of the ACA. Change U.S. Nuclear Policy? Yes, We Can. September 2009. http://www.armscontrol.org/act/2009\_09/focus.

Given the United States’ conventional military edge, no plausible circumstance requires or could justify the use of nuclear weapons to deal with a non-nuclear threat. They are useless in deterring or responding to nuclear terrorism. Gen. Colin Powell put it well in his 1995 autobiography: “No matter how small these nuclear payloads were, we would be crossing a threshold. Using nukes at this point would mark one of the most significant political decisions since Hiroshima.”

### Russia

#### Second, Plan can’t solve Human Rights—too many alt causes and institutional barriers

Nossel 2008(Suzanne, Guardian Staff, November 19, "Closing Gitmo is just the beginning", http://www.guardian.co.uk/commentisfree/cifamerica/2008/nov/19/obama-guantanamo-human-rights)

While abuses carried out as part of the fight against terrorism cost the US its position of leadership on human rights issues globally, regaining that status will require more than just bringing counter-terrorism tactics in line with international norms. While the Bush administration hailed democracy and freedom as centrepieces of its foreign policy, in practice it tended to sideline human rights considerations within its important bilateral relationships.¶ To cite just a few examples, disregard for human rights has contributed to a culture of lawlessness in Pakistan's tribal areas. Despite $10-12bn in mostly military US aid to Pakistan since 2001, civilians affected by the current conflict are left defenceless in squalid, disease-infested camps – some of which the UN refugee agency cannot reach – where their frustration with the US-led war effort only grows. As part of its effort to stabilise this strategically vital region, the US must invest in building institutions that support the rule of law and ensuring that approaches to security uphold human rights. In neighbouring Afghanistan, the US needs to take immediate steps to reduce civilian casualties in military operations, and to press for an end to corruption, which is both fuelling the conflict and undermining popular faith in democratic governance.¶ In contemplating political agreements to end the conflict the US must avoid strengthening the hands of the region's most brutal warlords. While human rights will not be the sole consideration governing multi-faceted relationships with foreign governments, the new administration needs to affirm their place on the agenda and work with like-minded voices to press for progress.¶ The US also has work to do in terms of strengthening the international human rights infrastructure. The Bush administration distanced itself from the international human rights community by failing to ratify key treaties and absenting itself from new institutions of human rights enforcement. The next administration must demonstrate in tangible ways that the US is prepared to cooperate with others in building and strengthening mechanisms to protect and advance human rights in the 21st century. Its absence from key forums and debates has created space for spoilers who seek to vitiate existing human rights norms and prevent new ones from taking hold.¶ In 2005 the UN adopted a new norm, the "responsibility to protect", affirming the duty of states to protect their own populations, and the obligation of the international community to step in when they won't do so. But the new norm has flunked its first test in [Darfur](http://www.guardian.co.uk/world/2008/nov/12/sudan), where the government has suborned rampant human rights abuses and the international community has failed to intervene effectively. Working with allies to build broad-based support for rigorous human rights enforcement is a long-term project that needs to start right away. Necessary steps also include re-engaging with the international criminal court, a body that has begun to prove itself as a vital instrument of international accountability for war crimes. ¶ Building US credibility on human rights will be a long-term project requiring a steady hand against the buffeting forces of foreign policy reality. Done right, the wider human rights agenda could make closing Guantánamo look like the easy part.

#### Third, US do not influence other countries human rights practices—US perceived as rights violator not rights champion.

Neier ‘13

[Aryeh Neier, president emeritus of the Open Society Foundations and former executive director of Human Rights Watch, “Between Dignity and Human Rights,” Dissent, Volume 60, Number 2, Spring 2013, pp. 60-65, http://muse.jhu.edu/journals/dissent/v060/60.2.neier.html // wyo-ch]

The United States has long thought of itself as a country that exports democratic values and that fosters the development of a rights-based culture in other parts of the world. Indeed, it had this role in the 1970s and the 1980s when rights became an important factor in Cold War competition with the Soviet Union, and it still plays such a part in some regions, perhaps most notably in China. Though the Chinese government responds testily to comments by the United States on its human rights record, such statements seem to have an influence that is out of proportion to that of any other external voices. Elsewhere, the situation varies greatly. In Latin America, anti-Americanism in several countries of the region makes it difficult for Washington to have a positive impact on rights. In contrast to an earlier era, the United States is generally on the side of the angels when it comes to human rights in Latin America, but U.S. influence in the region is very limited. Yet nowhere is disdain for American pronouncements on rights as great as in the countries of Europe that were not part of the former Soviet empire. Because of practices such as the prolonged detentions at Guantánamo Bay, enhanced interrogation, trials before military commissions, capital punishment, and the high level of incarceration, that part of Europe has come to see the United States in recent times as a rights violator, not as a rights champion. The fact that freedom of expression is particularly well protected in the United States, and that many American rights advocates see it as the key to protecting all other rights, does not mitigate this view. Many Europeans accept restrictions on free expression that are anathema here. Clearly, there are advantages that rights advocates may derive both from the U.S. liberty-centered approach to rights and from the dignity-based approach prevalent in Europe and in much of the rest of the world. The difficulty lies in reconciling the two approaches when they come into conflict and in ensuring the result most favorable to the protection of rights.

#### Countries are increasingly becoming less likely to model the U.S. constitution and judicial branch

**Law and Bersteeg ‘12**

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The appeal of American constitutionalism as a model for other countries appears to be waning in more ways than one. Scholarly attention has thus far focused on global judicial practice: There is a growing sense, backed by more than purely anecdotal observation, that foreign courts cite the constitutional jurisprudence of the U.S. Supreme Court less frequently than before. [n247](http://www.lexisnexis.com/lnacui2api/frame.do?reloadEntirePage=true&rand=1374359870294&returnToKey=20_T17827803817&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.99332.23999672713" \l "n247) But the behavior of those who draft and revise actual constitutions exhibits a similar pattern. Our empirical analysis shows that the content of the U.S. Constitution is becoming increasingly atypical by global standards. Over the last three decades, other countries have become less likely to model the rights-related provisions of their own constitutions upon those found in the U.S. Constitution. Meanwhile, global adoption of key structural features of the Constitution, such as federalism, presidentialism, and a decentralized model of judicial review, is at best stable and at worst declining. In sum, rather than leading the way for global constitutionalism, the U.S. Constitution appears instead to be losing its appeal as a model for constitutional drafters elsewhere. The idea of adopting a constitution may still trace its inspiration to the United States, but the manner in which constitutions are written increasingly does not. If the U.S. Constitution is indeed losing popularity as a model for other countries, what - or who - is to blame? At this point, one can only speculate as to the actual causes of this decline, but five possible [\*851] hypotheses suggest themselves: (1) the advent of a superior or more attractive competitor; (2) a general decline in American hegemony; (3) judicial parochialism; (4) constitutional obsolescence; and (5) a creed of American exceptionalism. With respect to the first hypothesis, there is little indication that the U.S. Constitution has been displaced by any specific competitor. Instead, the notion that a particular constitution can serve as a dominant model for other countries may itself be obsolete. There is an increasingly clear and broad consensus on the types of rights that a constitution should include, to the point that one can articulate the content of a generic bill of rights with considerable precision. Yet it is difficult to pinpoint a specific constitution - or regional or international human rights instrument - that is clearly the driving force behind this emerging paradigm. We find only limited evidence that global constitutionalism is following the lead of either newer national constitutions that are often cited as influential, such as those of Canada and South Africa, or leading international and regional human rights instruments such as the Universal Declaration of Human Rights and the European Convention on Human Rights. Although Canada in particular does appear to exercise a quantifiable degree of constitutional influence or leadership, that influence is not uniform and global, but more likely reflects the emergence and evolution of a shared practice of constitutionalism among common law countries. Our findings suggest, instead, that the development of global constitutionalism is a polycentric and multipolar process that is not dominated by any particular country. The result might be likened to a global language of constitutional rights, but one that has been collectively forged rather than modeled upon a specific constitution. Another possibility is that America's capacity for constitutional leadership is at least partly a function of American "soft power" more generally. It is reasonable to suspect that the overall influence and [\*852] appeal of the United States and its institutions have a powerful spillover effect into the constitutional arena. The popularity of American culture, the prestige of American universities, and the efficacy of American diplomacy can all be expected to affect the appeal of American constitutionalism, and vice versa. All are elements of an overall American brand, and the strength of that brand helps to determine the strength of each of its elements. Thus, any erosion of the American brand may also diminish the appeal of the Constitution for reasons that have little or nothing to do with the Constitution itself. Likewise, a decline in American constitutional influence of the type documented in this Article is potentially indicative of a broader decline in American soft power. There are also factors specific to American constitutionalism that may be reducing its appeal to foreign audiences. Critics suggest that the Supreme Court has undermined the global appeal of its own jurisprudence by failing to acknowledge the relevant intellectual contributions of foreign courts on questions of common concern [n252](http://www.lexisnexis.com/lnacui2api/frame.do?reloadEntirePage=true&rand=1374359870294&returnToKey=20_T17827803817&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.99332.23999672713" \l "n252) and by pursuing interpretive approaches that lack acceptance elsewhere. [n253](http://www.lexisnexis.com/lnacui2api/frame.do?reloadEntirePage=true&rand=1374359870294&returnToKey=20_T17827803817&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.99332.23999672713" \l "n253) On this view, the Court may bear some responsibility for the declining influence of not only its own jurisprudence, but also the actual U.S. Constitution: One might argue that the Court's approach to constitutional issues has undermined the appeal of American constitutionalism more generally, to the point that other countries have become unwilling to look either to American constitutional jurisprudence or to the U.S. Constitution itself for inspiration. It is equally plausible, however, that responsibility for the declining appeal of American constitutionalism lies with the idiosyncrasies of the Constitution itself rather than the proclivities of the Supreme Court. As the oldest formal constitution still in force and [\*853] one of the most rarely amended constitutions in the world, the U.S. Constitution contains relatively few of the rights that have become popular in recent decades. At the same time, some of the provisions that it does contain may appear increasingly problematic, unnecessary, or even undesirable with the benefit of two hundred years of hindsight. It should therefore come as little surprise if the U.S. Constitution strikes those in other countries - or, indeed, members of the U.S. Supreme Court - as out of date and out of line with global practice.

Relations are impossible, but will never collapse

Migranyan, director – Institute for Democracy and Cooperation, professor – Institute of International Relations, Moscow, 1/30/’13

(Andranik, “Russia and Obama's Second Term,” The National Interest)

I shall begin with what I consider the most interesting viewpoint professed for many years by one of the best experts on Russian relations, Tom Graham. Back in December, he and Dmitri Trenin, director of the Carnegie Moscow Center, published an article in The International Herald-Tribune exploring the multiple problems bedeviling the U.S.-Russian relationship, such as the U.S. Congress’s Magnitsky Act, the Russian decision to cease cooperation on the Nunn-Lugar Cooperative Threat Reduction Program, and the Russian ban on adoptions by American citizens. The authors argued that these problems stemmed from a lack of strategic dialogue and the two countries’ inadequate understanding of each other’s strategic interests. Placing such problems in a strategic context would improve Russian-American relations, they argued, citing as areas for potential strategic dialogue such strategic topics as China, cooperation on Arctic development and the fight against Islamist terrorism. First, the problem here is that it is unrealistic to expect large, sovereign countries to share strategic interests with other countries that aren’t focused on a troublesome third country. Over the past fifty years, the sole example that comes to mind of a successful strategic dialogue is the American strategic outreach to China during the Nixon administration. It was initiated by Henry Kissinger, whose firm employs Tom Graham. The success of this dialogue can be explained by the perception in both the United States and China that the Soviet Union represented a threat to the existence of both; hence, their readiness to join forces against a common enemy. Second, two countries can have convergent vital interests only if both are roughly equal in resources and power. Otherwise, the weaker one experiences a loss of sovereignty as a result of its smaller economic and military-political potential, and that negates the strategic character of the relationship. Consider the widespread perception in the 1990s and at the beginning of the twenty-first century that Russia and the United States could forge a strategic relationship. It never happened because the United States felt it was so strong and self-sufficient that strategic cooperation came down to the American expectation that Russia should bend its own vital interests and submit to American foreign policy. Only then could peaceful, constructive and effective cooperation ensue. Graham and Trenin discuss, for example, current U.S. and Russian strategic interests with regard to China. But isn’t there a greater convergence in Russian and Chinese interests on the matter of containing Washington’s arrogant and unilateral foreign policy that attempts to dominate the world? Regarding the development of Arctic resources, the United States’ refusal to sign the Convention on the Law of the Sea betrays a U.S. lack of interest in dividing Arctic resources in a way that coincides with international law. Rather, Washington wants to keep its hands untied for any action in the Arctic. Strategic dialogue necessitates a certain level of trust between parties. But the talks between the two countries on the antimissile shield that the U.S. wishes to install in Europe testify to the lack of such trust. Americans insist that the shield is designed to parry hypothetical Iranian missiles; but a succession of U.S. presidents and other high-level officials also insist that the idea of a nuclear Iran is unacceptable. They declare that, should Iran continue to advance down the road to a nuclear weapon, the United States or Israel would destroy the program’s infrastructure. With the emergence of a multipolar world, the need arises for power balances in various regions. Thus do we see countries attempting to protect their national interests by forming ad hoc coalitions instead of full-time alliances, whose time has passed, in the view of many analysts. This is why strategic dialogue, while perhaps notionally desirable, is not really feasible because it is difficult to determine which questions are tactical and which are strategic. For Moscow, a matter of strategic discussion with the United States is U.S. interference in Russia’s internal affairs. Another is America’s interference in countries in the post-Soviet sphere. But it is difficult to imagine any U.S. administration engaging in serious discussions on such matters without being attacked domestically for betraying U.S. national and geopolitical interests. It is obvious that there cannot be entirely cooperative or entirely competitive relations between two large countries with intersecting and conflicting interests. Such a black-and-white approach can only exist between states engaged in total and open confrontation—as the Soviet Union and the West were during the Cold War—or in cases of a weaker country forced to yield its interests to the will of a stronger partner because of an economic or military-political dependency. This is the defining characteristic of the relations within NATO, whose European members depend for military protection largely on the United States. And yet within this framework there are conflicts even absent a confrontation with a third power (as with the USSR). Consider, for example, the clashes that arose with George W. Bush’s Iraq war, when Germany and France went against the wishes of the United States. Thus, it seems inescapable that the United States and Russia will sometimes partner but also sometimes have conflicting interests.

