# 1NC

### 1

#### First intep- Restrict means prohibit

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

3. The ordinary definition of the term "restrictions" also does not include the reporting and monitoring or supervising terms and conditions that are included in the 2001 Stipulation. ¶ Black's Law Dictionary, 'fifth edition,(1979) defines "restriction" as; ¶ A limitation often imposed in a deed or lease respecting the use to which the property may be put. The term "restrict' is also cross referenced with the term "restrain." Restrain is defined as; To limit, confine, abridge, narrow down, restrict, obstruct, impede, hinder, stay, destroy. To prohibit from action; to put compulsion on; to restrict; to hold or press back. To keep in check; to hold back from acting, proceeding, or advancing, either by physical or moral force, or by interposing obstacle, to repress or suppress, to curb. ¶ In contrast, the terms "supervise" and "supervisor" are defined as; To have general oversight over, to superintend or to inspect. See Supervisor. A surveyor or overseer. . . In a broad sense, one having authority over others, to superintend and direct. The term "supervisor" means an individual having authority, in the interest of the employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but required the use of independent judgment. ¶ Comparing the above definitions, it is clear that the definition of "restriction" is very different from the definition of "supervision"-very few of the same words are used to explain or define the different terms. In his 2001 stipulation, Mr. Kincheloe essentially agreed to some supervision conditions, but he did not agree to restrict his license.

**Violation: the affirmative must prohibit detention in foreign countries or close the Guantanamo Bay prison**

#### B. Standards:

#### 1. Limits – The topic is already huge – 4 areas times 2 mechanisms all with separate literature and unique advantages – its an impossible research burden.

#### 2. Bidirectionality – Absent prohibition they can create conditions that functionally increase authority

Wilson Center No Date

(War Powers Proposal Gives the President Even More Authority, [http://www.wilsoncenter.org/publication/war-powers-proposal-gives-the-president-even-more-authority)](http://www.wilsoncenter.org/publication/war-powers-proposal-gives-the-president-even-more-authority%29)

A privately organized Commission on War Powers recommended last week that the 1973 War Powers Resolution be repealed and replaced by a Congressional Joint Committee on Consultation and new procedures to approve or disapprove a "significant armed conflict."¶ The 12-member, bipartisan commission, co-chaired by former Secretaries of State Warren Christopher and James Baker, said the current law is flawed. In fact, every president since Richard Nixon has refused to comply with the War Powers Resolution on the grounds that it is an unconstitutional infringement on the president's powers as commander in chief. Among other things, the current act authorizes Congress to terminate combat operations by adopting a concurrent resolution. The Supreme Court ruled in the 1983 Chadha immigration case that one-house and two-house legislative vetoes do not conform to the Constitution's lawmaking requirements of two-house passage and presentment to the president. ¶ Under the substitute law proposed by the commission, the president must, prior to committing troops to "a significant armed conflict" (one likely to last more than a week), submit a classified report to the new joint committee justifying the need for action. The president is then required to consult at least once every 60 days with the committee. ¶ Within 30 days after the conflict begins, if Congress has not enacted a declaration of war or a law authorizing the use of force, a privileged concurrent resolution approving the troop commitment must be brought to a vote in both chambers. If either chamber rejects the approval resolution, any Member can then offer a privileged joint resolution disapproving the commitment. If the joint resolution is vetoed by the president, a two-thirds override vote by both chambers would be necessary to terminate the commitment. ¶ If I were either of the current presidential candidates, I would endorse the commission proposal in a heartbeat. It proposes to vastly expand presidential powers and options beyond current practice. In the "use of force" joint resolutions for Iraq (1991 and 2002) and Afghanistan (2001), Congress was able to negotiate conditions and limitations on the use of force with the president, who then signed the resolutions into law. ¶ That will not be the case if Congress uses the concurrent resolution of approval approach. No matter how many conditions Congress might try to place on the president's use of force in such a concurrent resolution, the president would be under no legal obligation to comply because the provisions would have no force or effect outside Congress. This is because concurrent resolutions are mere sense-of-Congress expressions. (Who's going to charge the president with failing to faithfully execute a non-law?) ¶ It stands to reason that, given this option, no future president will ask for a declaration of war or use of force law when the alternative is a nonbinding sense-of-Congress resolution approving the commitment of troops to combat. Never mind that such a resolution is probably unconstitutional under the Chadha decision requiring two-house passage and presentment to the president. (It's unlikely the court would directly rule on the issue since in recent times it has sidestepped war powers disputes between the branches on the grounds that they present political questions best left to the president and Congress to resolve.) ¶ Another clear advantage to the president presented by the commission's proposed law is the unique relationship that would be established with the 20-member, bipartisan joint committee. Its members would include the Speaker of the House, Senate Majority Leader, House and Senate Minority Leaders and the chairmen and ranking members of eight key committees. Whereas the administration must currently answer to several committees for its war policies, often in public hearings, the new arrangement will give the president both the incentive and justification to deal exclusively with the joint committee in closed sessions. This is something administrations have wanted for years given the burden of officials delivering duplicative testimony in open forums before multiple committees and subcommittees. ¶ The real losers in this new arrangement, of course, will be the rest of the House and Senate and the American people, all of whom will be left in the dark about what is said and done in the closed-door committee consultations with the president. They will be left to trust the judgment of committee members on the necessity for war and its