#### Russian stability is resilient – Their authors don’t assume the internal conditions of Russia and its middle class.

Stephen Kotkin 07 March. Prof. of history and the director of Russian and Eurasian Studies program at Princeton U. “Russia under Putin: Toward Democracy or Dictatorship?” Foreign Policy Research Institute, http://www.fpri.org/enotes/200703.kotkin.russiademocracydictatorship.html

The part of Russia that is stable is the society. Russian society is enormously dynamic. According to professional studies by the Institute of Sociology of the Russian Academy of Sciences, something like 20-25 percent of Russian society qualifies as solidly middle class. Other studies-similarly measuring everything from level of education, foreign language knowledge, travel and abroad to income, lifestyle and, most important, property ownership-confirm this general picture. But the Russian middle class is something we hear too little about (unlike the middle class in, say, China or India). Instead, we hear about “oligarchs.” The latter number in the dozens, while the middle class numbers in the dozens of millions. Russia’s middle class is not limited to the capital, although it’s biggest there. You see it in all the regional centers that have a dynamic economy. You see it in western Siberia, in St. Petersburg and in the north around St. Petersburg, in pockets of central Russia, and in some border areas. That doesn’t mean that the society has no poverty, that there aren’t deep problems like an overall decline of the population at all ages -down to 142 million, and still shrinking, despite the immigration. But the country has a dynamic, stable society, and it owns property. We tend to assume that there cannot be property ownership without rule of law. But if that were true, Chinese society or Russian society would not exist. But they do exist. There is no rule of law. But there is widespread ownership of property. For all the deep social problems—from drug-resistant TB to persistent alcoholism—Russian society is simultaneously a source of dynamism and stability. About half of the Russian middle class works for the state. They’re bureaucrats and functionaries, law enforcement officials and tax collectors, inspectors and education overseers. They work in the KGB successor, the FSB, and in the big state-owned gas, oil, automobile, or defense companies. There’s a gigantic private economy in Russia (Russia’s economy is more private than China’s). But even those who work in private companies usually work in very large corporations. A tiny fraction of the Russian middle class owns their own businesses, but by and large, Russia’s middle class is not independent, small- or medium-sized business owners. Whereas in the United States and Western Europe, 70 percent of employment is in small and medium-sized businesses, Russia doesn’t even approach 25 percent for such employment. Still, Russia has a stable, dynamic, growing, state and corporate middle class that has a tremendous stake in stability. Putin deserves some credit for the current sense of and desire for continued social stability, and he gets such credit from middle class Russians and those aspiring to become so. Again, however, outsiders sometimes miss or misinterpret this point, because they are looking for democracy. American political science teaches that if a country gets a stable middle class, it is on the road to the rule of law and democracy. This is true except in all the cases where it’s not true, which is most of the world. The Russian middle class knows Europe firsthand from traveling there, and for the most part its members identify with the values and institutions of democratic Europe. But the Russian middle class is smart, and it knows that if it gets political, it could lose its property and status. Individuals respond to incentives very well (economists are not totally wrong), and for the most part Russia’s middle class is not ready to sacrifice its position to push for the rule of law and democracy; rather, it is interested in preserving its wealth, in privileged access for its children to educational institutions and to career paths. So there is no push in Russia for democracy either from the top or the middle, even though much of the middle identifies strongly with European values and institutions. Consolidation of dictatorship is not happening either, and society is a factor in that as well. Russia has no ideology like communism to unify people around a strong dictator, the Russian state lacks the capacity to impose military-style discipline on itself, and Russia has a market economy that is extremely complex to subordinate in part because it’s globalized. Even though there is a strong current in Russian society appreciative of order, few people mistake order for dictatorship. In fact, in conversations there is quite a lot of criticism in Russia of Putin and of the country’s direction, especially from people who comprise the Russian state. Meanwhile, Russian society is transforming the country’s socioeconomic landscape with its hard work, entrepreneurialism, consumption patterns and tastes, demand for education, foreign travel, and networking both domestically and globally. Russia’s social transformation is a big story, hiding, once again, in plain view. It is enough to take in the commercial advertising throughout society and media, including on pro-Kremlin Russian television, to see that business interests are targeting something commentators are not: Russia’s middle class.

#### 1 [2] No risk of Russian disintegration, 4 reasons

Shlapentokh 97, professor of sociology at Michigan State, 1997 [Vladimir et all, “From Submission to Rebellion”]

There are a number of factors that hinder the disintegration of Russia as a nation-state. Among them are: 1)The hostility of Russian culture in the countries bordering Russia in the south and far East 2) the threat that foreign bodies in the Far East and south will expand their influence and perhaps even annex some Russian territories, 3) the common cultural and lingual heritage of Russians living in the most remote regions with the rest of the Russian population, and 4) the interest of most regions in the maintenance of a greater nation-state for political, economic, and social reasons.

#### [3] Secession won’t cause collapse—Chechnya is the only state that will fight.

Rajan Menon 03, Adjunct Fellow at Hudson Institute and the Monroe J. Rathbone Professor of International Relations at Lehigh University, 9/22/2003. “The sick man of asia: Russia's endangered Far East,” The National Interest, <http://www.encyclopedia.com/doc/1G1-109220705.html>.

THE RUSSIAN Far East's future will turn on its relationship with the central government. Inept policies from Moscow could provoke people in the region to question the value of remaining within the Russian Federation, generating upheaval inside the Far East and squabbles with Moscow. The ensuing instability will give rising powers opportunities and motives to seize the first mover's advantage in a Northeast Asia that is bound to face competition and strategic transformation. (2) Stated differently, what happens within Russia's Far East will affect the behavior of other states, not vice versa. This may seem a dismal conclusion given Russia's many economic and social problems. But, fortunately, apocalyptic scenarios of secession are quite improbable. Paradoxically, the reason for this optimistic prognosis is the Russian state's weakness. The Russian Federation is a far cry from the hyper-centralized Soviet Union. Regional leaders have a good deal more leeway, which they demonstrate in ways ranging from the criminal to the comical. Though Putin symbolizes the strong state, Russia's center has been unable to tighten control over the provinces. Its inability to do so promotes stability--although not necessarily efficiency--and prevents secessionist backlashes: unable to rule the regions with an iron hand or to be a provider par excellence, Moscow is forced to deal with the provinces through negotiations and compromise. Chechnya, despite the attention it receives, is an exception to the prevailing pattern of Russian federalism, wherein disputes are settled at the bargaining table rather than the battlefield.

#### , Other countries solve the impact— US not key

Benvenisti 8

–Professor of Law, Tel Aviv University (Eval, “Reclaiming Democracy: The Strategic Uses Of Foreign And International Law By National Courts,” 102 A.J.I.L. 241, http://law.bepress.com/cgi/viewcontent.cgi?article=1061&context=taulwps)

It wasn’t so long ago that the overwhelming majority of courts in democratic countries shared a reluctance to refer to foreign and international law. These courts conformed to a policy of avoiding any application of foreign sources of law that would clash with the position of their domestic governments. For many jurists, recourse to foreign and international law is inappropriate.1 But even the supporters of the reference to external sources of law share the thus-unexplored assumption that reliance on foreign and international law is inevitably in tension with the value of national sovereignty. Hence the scholarly debate is framed along the lines of the well-known broader debate on “the counter-majoritarian difficulty.”2 This Article questions this assumption of tension. It argues that for courts in most democratic countries – even if not for U.S. courts at present – referring to foreign and international law has become an effective instrument for empowering the domestic democratic processes by shielding them from external economic, political and even legal pressures. Citing international law, therefore, actually bolsters domestic democratic processes and reclaims national sovereignty from the diverse forces of globalization. Stated differently, most national courts, seeking to maintain the vitality of their national political institutions and to safeguard their own domestic status vis-à-vis the political branches, cannot afford to ignore foreign and international law. In recent years, courts in several democracies have begun to engage quite seriously in the interpretation and application of international law and to heed the constitutional jurisprudence of other national courts.

#### Relations resilient

Sawczak 11 [Dr. Peter Sawczak, Adjunct Research Fellow at Monash University, “Obama’s Russia Policy: The Wages and Pitfalls of the Reset,” peer reviewed paper presented at the 10th Biennial Conference of the Australasian Association for Communist and Post-Communist Studies, Feb 3-4 2011, <http://cais.anu.edu.au/sites/default/files/Sawczak_Obama.pdf>]

As a measure of their optimism, US officials like to point – cautiously – to a discernible shift in Russian foreign policy towards a more pragmatic, cooperative approach. Whether or not the Obama administration can claim credit for this, the United States has at least shown Russia the dividends which could flow from enhanced cooperation. This is most palpably reflected in the Russian foreign policy paper leaked in May 2010, which identifies a “need to strengthen relations of mutual interdependence with the leading world powers, such as the European Union and the US,” 5 as well as, more indirectly, in Medvedev’s modernisation agenda. The fact that Russia has sought, in the tragic circumstances attending commemoration ceremonies at Katyn, rapprochement with Poland and moved to demarcate its border with Norway, in addition to partnering with the US on arms control, Iran and Afghanistan, suggests to US policy-makers that a rethink, however tenuous, is underway. Noteworthy also is the fact that Russia, gladdened by the emergence of more compliant leaders in Ukraine and Kyrgyzstan, has been remarkably restrained of late in its dealings closer to home, not having waged any major gas wars, threatened leaders, or incited civil war. ¶ How Russia engages on looming challenges – which McFaul has prioritised as cooperation on missile defence, Russia’s WTO accession, future European security architecture and Medvedev’s modernisation agenda 6 – will demonstrate the extent of its willingness to comply with the Obama administration’s preferred modus operandi of identifying shared interests as a means of pursuing US national interests. There will be temptation on Russia's part to push the United States to entertain grand bargains in certain areas, especially - and however unrealistically - on its perceived privileged interests in former Soviet states. Both sides, however, have demonstrated a relatively high level of comfort with agreeing to disagree, and there is now an increasingly even mix of interests on both sides. Immediate impediments that will need to be worked through include reluctance by the Pentagon to share sensitive military technology in relation to missile defence and Russia's slowness to create favourable conditions for foreign investment.

**Bioweapons- The worst case scenario happened – no extinction**

**Dove 12** [Alan Dove, PhD in Microbiology, science journalist and former Adjunct Professor at New York University, “Who’s Afraid of the Big, Bad Bioterrorist?” Jan 24 2012, http://alandove.com/content/2012/01/whos-afraid-of-the-big-bad-bioterrorist/]

The second problem is much more serious. Eliminating the toxins, we’re left with a list of infectious bacteria and viruses. With a single exception, these organisms are probably near-useless as weapons, and history proves it.¶ There have been at least three well-documented military-style deployments of infectious agents from the list, plus one deployment of an agent that’s not on the list. I’m focusing entirely on the modern era, by the way. There are historical reports of armies catapulting plague-ridden corpses over city walls and conquistadors trying to inoculate blankets with Variola (smallpox), but it’s not clear those “attacks” were effective. Those diseases tended to spread like, well, plagues, so there’s no telling whether the targets really caught the diseases from the bodies and blankets, or simply picked them up through casual contact with their enemies.¶Of the four modern biowarfare incidents, two have been fatal. The first was the 1979 Sverdlovsk anthrax incident, which killed an estimated 100 people. In that case, a Soviet-built biological weapons lab accidentally released a large plume of weaponized Bacillus anthracis (anthrax) over a major city. Soviet authorities tried to blame the resulting fatalities on “bad meat,” but in the 1990s Western investigators were finally able to piece together the real story. The second fatal incident also involved anthrax from a government-run lab: the 2001 “Amerithrax” attacks. That time, a rogue employee (or perhaps employees) of the government’s main bioweapons lab sent weaponized, powdered anthrax through the US postal service. Five people died.¶ That gives us a grand total of around 105 deaths, entirely from agents that were grown and weaponized in officially-sanctioned and funded bioweapons research labs. Remember that.¶Terrorist groups have also deployed biological weapons twice, and these cases are very instructive. The first was the 1984 Rajneeshee bioterror attack, in which members of acult in Oregon inoculated restaurant salad bars with Salmonella bacteria (an agent that’s not on the “select” list). 751 people got sick, but nobody died. Public health authorities handled it as a conventional foodborne Salmonella outbreak, identified the sources and contained them. Nobody even would have known it was a deliberate attack if a member of the cult hadn’t come forward afterward with a confession. Lesson: our existing public health infrastructure was entirely adequate to respond to a major bioterrorist attack.¶ The second genuine bioterrorist attack took place in 1993. Members of the Aum Shinrikyo cult successfully isolated and grew a large stock of anthrax bacteria, then sprayed it as an aerosol from the roof of a building in downtown Tokyo. The cult was well-financed,and had many highly educated members, so **this** release over the world’s largest city really **represented a worst-case scenario**.¶ **Nobody got sick** or died. From the cult’s perspective, it was a complete and utter failure. Again, the only reason we even found out about it was a post-hoc confession. Aum members later demonstrated their lab skills by producing Sarin nerve gas, with far deadlier results. Lesson: one of the top “select agents” is extremely hard to grow and deploy even for relatively skilled non-state groups. It’s a really crappy bioterrorist weapon.¶ Taken together, these events point to an uncomfortable but inevitable conclusion: our biodefense industry is a far greater threat to us than any actual bioterrorists.

# 2NC

## Terrorism

**A terror attacks is unlikely and the response by Nations is just guessing.**

**Ayson ’10**

Robert Ayson, Centre for Strategic Studies, Victoria University of Wellington. “After a Terrorist Nuclear Attack: Envisaging Catalytic Effects”. Studies in Conflict & Terrorism, Volume 33, Issue 7 July 2010 , pages 571 – 593. InformaWorld

It is just possible that a terrorist nuclear attack could catalyze an inter-state nuclear war. The likelihood of a terrorist group gaining access to nuclear weapons is lower than some fear, and terrorists might not use a nuclear weapon as soon as they had acquired one. But if a terrorist group was to explode a nuclear device in a country that was itself armed with nuclear weapons, and especially if that country was in a conflict-prone relationship with another nuclear-armed state, the broader consequences of even a single terrorist nuclear detonation could be much more serious than some assume. To consider what might follow the terrorist use of a nuclear weapon upon an industrialized country, and especially on a country that is itself armed with nuclear weapons, is to engage a whole cosmos of uncertainties and assumptions. Moreover, in order to acquire a nuclear weapon in the first place, the terrorist group in question would need to surmount considerable hurdles. Having done so, the successful delivery and detonation of the nuclear device is no automatic process. And even once past this second set of obstacles, there remains a battery of questions, likelihoods, and interactions regarding what might happen once the world's first dramatic act of nuclear terrorism has occurred. It is all too easy, as Mueller has explained, for the discussion of catastrophic terrorism to descend into exaggeration and alarmism.1 But the strategic consequences of nuclear terrorism deserve attention for at least two reasons. First, no matter how improbable, the terrorist use of a nuclear weapon could have even wider and more harmful implications than some might suppose. The detonation of a single weapon by a terrorist group could certainly be locally catastrophic in and of itself. But it is also important to consider whether that initial explosion might just spark a general nuclear exchange between states with much larger arsenals than the terrorists could ever hope to acquire and use. Either by accident or design is it possible that a terrorist nuclear detonation could ultimately result in a catastrophe of truly intercontinental proportions? Second, even though it is unclear whether these much graver developments have any real likelihood of occurring, the analytical consideration of this possibility presents an intellectual challenge that tests strategic imaginations, and that indicates that, at least in theory, even terrorists cannot escape the logic of the nuclear age. Before it considers the ways in which a terrorist nuclear detonation might just lead to such a wider strategic conflagration involving the arsenals of two or more of the world's nuclear weapons states, this article addresses the significant obstacles standing in the way of the possession, deployment, and detonation of a nuclear weapon by a terrorist group. After considering the possible motivations behind these actions, it then canvasses the range of responses that an attacked country might adopt following the initial nuclear explosion on its territory. These options span a spectrum from relative inaction to the substantial use of force and brings the article to the heart of the argument. Recalling early Cold War concern about the possibility of minor nuclear powers setting off a major exchange between the superpowers, the remainder of this preliminary study considers the possibility that a terrorist group might set off a wider nuclear exchange either inadvertently or by design.

## K

### 2NC Framework

#### **THE ROLE OF THE BALLOT IS WHOEVER BEST DEFENDS THEIR Epistemology and political advocacy. THE JUDGE SHOULD CHALLENGE THE VALUES AND ASSUMPTIONS OF THE 1AC.**

#### PREDICTABLE- THE AFFIRMATIVE SHOULD HAVE TO DEFEND THE PROCESS BY WHICH THEY ARRIVE AT THEIR CONCLUSIONS AND IMPACTS.

#### EDUCATIONAL- THE CRITICISM PROVIDES EDUCATION ABOUT WHAT WE CAN DO AS ACADEMIC ACTORS, WE WILL NEVER BE POLICY MAKERS, OR AFFECT THE INSTITUTIONS. WE SHOULD FOCUS ON ENGAGING CRITICISM OF DISCOURSE THAT ALLOWS US TO BETTER OURSELVES AND FIND BETTER SOLUTIONS.

#### FAIRNESS- DON’T WEIGH THEIR IMPACTS UNLESS THEY’VE SHOWN THEIR DISCOURSE AND ASSUMPTIONS ARE CORRECT. OTHERWISE THEIR IMPACTS SHOULD REMAIN UNDER HIGH SCRUTINY.

#### THIRD, WE IMPACT TURN YOUR FRAMEWORK- FRAMEWORK IS JUST ANOTHER TOOL TO EXTERMINATE THOSE BODIES FOUND VIOLATING THE NORM OF SOCIETY THAT THE STATE HAS DEEMED ACCEPTABLE, THAT’S BERMAN 04

#### FOURTH, DON’T WEIGHT THEIR IMPACTS- THEIR FRAMEWORK IS JUST A WAY FOR THEM TO MANAGE NARRATIVES OF TRUTH WHICH NORMALIZES VIOLENCE TOWARDS THE OTHER

Grayson 12

[Kyle Grayson, Lecturer in International Politics at Newcastle University, UK, “The ambivalence of assassination:¶ Biopolitics, culture and political¶ violence”, Feb 15, 2012, Sage, \\wyo-bb]

A sensitivity to the biopolitical dimension of liberalism reveals that political violence is intimately¶ related to regimes of truth and power/knowledge that shape who is allowed to speak, the positions¶ that can be acceptably articulated, the institutions that are able to serve as conduits of speech, and¶ the institutions that store and distribute what is said (Foucault, 1990: 11). But, the ‘truth’ of political¶ violence is more than the technical rationalities that may enable and justify biopolitical management.¶ It is also present in the understandings, representational practices and desires – that is,¶ forms of symbolic violence – that create political possibility. Often, understandings of political¶ violence and their associated meanings take the form of narratives, stories and histories in order to¶ make themselves comprehensible.¶ To enable comprehension, Allen Feldman (1991: 14) argues that ‘political violence is a genre of¶ “emplotted action” . . . [an action of narration that organizes] events into a configurational system,¶ a mode of historical explanation, and a normative intervention’. As an emplotted action, political¶ violence presents a temporal network that internally sequences actions/events through modes of¶ self-referral and description aimed at a target audience (Ricoeur, 1973: 92–3). Acts of political¶ violence are thus events that are linked to other events, ‘violent’ or otherwise. However, Feldman¶ reminds us that ‘the event is not what happens. The event is that which can be narrated. The event¶ is action organised by culturally situated meanings’ (1991: 14; emphasis in original), as well as¶ what can be articulated and what can be understood within the dominant iterative of the day.¶ Narratives (of political violence) are therefore a means of managing uncertainty over meaning: they express a desire to order, capture and fix a preferred reading of an event despite their own¶ internal instability (Connolly, 2011). Similarly, narratives are as much enacted as they are written¶ (Feldman, 1991: 14). In configuring mediations of experience, political violence as an emplotted¶ action makes mimetic performances by others possible: for an assassination to be understood as¶ an assassination, it must mimic the configurations, historical positionings and normative interventions¶ encapsulated in assassination narratives. Thus, assassination events are emplotted and¶ articulated within culturally situated meanings that go beyond the technical rationalizations that¶ may foster them.

#### **THEIR FRAMEWORK CAUSES SERIAL POLICY FAILURE**

Biswas 7 (Shampa, Professor of Politics – Whitman College, “Empire and Global Public Intellectuals: Reading Edward Said as an International Relations Theorist”, Millennium, 36(1), p. 117-125)

**The most serious threat to the ‘intellectual vocation’**, he argues, **is** ‘professionalism’ and mounts a pointed attack on the proliferation of ‘specializations’ and **the ‘cult of expertise’ with their focus on** ‘relatively narrow areas of knowledge’, ‘technical formalism’, ‘**impersonal** theories and **methodologies’, and** most worrisome of all, their ability and **willingness to be** **seduced by power**.17 Said mentions in this context the funding of academic programmes and research which came out of the exigencies of the Cold War18, an area in which there was considerable traffic of political scientists (largely trained as IR and comparative politics scholars) with institutions of policy-making. Looking at various influential US academics as ‘organic intellectuals’ involved in a dialectical relationship with foreign policy-makers and examining the institutional relationships at and among numerous think tanks and universities that create convergent perspectives and interests, Christopher Clement has studied US intervention in the Third World both during and after the Cold War made possible and justified through various forms of ‘intellectual articulation’.19 **This is** not simply a matter of scholars working for the state, but indeed a larger **question of** intellectual orientation. It is not uncommon for IR **scholars** to **feel the need to formulate their** scholarly **conclusions** in terms of its relevance for global politics, where ‘relevance’ is measured **entirely in terms of policy wisdom**. Edward Said’s searing indictment of US intellectuals – policy-experts and Middle East experts - in the context of the first Gulf War20 is certainly even more resonant in the contemporary context preceding and following the 2003 invasion of Iraq. The space for a critical appraisal of the motivations and conduct of this war has been considerably diminished by the expertise-framed national debate wherein certain kinds **of ethical questions** irreducible **to formulaic ‘for or against’ and** ‘costs and benefits’ analysis **can** simply **not be raised**. In effect, what Said argues for, and IR scholars need to pay particular heed to, is an understanding of ‘**intellectual relevance’** that is larger and more worthwhile, that **is about the posing of critical, historical, ethical** and perhaps unanswerable **questions rather than** the **offering** of recipes and **solutions**, that **is about** politics**(rather than techno-expertise**) in the most fundamental and important senses of the vocation.21

#### IF WE WIN ANY FRAMING ARGUMENTS THEY DON’T GET TO WEIGH THEIR AFFIRMATIVE.

#### FINALLY, WE’RE AN IMPACT TURN TO THEIR FRAMEWORK—THEY SECURITIZE DEBATE BY POLICING WHAT IS AND IS NOT ACCEPTABLE SPEECH, LEADS TO FORMS OF DISCURSIVE VIOLENCE IN DEBATE.

### Foreign Policy/ Relations Link

#### Foreign policy doctrine create an epistemology of violence that is coercive; national existence, security and order are used to justify military and geopolitical action, ontologizing violence as being.

Burke in 2007

(Anthony, Senior Lecturer in Politics and International Relations at UNSW, Sydney, “Ontologies of War: Violence, Existence and Reason”, Theory & Event, Volume 10, Issue 2, 2007, pMUSE, cheek)

The epistemology of violence I describe here (strategic science and foreign policy doctrine) claims positivistic clarity about techniques of military and geopolitical action which use force and coercion to achieve a desired end, an end that is supplied by the ontological claim to national existence, security, or order. However in practice, technique quickly passes into ontology. This it does in two ways. First, instrumental violence is married to an ontology of insecure national existence which itself admits no questioning. The nation and its identity are known and essential, prior to any conflict, and the resort to violence becomes an equally essential predicate of its perpetuation. In this way knowledge-as-strategy claims, in a positivistic fashion, to achieve a calculability of effects (power) for an ultimate purpose (securing being) that it must always assume. Second, strategy as a technique not merely becomes an instrument of state power but ontologises itself in a technological image of 'man' as a maker and user of things, including other humans, which have no essence or integrity outside their value as objects. In Heidegger's terms, technology becomes being; epistemology immediately becomes technique, immediately being. This combination could be seen in the aftermath of the 2006 Lebanon war, whose obvious strategic failure for Israelis generated fierce attacks on the army and political leadership and forced the resignation of the IDF chief of staff. Yet in its wake neither ontology was rethought. Consider how a reserve soldier, while on brigade-sized manoeuvres in the Golan Heights in early 2007, was quoted as saying: 'we are ready for the next war'. Uri Avnery quoted Israeli commentators explaining the rationale for such a war as being to 'eradicate the shame and restore to the army the "deterrent power" that was lost on the battlefields of that unfortunate war'. In 'Israeli public discourse', he remarked, 'the next war is seen as a natural phenomenon, like tomorrow's sunrise.' 22 ]

### “Solve” Terrorism Link

#### Claims to ‘solve’ terrorism posits rhetoric of good vs. evil. This exceptionalism works as a way to justify any atrocity in the name of good. [Green]

Ivie 7

(Robert, Prof of Comm and Culture @ Indiana U, “Fighting Terror by Rite of Redemption and Reconciliation” Rhetoric & Public Affairs. V. 10. Is. 2., 2007, 221+, http://muse.jhu.edu/journals/rhetoric\_and\_public\_affairs/v010/10.2ivie.html)

The stubborn question of security, which always confounds and often preempts or subsumes and subordinates any immediate aspiration of peace, is itself provoked by a rhetoric of evil, which envelops all considerations of safety and well-being in a swirl of fear and hatred. The ubiquitous sign of evil converts the secular quest for security into a prayer for redemption and a sacrament of atonement through the sacrifice of "a scapegoat in whom we have invested all the evil in the world."3 Safety becomes a matter of salvation in the rhetorical universe that is war culture. No other equation casts such a deadly spell on an embattled people confronted by a deeply troubled world than the "myth of redemptive violence."4 An unambiguous, Manichean distinction between good and evil, which Elisabeth Anker identifies as a "pervasive cultural code" expressed in melodramatic narrations of villainous victimization and heroic redemption, structures American political discourse and news coverage alike, diminishing public debate and conflating the exercise of state power with national identity.5 America's lethal preoccupation with evil precedes the tragedy of 9/11 and George W. Bush as presidential spokesman-in-chief. Certainly Ronald Reagan was eager to proclaim the Soviet Union an evil empire, and the dark memory of Adolf Hitler is forever fixed in the national imaginary as the personification of archetypal evil. The image of evildoers evoked by President Bush after the fall of Manhattan's twin towers resonated not only with right-wing Christian fundamentalism but also with mainstream political culture rooted in the secular religion of national mission and American exceptionalism. The living legacy of exceptionalism, as Seymour Martin Lipset observes, is a moralistic creed that insists Americans are opposed to evil in their foreign relations and "on God's side against Satan" in matters of warfare.6 The United States is the one essential nation above all others, the beacon and exemplar of standards that no other country can match. Exceptionalism is a founding myth and, Michael Hirsh notes, the "wellspring" of the current war against terrorism insofar as such a war stands for remaking the world in America's image.7 A deep and wide channel of patriotic piety has been cut over centuries of spilling blood in the name of the Almighty and the Redeemer. As a matter of history and of living custom, a Manichean divide between good and evil has come to separate righteous patriots from enemies of the state. Thus Bush's belabored and hardly deft, but certainly compelling, rhetoric of evildoers merely channeled already strong cultural predispositions to render any enemy essentially diabolical.8 As a medium of American war culture, Bush spoke to a Christian America in the language of a Christian man crusading for a righteous cause by declaring an unrestricted war on evil. Much like the Puritan rhetoric of covenant renewal, as Denise M. Bostdorff explains, Bush's rhetoric of evil depicted Americans as a special people watched over by God, represented 9/11 as a test of national character, and advanced a righteous call to arms with a renewed sense of mission, making "clear that the evil character of an external enemy was to blame, [and] thereby absolving U.S. citizens and the U.S. government of any guilt."9 Bush's post-9/11 rhetorical world was "governed by theistic essence," John M. Murphy observes. It was filled with heroes and villains, divided by good and evil, and given purpose by God's will, which was to be fulfilled by people of faith and character opposed to evil.10 "Bush's providential certainty" and "prophetic dualism," David Hoogland Noon concludes, supplanted critical thought with the righteous pursuit of "moral security" against evildoers.11 There was nothing secret or sophisticated about Bush's basic rhetorical strategy. In "The Gospel According to George," Newsweek reporters Howard Fineman and Tamara Lipper observed that the president believed his faith would "guide" him in Iraq. In biblical cadences, he preached time and again a simple secular sermon to the receptive public that he would lead by faith and vision into holy battle in order to bestow freedom on an otherwise evil world.12 Billy Graham's son, the Reverend Franklin Graham, affirmed the president by declaring Islam an "evil and wicked religion," while the administration's deputy undersecretary of defense for intelligence and war-fighting support, Lieutenant General William Boykin, professed that America was fighting Satan in Islamic Iraq on behalf of the real, Christian God.13 Indeed, the integrating theme of Bush's post-9/11 presidency was that any and all means were justified by holy ends in what amounted to a redemptive war on Islamic terrorism. One must wonder, along with Wes Avram, if the president's early reference to fighting a "crusade" was "an accidental gaffe at all."14 Despite his later differentiation between terrorism and Islam as a faith based on peace, love, compassion, and tolerance, the president and his supporters persisted in the use of "coded Christian language," as Stephen B. Chapman argues, to invest the nation and its war with "messianic meaning."15 America was endowed by the Creator with moral ideals, Bush proclaimed, and, "as the greatest force for good in history," was now fighting in Afghanistan and Iraq "to the glory of God."16 America had entered a "Third Awakening" of religious devotion in its war on global terrorism, the president suggested on the day after the fifth anniversary of 9/11, a spiritual awakening to this stark "confrontation between good and evil."17 Carol K. Winkler observes that, as a "linguistic marker of American culture," terrorism functions dangerously in contemporary presidential rhetoric more and more like an ideograph strongly influencing how the nation defines itself. It "demarcates the unacceptable" in the embodiment of a barbaric and unholy evil, an ambiguous but palpable malevolence that must be destroyed for the nation to cleanse itself. It reinforces a regime of executive authority that erodes civil liberties, undercuts the separation of governing powers, and increasingly eschews diplomacy, all in the name of responding rapidly and forcefully to ubiquitous terrorist threats. It deflects attention from economic targets and the ruling elite's special interest in protecting profit margins of global enterprises. It oversimplifies, mischaracterizes, and ultimately exacerbates threats issued by the likes of Osama bin Laden, reducing them to the diabolical ambition of attacking all democratic countries in order to destroy freedom itself.18

### Human Rights Logic

#### Human rights discourse demonizes abusers who violate Western rules creating binaries between good states and evil states

Denike 2008

(Associate Professor of Human Rights and the Coordinator of the Human Rights Program at Carleton University Margaret, “The Human Rights of Others: Sovereignty, Legitimacy, and "Just Causes" for the "War on Terror".” Hypatia: Volume 23, Number 2, Spring 2008. Project MUSE)

There is, however, another side to this story—the shadier features of which have been exposed by various commentators—that concerns the processes by which Western imperialism operates to sustain and reinforce itself and its powerful states as sovereign, and legitimate, still bounded and impermeable behind their fortresses, while applauding the permeability and dissolution of others on the so-called axis of evil as a "triumph"; one that, as Ratna Kapur describes it, renders human rights complicit "in making the world less stable, less peaceful, more divisive, more polluted and more violent" (2006, 683–84). In other words, the triumph of human rights spells not the end of sovereignty but its Western reentrenchment in security states. This is done in part by tactics such as making a state's dubious treatment of "their women" a measure of its legitimacy and its humanity; by demonizing "their men"—as political, cultural, and religious enemies—as imminent threats to world peace and security, and by circumscribing women within normative paternalist discourses as being in need of salvation or liberation. As exemplified by the utilization of immigration and refugee law and policy by which much of the "war on terror" has been legislatively fought, it is preoccupied with its borders and margins, and particularly with intruders and "aliens" in "our" midst, effectively delineating the difference between "us" (as sovereign, protectionist states, invariably on the side of the good) and "them" (as "rogue" states, run by illegitimate rulers and tyrants who harbor terrorists). As Costas Douzinas (2000), David Chandler (2001), and Anne Orford (2003) have noted, the acceptance of this "new humanitarianism" marks a significant transformation "from a discourse of rebellion and dissent into that of state legitimacy" (Douzinas quoted in Orford 2003, 202); humanitarian wars have a way of "legitimizing a certain image of sovereignty" (Douzinas 2002, 29), as the human rights discourse turns the "expression of empathy for common humanity" into "a lever for strategic aims drawn up and acted upon by external agencies" (Chandler 2001, 760; Orford 2003, 202).13 The porousness of the human rights discourse means that the interventions and exercises of state authority it legitimates "are more likely to track political interests than its own emancipatory goals" (Kennedy 2002, 981), interests that include the corporate capitalization on the militarized destruction and subsequent reconstruction projects, as well as the imposition of a Western imperial social, political, and economic order, with its attendant sexual and racial colonization. Such is the "darker side" (Kapur 2006, 666) of human rights narratives, the shadows of which haunt all of the celebrated promises of an abstract "humanity's" triumph.

### Protecting/ Repairing Heg

#### THE DRIVE FOR HEGEMONY FORCES WAR AGAINST POPULATIONS WHO RESIST THE “AMERICAN WAY”

Peet 2005

Graduate School of Geography, Clark University (Richard, “From Eurocentrism to Americentrism” Blackwell Synergy)

All centrisms see the world through the delusions of their own selfimportance. Geo-centrisms see the world through the collective myths created about the central We and the peripheral They. At worst, as with the above list of cliche´s, these myths combine ignorance with hatred, and dominance with fear. Fordist Americentrism takes delusion further into the realm of geo-pathological fantasy. The world is ‘‘understood’’ through headlines and newsleads that titillate prejudice so better to prepare for the main purpose of communication, the stimulation of consumption through the incessant barrage of advertisements. The news is hyped, through a combination of simplification with exaggeration, to keep the attention of those bored by overexposure to a synthetic plenitude of the best and worst of everything, till the next ad break, with this rhythm repeated so many thousands of times that it becomes the eternal cycle of postmodern Western consciousness. As Barnett’s book abundantly shows, contemporary Americentrism ‘‘knows’’ the world only through myths made in the market, under the pressures of the domination of the object over the subject. However, the terrible events of September 11, an attack on the economic and political centers of American power, turned collective delusion into collective derangement. Now we have a geo-centrism that wants to protect itself by forcing the world’s peoples to become our cultural mimics (we are ‘‘connectivity personified’’). The world will be made safe for Americans, by making the world American. Instead of trying to understand the cultures of the world’s peoples, America commits to obliterating them. So it is too that a good man, Thomas P M Barnett, who comes to save the world, does his bit to destroy any potential there might still be for a lasting peace. That peace can come only from cultural appreciation, whereas what we have here, from the neoliberal end of the now neo-conservative military–ideological complex, is a symptom of the will to culturally annihilate all those who dare to differ from the American dream. Exactly this attitude, culturalizing the willing, bombing the recalcitrant, into a future they must surely want (for everyone is born with ‘‘freedom in their hearts’’), has already killed tens of thousands of largely innocent people in Iraq (and for every episode of ‘‘collateral damage’’ read a hundred angry kids vowing revengeful lives). But if the Barnetts of this world get their way, Iraq is merely the beginning of a perpetual war to create the conditions of a lasting peace (a Pax Americana whose next regime change candidates, Iran and North Korea, are already lined up). We will bring them democracy, whether they want it or not. We will force them to be free. And we will continue doing so for generations to come. As Barnett (2004b:148) said more recently about the US invasion of Iraq: ‘‘The boys are never coming home. America is not leaving the Middle East until the Middle East joins the world. It’s that simple. No exit means no exit strategy’’. So Barnett tells the younger, progressive officers at the Pentagon, the future leaders of the armed forces who will ‘‘protect’’ Americanism in a future made less certain by the explosions of September 11. With such double-speak, Americentrism shows itself to be the most dangerous ideology the world has ever known, far more dangerous than Eurocentrism essentially because of two things: because even a simple reflexivity allows almost complete immunity from effective self-criticism; and because of a techno-logical ability to destroy civilizations at will. Jim’s critique of Eurocentrism needs replicating with an equally compelling critique of Americentrism.

#### GROUP THE PERMUTATIONS-

#### FIRST, THE PERM LINKS BECAUSE:

#### SECOND, MUTUALLY EXCLUSIVE- THE BALLOT MUST BE SEEN AS AN ADVOCACY FOR A POLITICAL STRATEGY- FOR OR AGAINST THE STATE

Agamben, 2000 (Giorgio, philosopher and bad ass, “Means Without End: Notes on Politics.” University of Minnesota Press, 2000. MB)

What does the scenario that world politics is setting up before us look like under the twilight of the Commentaries? The state of the integrated spectacle (or, spectacular-democratic state) is the final stage in the evolution of the state-form—the ruinous stage toward which monar¬chies and republics, tyrannies and democracies, racist regimes and progressive regimes are all rushing. Al-though it seems to bring national identities back to life, this global movement actually embodies a tendency toward the constitution of a kind of supranational police state, in which the norms of international law are tacitly abrogated one after the other. Not only has no war offi¬cially been declared in many years (confirming Carl Schmitt's prophecy, according to which every war in our time has become a civil war), but even the outright invasion of a sovereign state can now be presented as an act of internal jurisdiction. Under these circumstances, the secret services—which had always been used to act ignoring the boundaries of national sovereignties — become the model itself of real political organization and of real political action. For the first time in the history of our century, the two most important world powers are headed by two direct emanations of the secret services: Bush (former CIA head) and Gorbachev (Andropov's man); and the more they concentrate all the power in their own hands, the more all of this is hailed, in the new course of the spectacle, as a triumph of democracy. All appearances notwithstanding, the spectacular-dem¬ocratic world organization that is thus emerging actually runs the risk of being the worst tyranny that ever materialized in the history of humanity, against which resistance and dissent will be practically more and more difficult—and all the more so in that it is increasingly clear that such an organization will have the task of man¬aging the survival of humanity in an uninhabitable world. One cannot be sure, however, that the spectacle's at¬tempt to maintain control over the process it contributed to putting in motion in the first place will actually suc¬ceed. The state of the spectacle, after all, is still a state that bases itself (as Badiou has shown every state to base itself) not on social bonds, of which it purportedly is the expression, but rather on their dissolution, which it forbids. In the final analysis, the state can recognize any claim for identity—even that of a state identity within itself (and in our time, the history of the relations be¬tween the state and terrorism is an eloquent confirma¬tion of this fact). But what the state cannot tolerate in any way is that singularities form a community without claiming an identity, that human beings co-belong with¬out a representable condition of belonging (being Italian, working-class, Catholic, terrorist, etc.). And yet, the state of the spectacle — inasmuch as it empties and nullifies every real identity' and substitutes the public and public opinion for the people and the general will—is precisely what produces massively from within itself singularities that are no longer characterized either by any social identity or by any real condition of belonging: singularities that are truly whatever singularities. It is clear that the society of the spectacle is also one in which all social identities have dissolved and in which everything that for centuries represented the splendor and misery of the generations succeeding themselves on Earth has by now lost all its significance. The different identities that have marked the tragicomedy of universal history are exposed and gathered with a phantasmagorical vacuity in the global petite bourgeoisie — a petite bourgeoisie that constitutes the form in which the spectacle has realized parodistically the Marxian project of a classless society. For this reason — to risk advancing a prophecy here — the coming politics will no longer be a struggle to conquer or to control the state on the part of either new or old social subjects, but rather a struggle between the state and the nonstate (humanity), that is, an irresolvable disjunction between whatever singularities and the state organization. This has nothing to do with the mere demands of society against the state, which was for a long time the shared concern of the protest movements of our age. Whatever singularities cannot form a societies within a society of the spectacle because they do not possess any identity to vindicate or any social bond whereby to seek recognition. The struggle against the state, therefore, is all the more implacable, because this is a state that nullifies all real contents but that—all empty declarations about the sacredness of life and about human rights aside—would also declare any being radically lacking a representable identity to be simply nonexistent. This is the lesson that could have been learned from Tiananmen, if real attention had been paid to the facts of that event. What was most striking about the demonstrations of the Chinese May in fact, was the relative absence of specific contents in their demands. (The notions of democracy and freedom are too generic to constitute a real goal of struggle, and the only concrete demand, the rehabilitation of Hu Yaobang, was promptly granted.) It is for this reason that the violence of the state's reaction seems all the more inexplicable. It is likely, however, that this disproportion was only apparent and that the Chinese leaders acted, from their point of view, with perfect lucidity. In Tiananmen the state found itself facing something that could not and did not want to be represented, but that presented itself nonetheless as a community and as a common life (and this regardless of whether those who were in that square were actually aware of it). The threat the state is not willing to come to terms with is precisely the fact that the unrepresentable should exist and form a community without either presuppositions or conditions of belonging (just like Cantor's inconsistent multiplicity). The whatever singularity — this singularity that wants to take possession of belonging itself as well as of its own being-into-language, and that thus declines any identity and any condition of belonging—is the new, nonsubjective, and socially inconsistent protagonist of the com¬ing politics. Wherever these singularities peacefully manifest their being-in-common, there will be another Tiananmen and, sooner or later, the tanks will appear again.

### A2 Legal Positivism- “We solve violence”

#### THE LAW WON’T BIND VIOLENCE IT ONLY LEGITIMATES THE VIOLENCE THAT THE LAW ALLOWS NOW. YOU ARE JUST PROVING THE POINT- THAT’S BERMAN 04

#### LEGAL BLACK HOLES ARE INEVITABLE IN THE CURRENT SYSTEM- LAW MAKERS, JUDGES AND THE PRESIDENT AREN’T WILLING TO LIMIT THEMSELVES FOR FUTURE INTERESTS ALLOWING THE ELITE TO REMAIN VIOLENT

Posner et al 11

[Eric A. Posner, Kirkland & Ellis Distinguished Service Professor of Law and Aaron

Director Research Scholar at the University of Chicago, and Adrian Vermeule,

John H. Watson, Jr. Professor of Law at Harvard Law School, The Executive

Unbound: After the Madisonian Republic, Oxford: Oxford University Press, USA, 2011, Book, \\wyo-bb]

Schmittian ideas have come in for important criticism after 9/11. For concreteness, we will focus¶ on a recent book by David Dyzenhaus, which offers a powerful critique of Schmitt and a powerful¶ expression of the aspirations of liberal legalism. Dyzenhaus distinguishes between the ”rule of law”¶ and ”rule by law,”32 a distinction that is roughly equivalent to the jurisprudential distinction between¶ the ”thick” and ”thin” versions of the rule of law. ”Rule by law” (or the thin rule of law) is¶ compliance with whatever duly-enacted positive laws there happen to be. By contrast, the ”rule of¶ law” (or the thick rule of law) requires more than compliance with whatever duly-enacted laws there¶ happen to be; it also requires adherence to a broader set of principles of legality, most famously¶ expressed by Lon Fuller.33 Rule by law lacks content, whereas the rule of law adds a broad set of¶ procedural and substantive norms associated with liberal legalism and, in the Anglo-American and¶ Commonwealth countries, the common law. In this sort of schema, ”rule by law” authorizes¶ legislators or other lawmakers to create legal black holes—law-free zones that are themselves¶ created by law. Lawmakers may also create grey holes, which appear to comport with the rule of law¶ but really do not; imagine a statute or other legal rule specifying that notice will be given of new¶ executive rules, except when the executive deems it a bad idea to do so.¶ Against this backdrop, liberal legalist critics such as Dyzenhaus urge the elimination of legal¶ black holes and (especially) grey holes.34 They say that a body of law containing black holes and grey¶ holes is inconsistent with the rule of law, by which they mean the thick rule of law. They worry that¶ rule by law is a bad approach to regulating executive action during actual or perceived emergencies;¶ the exclusion of the rule of law will end up by giving away even rule by law, resulting in a law-free¶ zone of unfettered executive discretion. Dyzenhaus suggests that the appropriate lens for¶ understanding these issues is the thought of Schmitt.35 On Dyzenhaus' rendition, ”[i]f we are to answer¶ Schmitt’s challenge, we have to be able to show that contrary to his claims the exception can be¶ banished from the legal order.”36¶ The desired end-state for liberal legal theorists is a legal regime for regulating executive action¶ during emergencies that does not contain either black or grey holes. We claim, by contrast, that black¶ and grey holes will inevitably be integral to administrative law, and that because their presence is¶ inevitable, there is no point condemning them; to do so is quixotic. The claim is not that our system of¶ administrative law is maximally Schmittian. One could easily imagine a system whose black holes¶ and grey holes are far larger than in our system. In this counterfactual system of administrative law,¶ there would be a presumption against judicial review of executive action, unless Congress clearly¶ indicated otherwise; stringent requirements for access to courts; and aggressively broad construction¶ of the APA's various exceptions for administrative action relating to military affairs and foreign¶ affairs and for emergency administrative action. Our system is not like that, not always anyway.¶ At the other end of the continuum, however, liberal legalists imagine a system of administrative¶ law that is minimally Schmittian or even not Schmittian at all. In this sort of system, all administrative¶ action would be subject to review under ”ordinary” legal tests for statutory authority and procedural¶ validity and reasoned decision-making. There would be no categorical exclusions of executive action,¶ no exceptions for military or diplomatic functions or for emergencies, and perhaps not even any¶ special ”deference” to executive decision-making on the merits. Rather, judges would quite simply¶ decide whether, in their view, executive action comported with relevant statutes and constitutional¶ rules, and would take a hard look at the reasonableness of agency policy choices. Crucially, in¶ answering those questions, judges would draw upon thick background principles of legality, of¶ procedural regularity and fairness.¶ This too is a hopeless fantasy. Our administrative law is not like that either, and it never will be.¶ Rather our system has substantial black holes and grey holes and will, for institutional rather than¶ conceptual reasons, inevitably continue to do so. That the black holes and grey holes could be still¶ larger is, for present purposes, neither here nor there.

# 1NR

#### First, Unipolarity is over, three reasons: balance of power has now shifted, economic overstretch has occurred and lock-in fails

Layne 12

[Chris, Professor of IR and Political Science at Texas A&M, “This Time It’s Real: The End of Unipolarity and the Pax Americana”, p. online //wyo-tjc]

Before the Great Recession’s foreshocks in the fall of 2007, most American security studies scholars believed that unipolarity—and perforce American hegemony—would be enduring features of international politics far into the future. Judging from some important recently published books and articles, many of them still do, the Great Recession notwithstanding (Brooks and Wohlforth 2008; Zakaria 2008; Special Issue on Unipolarity 2009; Norrlof 2010).1 Leading American policymakers, too, cling to the belief that US hegemony is robust. In August 2010, for example, Secretary of State Hillary Clinton proclaimed a ‘‘new American moment’’ that will lay the ‘‘foundations for lasting American leadership for decades to come’’ (quoted in Kessler 2010). Even those who grudgingly concede that US hegemony will end—sometime in the distant future—contend that the post–World War II Pax Americana will endure even if American primacy does not (Ikenberry 2001, 2011; Brooks and Wohlforth 2008). In the Great Recession’s aftermath, it is apparent that much has changed since 2007. Predictions of continuing unipolarity have been superseded by premonitions of American decline and geopolitical transformation. The Great Recession has had a twofold impact. First, it highlighted the shift of global wealth—and power—from West to East, a trend illustrated by China’s breathtakingly rapid rise to greatpower status. Second, it has raised doubts about the robustness of the economic and financial underpinnings of the United States’ primacy. In this article, I argue that the ‘‘unipolar moment’’ is over, and the Pax Americana—the era of American ascendancy in international politics that began in 1945—is fast winding down. I challenge the conventional wisdom among International Relations ⁄ security studies scholars on three counts. First, I show that, contrary to the claims of unipolar stability theorists, the distribution of power in the international system no longer is unipolar. Second, I revisit the 1980s’ debate about American decline and demonstrate that the Great Recession has vindicated the so-called declinists of that decade. Finally, I take on the ‘‘institutional lock-in’’ argument, which holds that by strengthening the Pax Americana’s legacy institutions, the United States can perpetuate the essential elements of the international order it constructed following World War II even as the material foundations of American primacy erode.

#### HEGEMONY IS UNSUSTAINABLE: A) RE-BALANCING OF POWER, STRATEGIC OVERSTRETCH AND FINANCIAL BURDENS

Layne in 6

[Christopher, Professor of Political Science at Texas A&M, The Peace of Illusions: American Grand Strategy from 1940 to Present, Cornell University Press (Ithica), p. 148 //wyo-tjc]

Viewed properly, the real debate about the future of American hegemony has been miscast. The issue is not whether other states can, or will, balance against U.S. hegemony. They are, and have been since the cold war’s end. Similarly, the issue is not whether American hegemony will end. Even unipolar optimists and agnostics admit that someday it will end. The key question is when it will end. On this point, the unipolar pessimists of the balance-of power theorists is not misplaced. There are good reasons to believe that the uniplar era will end within the next decade or two. Indeed, the foundations of U.S. hegemony already are eroding due to the interaction of external and internal functions. First, unipolar optimism notwithstanding, the distribution of power in the international system will shift as new great powers (or “peer competitors”) emerge to challenge the United States. Second, by succumbing to the hegemon’s temptation,” the United States will become increasingly overextended abroad. Third, fiscal and economic constraints increasingly will impinge upon Washington’s ability to maintain America’s overwhelming military advantage, and, as the U.S. military edge declines, other major states will be emboldened to engage in hard balancing against the United States.

#### B) DOMESTIC POLITICS

#### EVENT ARDENT DEFENDERS OF HEG AGREE

Layne in 6

[Christopher, Professor of Political Science at Texas A&M, The Peace of Illusions: American Grand Strategy from 1940 to Present, Cornell University Press (Ithica), p. 156-157 //wyo-tjc]

American hegemony cannot be sustained indefinitely. In fact, even hardcore unipolar optimists acknowledge that eventually new great powers will emerge, and when they do there is a good chance that they will challenge— on “balance” against—the United States. Perhaps sooner than they would have us believe. When unipolar optimists—who supposedly believe America’s hegemonic power will be unchallengeable far into the future—embrace the policy line of unipolar agnostics and urge the United States to practice “magnanimity and restraint in the face of temptation” by acting multilaterally and being nice to other states, they betray both an unspoken anxiety about the durability of U.S. hegemony and a fear that it will provoke precisely the kind of geopolitical backlash that they say cannot happen (or, at least, cannot happen for a long time to come) .~7 At the end of the day the debate pitting unipolar optimists and agnostics against unipolar pessimists is about the related questions of timing and costs. How long can the United States keep the world unipolar? Do the benefits of perpetuating unipolarity outweigh the costs of doing so? In 1993, I suggested that by 2010 unipolaritv would give way to multipolarity.58 In contrast, in 1999 Dartmouth professor William C. Wohlforth—the foremost unipolar optimist—stated that American hegemony was then a decade old and “that if Washington plays its cards right, it may last as long as bipolarity.”59 The post— World War II bipolar era lasted forty-five years (1945—90). So by Wohlforth’s calculations, U.S. preponderance would last until around 2030. The difference in our predictions about how long American hegmeony would last was only about twenty years. Twenty years may seem like a big number, but it isn’t— especially for strategists, who are paid to look beyond the concerns of the day and think about how the state’s interests will be affected over the longer term by shifting power configurations. Two historical examples illustrate how much can change geopolitically in twenty years. In 19 18—20, Germany was defeated and seemingly shackled by the Treaty of Versailles, but twenty-two years later Germany was ascendant on the Continent. In 1896, a “splendidly’ isolated” Great Britain was acknowledged as the dominant world power. Twenty years later, the rise of German, American, and Japanese power had eroded Britain’s global power position and forced a profound change in British grand strategy, including the entente with France and the consequent “continental commitment” that sucked London into World War I.~° Far from being splendidly isolated, Britain was enmeshed in the horrors of trench warfare, and its soldiers were being slaughtered in the futile July 1916 Summer offensive. The change in Britain’s geopolitical fortunes between 1896 and 1916 is a reminder that a state’s position of dominance in international politics can melt away’ with unexpected rapidity.

#### FOURTH, ALLOWING THE STATUS QUO TRANSITION TO HAPPEN NOW IS CRITICAL BECAUSE

#### A) KEY TO US STRENGTH—PRESERVES MORE POWER TO DEAL WITH INEVITABLE MULTIPOLARITY MORE SUCCESSULLY

Layne in 6

[Christopher, Professor of Political Science at Texas A&M, The Peace of Illusions: American Grand Strategy from 1940 to Present, Cornell University Press (Ithica), p. 158 //wyo-tjc]

At the same time, it doubtless is true that it will take some time for others’ balancing efforts to realize their intended outcome. Although the United States, contrary’ to my 1993 prediction, probably will not he challenged by great power rivals as early as 2010, it is even more doubtful that U.S. hegemony will endure until the early 2030s. Is it worthwhile paying the price to hang onto unipolarity for, at best, another two decades? Given that American hegemony’ is destined to end sooner rather than later and that the costs of trying to “shape the international system” to America’s liking will rise (even as the benefits of doing so diminish), it would make more sense grand strategically for the United States to retrench and husband its resources for the long haul. The United States can do this by adopting an offshore balancing grand strategy.

#### B) HEGEMONY CAUSES EXTENDED DETERRENCE BREAK DOWNS AND NUCLEAR WAR

Layne in 6

[Christopher, Professor of Political Science at Texas A&M, The Peace of Illusions: American Grand Strategy from 1940 to Present, Cornell University Press (Ithica), p. 169 //wyo-tjc]

Proponents of U.S. hegemony like to say that America’s military commitments in Eurasia are an insurance policy against the purportedly damaging consequences of a Eurasian great power war by preventing it from happening in the first place or limiting its harmful effects if it does happen. This is a dubious analogy, because insurance policies neither prevent, nor limit, damage to policyholders. Rather, they compensate the policyholder for damage incurred. Even on its own terms, however, the insurance policy argument is not persuasive. Both Californians and Floridians know that some types of insurance are either unaffordable or unobtainable at any price. The chances of the “Big One”—a catastrophic earthquake on the San Andreas Fault—jolting Los Angeles or San Francisco, or a Force 5 hurricane making a direct hit on Miami, are small. But if either were to happen the consequences could be catastrophic, which is why insurance companies don’t want to offer earthquake and hurricane insurance. Prospective great power wars in Eurasia represent a similar dynamic: the risk of such a war breaking out may be low, but if it does it could be prohibitively expensive for the United States to be involved. Rather than being instruments of regional pacification, today America’s alliances are transmission belts for war that ensure that the U.S. would be embroiled in Eurasian wars. In deciding whether to go war in Eurasia, the United States should not allow its hands to be tied in advance. For example, a non—great power war on the Korean Peninsula—even if nuclear weapons were not involved—would he very costly. The dangers of being entangled in a great power war in Eurasia, of course, are even greater, and could expose the American homeland to nuclear attack. An offshore balancing grand strategy would extricate the United States from the danger of being entrapped in Eurasian conflicts by its alliance commitments.

#### C) CURRENT POWER CAN ONLY BE SUSTAINED AT THE VERY MOST FOR ANOTHER TWO DECADES AND GUARANTEES THE MAJOR POWER WAR THEY TRY TO AVOID—MUCH SAFER TO DECLINE NOW

Layne in ‘6

[Christopher, Professor of Political Science, Likely a Genius, “The Unipolar Illusion Revisited”, International Security, Vol. 31, No. 2, p. asp //wyo-tjc]

The United States enjoys no privileged exemption from the fate of past hegemons. American primacists conflate balancing (a grand strategy pursued by individual states) with the attainment of balance in the international system (a more or less equal distribution of power among the great powers). That others' balancing efforts have not yet produced a balance of power does not mean they are not trying to offset U.S. hegemony, although these balancing efforts will require time to bear fruit. Thus, contrary to my 1993 prediction, the United States probably will not be challenged by great power rivals as early as 2010. Yet, it also is doubtful that U.S. hegemony will endure until 2030, as Wohlforth predicted in 1999. The key question facing American strategists, therefore, is: Should the United States cling to unipolarity for, at best, another two decades? Or should it abandon its hegemonic grand strategy for a less ambitious one of offshore balancing? There are two versions of offshore balancing from which the United States can choose: multilateral or unilateral. 125 As a multilateral offshore balancer, the United States would act both to "reassure its allies that it will use force with wisdom and restraint" and to "reduce the fear created by its superior power by giving other states a voice in the circumstances in which it will use force." 126 Multilateral offshore balancing is problematic for four reasons. First, it is internally inconsistent, because its twin goals of preserving U.S. primacy while persuading others that they need not fear U.S. power do not mesh. 127 Second, the idea that the United States should exercise its power in concert with others runs counter to the fundamental realities of international politics. 128 Third, even if the United States could reassure its allies that it will use [End Page 39]its power wisely, its ability to reassure potential adversaries such as China and Russia remains doubtful. Finally, multilateral offshore balancing can fairly be viewed as a backdoor strategy for preserving U.S. hegemony, rather than as a policy of restraint. 129 At bottom, multilateral offshore balancing does not address the United States' "hegemony problem," which is not caused by U.S. unilateralism. The real problem is that too often the United States acts unwisely (or, as in the case of Iraq, foolishly)—something it just as easily can do multilaterally as unilaterally. Although some analysts blame the George W. Bush administration for the United States' hegemony problem, the facts suggest otherwise. Concerns about unchecked U.S. power in a unipolar world first were voiced almost simultaneously with the Soviet Union's collapse. And it was during the Clinton administration that U.S. officials first acknowledged in so many words that America had a hegemony problem. The United States has a hegemony problem because it wields hegemonic power. To reduce the fear of U.S. power, the United States must accept some reduction in its relative hard power by adopting a multipolar—and essentially unilateral—offshore balancing strategy that accommodates the rise of new great powers. 130 It also must rein in the scope of its extravagant ambitions to shape the international system in accordance with its Wilsonian ideology. The United States does not need to be an extraregional hegemon to be secure. Its quest for hegemony is driven instead by an ideational, deterritorialized conception of security divorced from the traditional metrics of great power grand strategy: the distribution of power in the international system and geography. 131 Thus, to reduce others' concerns about its power, the United States must practice self-restraint (which is different from choosing to be constrained by others by adopting a multilateral approach to grand strategy). An America [End Page 40]that has the wisdom and prudence to contain itself is less likely to be feared than one that begs the rest of the world to stop it before it expands hegemonically again. If the United States fails to adopt an offshore balancing strategy based on multipolarity and military and ideological self-restraint, it probably will, at some point, have to fight to uphold its primacy, which is a potentially dangerous strategy. Maintaining U.S. hegemony is a game that no longer is worth the candle, especially given that U.S. primacy may already be in the early stages of erosion. Paradoxically, attempting to sustain U.S. primacy may well hasten its end by stimulating more intensive efforts to balance against the United States, thus causing the United States to become imperially overstretched and involving it in unnecessary wars that will reduce its power. Rather than risking these outcomes, the United States should begin to retrench strategically and capitalize on the advantages accruing to insular great powers in multipolar systems. Unilateral offshore balancing, indeed, is America's next grand strategy.

#### FIFTH, DEFENSE TO THEIR SCENARIOS: A) AMERICA CAN’T PREVENT NEW POWERS

Layne in 6

[Christopher, Professor of Political Science at Texas A&M, The Peace of Illusions: American Grand Strategy from 1940 to Present, Cornell University Press (Ithica), p. 176-177 //wyo-tjc]

A second contention advanced by proponents of American hegemony is that the United States cannot withdraw from Eurasia because a great power war there could shape the postconflict international system in ways harmful to U.S. interests. Hence, the United States “could suffer few economic losses during a war, or even benefit somewhat, and still find the postwar environment quite costly to its own trade and investment.”59 This really is not an economic argument but rather an argument about the consequences of Eurasia’s political and ideological, as well as economic, closure. Proponents of hegemony fear that if great power wars in Eurasia occur, they could bring to power militaristic or totalitarian regimes. Here, several points need to be made. First, proponents of American hegemony overestimate the amount of influence that the United States has on the international system. There are numerous possible geopolitical rivalries in Eurasia. Most of these will not culminate in war, but it’s a good bet that some will. But regardless of whether Eurasian great powers remain at peace, the outcomes are going to be caused more by those states’ calculations of their interests than by the presence of U.S. forces in Eurasia. The United States has only limited power to affect the amount of war and peace in the international system, and whatever influence it does have is being eroded by the creeping multipolarization

under way in Eurasia. Second, the possible benefits of “environment shaping” have to be weighed against the possible costs of U.S. involvement in a big Eurasian war. Finally, distilled to its essence, this argument is a restatement of the fear that U.S. security and interests inevitably will be jeopardized by a Eurasian hegemon. This threat is easily exaggerated, and manipulated, to disguise ulterior motives for U.S. military intervention in Eurasia.

#### B) THEIR SCENARIO IS RECKLESS EXAGERATION

Layne in 6

[Christopher, Professor of Political Science at Texas A&M, The Peace of Illusions: American Grand Strategy from 1940 to Present, Cornell University Press (Ithica), p. 127-128 //wyo-tjc]

The entire fabric of American grand strategy would unravel if U.S. allies no longer felt reassured by Washington’s security umbrella. If the credibility of U.S. commitments to regional stability is questioned, that “in turn could cause allies and friends to adopt more divergent defense policies and postures, thereby weakening the web of alliances and coalitions on which we rely to protect our interests abroad.”6’ Hence, credibility is viewed by U.S. decision makers as a vital interest.62 To establish its credibility, however, the United States often is forced to intervene in conflicts where its own interests are not at stake~3 Indeed, Robert McMahon has noted that this explains a paradox: the United States tends to intervene most frequently “in areas of demonstrably marginal value to core U.S. economic and security interests.”64 Precisely by being willing to fight in such places, the United States, or so policymakers believe, establishes its credibility.65 Of course, it’s not so easy for U.S. policymakers to explain to domestic audiences why the United States must intervene in regions of marginal strategic value, or why it must act before there is any obvious threat to U.S. interests. This is why, as John A. Thompson puts it, threat exaggeration—which includes the frequent invocation of domino imagery—is an American foreign policy tradition.66 As Jerome Slater observes, notwithstanding the cold war’s end, the domino theory retains its vitality in U.S. strategic thought. There are two reasons for this. First, the United States remains overwhelmingly powerful, which tempts it to define its security interests extravagantly. Second, the Wilsonian ideology that underpins U.S. foreign policy has inculcated a belief that the United States has an obligation “to provide world leadership for global order, collective security, democracy, and capitalism.”

#### C) GLOBAL NUCLEAR WAR IS NOT POSSIBLE IF THE US IS WITHDRAW WHEREAS EXTENDED DETERRENCE GUARANTEES IT

Layne in 6

[Christopher, Professor of Political Science at Texas A&M, The Peace of Illusions: American Grand Strategy from 1940 to Present, Cornell University Press (Ithica), p. 176 //wyo-tjc]

If we assume, just for the sake of argument, that the magnet effect was a factor leading to U.S. involvement in Eurasian wars before 1945, nuclear weapons have changed the geopolitical equation since then. There are many imponderables about nuclear strategy. Nuclear weapons today probably would deter war between nuclear-armed great powers in Eurasia. On the other hand, because of the stability-instability paradox (the standoff at the strategic nuclear level makes it more thinkable for nuclear-armed great powers to fight limited, conventional wars against one another), nuclear deterrence might allow great powers to begin wars in the hope that they would be fought with conventional weapons only. However, in a conventional conflict between nuclear-armed great powers, the risk of escalation would be omnipresent. Precisely because of these unknowns, American grand strategy should maximize U.S. autonomy, because the last thing the United States should want is to be caught in the cross fire of a nuclear war fought by Eurasian great powers. If the United States adopts an offshore balancing grand strategy, it simply is not the case that the United States would he sucked into a war between Eurasian great powers. A nuclear conflict in Eurasia cannot leap the Atlantic or Pacific oceans and engulf the United States unless the United States is embroiled from the outset because of its forward military presence in Eurasia. In a nuclear world, it would be irrational to risk being

involved in such a conflict for economic reasons (and, probably, for any reason).

Leadership

#### Relations resilient

Sawczak 11 [Dr. Peter Sawczak, Adjunct Research Fellow at Monash University, “Obama’s Russia Policy: The Wages and Pitfalls of the Reset,” peer reviewed paper presented at the 10th Biennial Conference of the Australasian Association for Communist and Post-Communist Studies, Feb 3-4 2011, <http://cais.anu.edu.au/sites/default/files/Sawczak_Obama.pdf>]

As a measure of their optimism, US officials like to point – cautiously – to a discernible shift in Russian foreign policy towards a more pragmatic, cooperative approach. Whether or not the Obama administration can claim credit for this, the United States has at least shown Russia the dividends which could flow from enhanced cooperation. This is most palpably reflected in the Russian foreign policy paper leaked in May 2010, which identifies a “need to strengthen relations of mutual interdependence with the leading world powers, such as the European Union and the US,” 5 as well as, more indirectly, in Medvedev’s modernisation agenda. The fact that Russia has sought, in the tragic circumstances attending commemoration ceremonies at Katyn, rapprochement with Poland and moved to demarcate its border with Norway, in addition to partnering with the US on arms control, Iran and Afghanistan, suggests to US policy-makers that a rethink, however tenuous, is underway. Noteworthy also is the fact that Russia, gladdened by the emergence of more compliant leaders in Ukraine and Kyrgyzstan, has been remarkably restrained of late in its dealings closer to home, not having waged any major gas wars, threatened leaders, or incited civil war. ¶ How Russia engages on looming challenges – which McFaul has prioritised as cooperation on missile defence, Russia’s WTO accession, future European security architecture and Medvedev’s modernisation agenda 6 – will demonstrate the extent of its willingness to comply with the Obama administration’s preferred modus operandi of identifying shared interests as a means of pursuing US national interests. There will be temptation on Russia's part to push the United States to entertain grand bargains in certain areas, especially - and however unrealistically - on its perceived privileged interests in former Soviet states. Both sides, however, have demonstrated a relatively high level of comfort with agreeing to disagree, and there is now an increasingly even mix of interests on both sides. Immediate impediments that will need to be worked through include reluctance by the Pentagon to share sensitive military technology in relation to missile defence and Russia's slowness to create favourable conditions for foreign investment.

Relations can’t collapse, and issues are compartmentalized

Migranyan, director – Institute for Democracy and Cooperation, professor – Institute of International Relations, Moscow, 1/30/’13

(Andranik, “Russia and Obama's Second Term,” The National Interest)

The fundamental reality is that both Russia and the United States have entered a new phase of international relations. Russia, having ensured its own sovereignty and policy independence, is seeking to build its relationships with all countries from the point of view of its own priorities. On this basis it tries to establish a balance of powers that effectively protects its interests in the Near Abroad and maintains its own economic and military-political security. It is naïve to believe that Russia is mentally separating itself from the culture of the West because it does not share the Western value system, as Dmitri Trenin wrote in December, or that it is becoming close to China almost to the point of being its junior partner. Such suggestions have little basis in reality. Russia is simply trying to work for its own interests, within accepted diplomatic rules, in order to gain advantageous bargaining positions.

The United States also has entered a new phase. It is going through a painful and complex transition from unilateral global domination to a policy of creating balance-of-power arrangements in various regions of the world so as to preserve American presence and influence. Thus, there will be inevitable ups and downs in U.S.-Russian relations as the two countries partner on some issues on which it is beneficial for both of them to be allied, and compete and experience tensions on other issues, where their vital interests diverge. This means there isn’t much chance of consistently smooth relations between the two countries.

#### 3] Russia needs the west for development

Andrew C. Kuchins 08, director of the Russia and Eurasia Program at the Center for Strategic and International Studies (CSIS), 2-29, 08, The Russian”Election” http://www.csis.org/media/csis/pubs/080229\_cq\_russia\_election\_kuchins.pdf

That does not mean, however, that we are on the brink of a new Cold War era of confrontation with Russia. Russia’s primary goal for the next generation will be economic growth and modernization of the country. The needs there are immense. A Cold War–like military competition bankrupted the USSR, and no serious Russian politician wants to re-run that kind of exercise today. The Russian political elite also understand that to have any chance of meeting their ambitious economic goals, they will have to be more and not less integrated in the global economy and especially with Europe. Their real, not imaginary threats are currently radical Islam and terrorism to the south and longer-term concern about China’s development to the east: neither contingency will be effectively addressed by hostility toward the West, just the opposite. On the darker side, we should expect increasing Russian assertiveness often contrary to our interests in the countries on its western periphery including Ukraine, Georgia, and others.

#### [4] Russia doesn’t have any other alternative

Dimitri Simes 07 Foreign Affairs; Nov/Dec2007, Vol. 86 Issue 6, p36-52, 16p, 3bw, “Losing Russia,” President of the Nixon Center and Publisher of The National Interest.

The good news is that although Russia is disillusioned with the United States and Europe, it is so far not eager to enter into an alliance against the West. The Russian people do not want to risk their new prosperity--and Russia's elites are loath to give up their Swiss bank accounts, London mansions, and Mediterranean vacations. Although Russia is seeking greater military cooperation with China, Beijing does not seem eager to start a fight with Washington either. At the moment, the Shanghai Cooperation Organization--which promotes cooperation among China, Russia, and the Central Asian states--is a debating club rather than a genuine security alliance.

#### Even if they win a risk, the impact will be localized

Mendelsohn 6

(Jack, Adjunct Professor – George Washington University, Member of SALT I and START II Delegations, and Former Deputy Director – Arms Control Association, “Delegitimizing Nuclear Weapons”, Issues in Science and Technology, 3-22, Lexis)

Second, despite efforts by the Clinton and Bush administrations to equate the dangers of chemical, biological, and nuclear weapons by lumping them together as weapons of mass destruction, nuclear weapons are the only ones that could devastate the United States, irreparably altering the lives its citizens. Chemical weapons (CWs) tend to be localized in their effects and difficult to deliver over large areas. They can be detected by sensors and their effects mitigated by protective measures. Biological weapons (BWs) are a more serious threat, but they can be tricky to produce, difficult to disseminate, and unpredictable in their effects. Against unprepared civilians, BWs could be devastating, although the severity of an attack could be attenuated by vaccinations, masks, antidotes, protective clothing, quarantines, and small-scale evacuations. On the other hand, there might be no discernable sign of the launch of a BW attack, in which case those responsible might be impossible to identify.

#### Terrorist use of bioweapons emp denied

O’Neill 4O’Neill 8/19/2004 [Brendan, “Weapons of Minimum Destruction” http://www.spiked-online.com/Articles/0000000CA694.htm]

David C Rapoport, professor of political science at University of California, Los Angeles and editor of the Journal of Terrorism and Political Violence, has examined what he calls 'easily available evidence' relating to the historic use of chemical and biological weapons. He found something surprising - such weapons do not cause mass destruction. Indeed, whether used by states, terror groups or dispersed in industrial accidents, they tend to be far less destructive than conventional weapons. 'If we stopped speculating about things that might happen in the future and looked instead at what has happened in the past, we'd see that our fears about WMD are misplaced', he says. Yet such fears remain widespread. Post-9/11, American and British leaders have issued dire warnings about terrorists getting hold of WMD and causing mass murder and mayhem. President George W Bush has spoken of terrorists who, 'if they ever gained weapons of mass destruction', would 'kill hundreds of thousands, without hesitation and without mercy' (1). The British government has spent £28million on stockpiling millions of smallpox vaccines, even though there's no evidence that terrorists have got access to smallpox, which was eradicated as a natural disease in the 1970s and now exists only in two high-security labs in America and Russia (2). In 2002, British nurses became the first in the world to get training in how to deal with the victims of bioterrorism (3). The UK Home Office's 22-page pamphlet on how to survive a terror attack, published last month, included tips on what to do in the event of a 'chemical, biological or radiological attack' ('Move away from the immediate source of danger', it usefully advised). Spine-chilling books such as Plague Wars: A True Story of Biological Warfare, The New Face of Terrorism: Threats From Weapons of Mass Destruction and The Survival Guide: What to Do in a Biological, Chemical or Nuclear Emergency speculate over what kind of horrors WMD might wreak. TV docudramas, meanwhile, explore how Britain might cope with a smallpox assault and what would happen if London were 'dirty nuked' (4). The term 'weapons of mass destruction' refers to three types of weapons: nuclear, chemical and biological. A chemical weapon is any weapon that uses a manufactured chemical, such as sarin, mustard gas or hydrogen cyanide, to kill or injure. A biological weapon uses bacteria or viruses, such as smallpox or anthrax, to cause destruction - inducing sickness and disease as a means of undermining enemy forces or inflicting civilian casualties. We find such weapons repulsive, because of the horrible way in which the victims convulse and die - but they appear to be less 'destructive' than conventional weapons. 'We know that nukes are massively destructive, there is a lot of evidence for that', says Rapoport. But when it comes to chemical and biological weapons, 'the evidence suggests that we should call them "weapons of minimum destruction", not mass destruction', he says. Chemical weapons have most commonly been used by states, in military warfare. Rapoport explored various state uses of chemicals over the past hundred years: both sides used them in the First World War; Italy deployed chemicals against the Ethiopians in the 1930s; the Japanese used chemicals against the Chinese in the 1930s and again in the Second World War; Egypt and Libya used them in the Yemen and Chad in the postwar period; most recently, Saddam Hussein's Iraq used chemical weapons, first in the war against Iran (1980-1988) and then against its own Kurdish population at the tail-end of the Iran-Iraq war. In each instance, says Rapoport, chemical weapons were used more in desperation than from a position of strength or a desire to cause mass destruction. 'The evidence is that states rarely use them even when they have them', he has written. 'Only when a military stalemate has developed, which belligerents who have become desperate want to break, are they used.' (5) As to whether such use of chemicals was effective, Rapoport says that at best it blunted an offensive - but this very rarely, if ever, translated into a decisive strategic shift in the war, because the original stalemate continued after the chemical weapons had been deployed. He points to the example of Iraq. The Baathists used chemicals against Iran when that nasty trench-fought war had reached yet another stalemate. As Efraim Karsh argues in his paper 'The Iran-Iraq War: A Military Analysis': 'Iraq employed [chemical weapons] only in vital segments of the front and only when it saw no other way to check Iranian offensives. Chemical weapons had a negligible impact on the war, limited to tactical rather than strategic [effects].' (6) According to Rapoport, this 'negligible' impact of chemical weapons on the direction of a war is reflected in the disparity between the numbers of casualties caused by chemicals and the numbers caused by conventional weapons. It is estimated that the use of gas in the Iran-Iraq war killed 5,000 - but the Iranian side suffered around 600,000 dead in total, meaning that gas killed less than one per cent. The deadliest use of gas occurred in the First World War but, as Rapoport points out, it still only accounted for five per cent of casualties. Studying the amount of gas used by both sides from1914-1918 relative to the number of fatalities gas caused, Rapoport has written: 'It took a ton of gas in that war to achieve a single enemy fatality. Wind and sun regularly dissipated the lethality of the gases. Furthermore, those gassed were 10 to 12 times as likely to recover than those casualties produced by traditional weapons.' (7) Indeed, Rapoport discovered that some earlier documenters of the First World War had a vastly different assessment of chemical weapons than we have today - they considered the use of such weapons to be preferable to bombs and guns, because chemicals caused fewer fatalities. One wrote: 'Instead of being the most horrible form of warfare, it is the most humane, because it disables far more than it kills, ie, it has a low fatality ratio.' (8) 'Imagine that', says Rapoport, 'WMD being referred to as more humane'. He says that the contrast between such assessments and today's fears shows that actually looking at the evidence has benefits, allowing 'you to see things more rationally'. According to Rapoport, even Saddam's use of gas against the Kurds of Halabja in 1988 - the most recent use by a state of chemical weapons and the most commonly cited as evidence of the dangers of 'rogue states' getting their hands on WMD - does not show that unconventional weapons are more destructive than conventional ones. Of course the attack on Halabja was horrific, but he points out that the circumstances surrounding the assault remain unclear. 'The estimates of how many were killed vary greatly', he tells me. 'Some say 400, others say 5,000, others say more than 5,000. The fighter planes that attacked the civilians used conventional as well as unconventional weapons; I have seen no study which explores how many were killed by chemicals and how many were killed by firepower. We all find these attacks repulsive, but the death toll may actually have been greater if conventional bombs only were used. We know that conventional weapons can be more destructive.' Rapoport says that terrorist use of chemical and biological weapons is similar to state use - in that it is rare and, in terms of causing mass destruction, not very effective. He cites the work of journalist and author John Parachini, who says that over the past 25 years only four significant attempts by terrorists to use WMD have been recorded. The most effective WMD-attack by a non-state group, from a military perspective, was carried out by the Tamil Tigers of Sri Lanka in 1990. They used chlorine gas against Sri Lankan soldiers guarding a fort, injuring over 60 soldiers but killing none. The Tamil Tigers' use of chemicals angered their support base, when some of the chlorine drifted back into Tamil territory - confirming Rapoport's view that one problem with using unpredictable and unwieldy chemical and biological weapons over conventional weapons is that the cost can be as great 'to the attacker as to the attacked'. The Tigers have not used WMD since.

Terrorists don’t use bioweapons

#### a. knowledge gap

Sonia Ben Ouagrham-Gormley ‘12, Assistant Professor in the Biodefense Program at George Mason University, Spring 2012, “Barriers to Bioweapons,” International Security, Vol. 36, No. 4,pp. 80–114

Conclusion The U.S. and Soviet bioweapons programs offer valuable insights for assessing future bioweapons proliferation threats. Certainly, the globalization of the pharmaceutical and biotechnology industries has enabled an increasingly widespread diffusion of information, materials, and equipment that could prove beneªcial to states or terrorist groups interested in developing biological weapons. But although such inputs are necessary, they are hardly sufficient to produce a signiªcant weapons capability. As demonstrated in the U.S. and Soviet cases, such intangible factors as organizational makeup and management style greatly affect the use of acquired knowledge, the creation of tacit knowledge, and its transfer within the organization to enable ultimate success. Importantly, these intangible elements are local in character and cannot be easily transferred among individuals or from one place to another. Although the effects of intangible factors are more pronounced in large-scale bioweapons programs, given the increasing complexity introduced by the need to produce a tested weapon with repeatable results, they also affect smaller-scale state and terrorist group programs, as illustrated by South Africa’s and Aum Shinrikyo’s programs. Even programs with more modest ambitions need to acquire the expertise required to handle, manipulate, and disseminate the agents selected, create an environment conducive to teamwork and learning, integrate the acquired knowledge into the existing knowledge base, and adapt the technology to their environment. These are complex and time-consuming tasks for programs operating in a stable environment. For covert programs fearful of detection, the task is made more challenging as the imperatives of maintaining covertness directly contradict the requirement of efficient knowledge use and production. The revolution in biotechnology has not reduced the importance of the intangible factors that shape bioweapons program outcomes. Although new breakthroughs in biotechnology can frequently accelerate progress in laboratory work, these new techniques still depend heavily on teams of scientists and technicians developing new sets of skills through extensive experimentation. Only in this way can they demonstrate the utility of these new breakthroughs for particular applications. Thus, by taking into account the intangible dimension of proliferation, intelligence and policy ofªcials can understand more holistically how a state or terrorist group can actually use the tangible resources they may have acquired. Ideally, developing a more thorough understanding of a program’s existing research and knowledge base, as well as how the program is organized and managed, will provide intelligence and policy ofªcials with a better analytical basis for determining the time required for the program to achieve its goal. This in turn will help policymakers fashion interventions that are most appropriate to respond to speciªc threats. Gathering information about these intangible factors is dependent on intelligence efforts, and this article provides insights into how better collection and analysis on WMD threats might be accomplished. However, actions against a suspected program can beneªcially be implemented even in the absence of detailed information about its knowledge base and organizational makeup. A policy aimed at frustrating the acquisition of skills, the collective interpretation and integration of data and individual knowledge, and the accumulation of knowledge can delay progress in a suspected program and possibly cause its failure.

#### b. no capability

Sonia Ben Ouagrham-Gormley ‘12, Assistant Professor in the Biodefense Program at George Mason University, Spring 2012, “Barriers to Bioweapons,” International Security, Vol. 36, No. 4,pp. 80–114

Knowledge Acquisition and Diffusion in Past Weapons Programs Studies of knowledge transfer, including in weapons technology, indicate that access to written data does not guarantee its successful transfer and subsequent use, even by experts. The reasons fall into four main categories: the nature of knowledge; external factors; socioeconomic conditions; and the organizational dimensions of programs. As a consequence, scientific data produced elsewhere can be used in a different context as a general guideline to perform a speciªc task, but rarely as a comprehensive set of “how to” instructions to reproduce past work, even with the necessary expertise, which poses serious challenges to weapons development and proliferation. the tacit, local, and collective nature of knowledge Technical and scientific knowledge results from a process of experimentation and testing that, in addition to producing explicit knowledge (e.g., reports, formulas, and designs), produces tacit knowledge, or unarticulated know-how or skills that cannot, or only with considerable difªculty, be translated into written form. Tacit knowledge may also take the form of laboratory practices, routines, or techniques, which, although important for the success of an experiment or process, may not be included in a written document. Two reasons explain their absence: (1) they are not recognized as being an essential part of the experiment or process, or (2) scientists and technicians are unaware that their peculiar way of doing things is crucial for experimental success. Because scientiªc data capture only the explicit portion of the author’s expertise, it is an incomplete representation of the knowledge produced, which constitutes a major obstacle to its efªcient use by others. In addition, written documents rarely explain why scientiªc teams make certain technical choices. 16 As a result, written information requires a degree of interpretation for use in speciªc contexts, implying that those who receive this information must possess sufªcient knowledge to decide how best to use it. Yet, even when the users have the required base knowledge, the absence of the associated tacit knowledge makes the use of explicit data difªcult. Analysts have recorded such technical difªculties in past weapons programs when the transfer of data occurs between state programs, but also within state programs. For instance, despite receiving hundreds of pages of scientific information on the production of the Soviet anthrax weapon designed by the Kirov bioweapons laboratory in Russia, the Stepnogorsk bioweapons production plant in Kazakhstan failed to produce an anthrax weapon based on this information after two years of repeated attempts. Only with the addition of sixtyªve scientists from two Russian facilities at Kirov and Sverdlovsk, and three more years of interpretation and modiªcation of the original protocols, did the Kazakh facility succeed in producing an anthrax weapon, one that proved to be dramatically different from the Kirov weapon. 17 Similarly, the blueprints and scientiªc data that Britain provided to the United States in the early 1940s, which described the production process and weaponization of biological agents, could not be used in the U.S. bioweapons program without extensive modiªcations. The British production process used a series of connected milk churns and was capable of producing only small amounts of agents. The process was not suited for the large-scale production envisioned by the United States. As a result, the United States had to create a new development and production infrastructure, as well as production processes, which required several years of research and testing. 18 Another challenge in using others’ scientiªc data is that tacit knowledge does not transfer easily. It requires proximity to the original source(s) and an extended master-apprentice relationship. 19 Scientiªc and technical knowledge is also highly local: it is developed within a speciªc infrastructure, using a speciªc knowledge base, and at a speciªc location. Some studies have shown that the use of data and technology in a new environment frequently requires adaption to the new site. 20 Successful adaptation often requires the involvement of the original scientiªc author(s) to guide the adjustment. For instance, some of the problems encountered during the production of the Soviet anthrax weapon were solved only after the authors of the weapon in Russia traveled to Kazakhstan to assist their colleagues. These individuals trained their colleagues, transferring their tacit knowledge in the process, and helped adjust the technical protocols to the Kazakh infrastructure, which was substantially different from that of the Russian facility. Even with the presence of these original authors, five years were needed to complete the process of successful transfer and use of bioweapons technology. 21 A further complication is that tacit knowledge can decay over time and may disappear if not used or transferred. Studies have shown that trying to re-create lost knowledge can be difficult, if not impossible

#### c. organizational structure

Sonia Ben Ouagrham-Gormley ‘12, Assistant Professor in the Biodefense Program at George Mason University, Spring 2012, “Barriers to Bioweapons,” International Security, Vol. 36, No. 4,pp. 80–114

socioeconomic conditions in which knowledge is used Stability in the work environment and continuity of the scientiªc work are also essential to the proper use and transfer of knowledge. For example, interviews with former U.S. and Soviet bioweapons scientists have indicated that teams of scientists must work together for an extended, uninterrupted period of time to be able to assimilate the acquired knowledge, learn from one another, and create new collective knowledge to make progress on weapons development. 27 In the case of the U.S. bioweapons program, the knowledge accumulation phase lasted from 1943 to 1965. Only around 1965 did scientists feel that they had experimented enough with various pathogens to make signiªcant progress. 28 During such time spans, perturbations in the work environment can set back the clock in an experiment and slow progress because frequently some knowledge is lost, particularly when the interruption is long-lasting. In the Soviet bioweapons program, several scientists noted the negative effect on scientiªc progress caused by periodic shortages in basic ingredients such as growth media, which not only interrupted their work but also pulled them away from their experiments to solve procurement problems. Conºicts among personnel or management and interruptions in scientiªc work caused by shortages in funding had the same delaying effect. 29

#### d. prefer simplicity

Stolar 6 – Alex Stolar, research officer for the Institute of Peace and Conflict Studies, October 2006, "Bioterrorism and US Policy Responses" http://www.ipcs.org/pdf\_file/issue/1659566521IPCS-Special-Report-31.pdf

Moreover, a lingering question is, why would terrorists use bioweapons in an attack? Executing a biological weapon attack is difficult and expensive, and does not suit the modus operandi of the sole group with the means to pursue bioterrorism, Al Qaeda. At present, Al Qaeda favors simple attacks that generate great fear. 9/11 was executed with box cutters; the Madrid train attacks with dynamite purchased from petty criminals6; the London 7/7 bombings utilized simple explosives that could be fashioned with easily available materials and little expertise7; and the terrorists in the recent plot to bomb flights from London to the US intended to use nail polish remover and hair bleach.8 Al Qaeda favors creating great fear at little cost. Why would it stray from this effective formula to bioterrorism which is expensive and of questionable reliability?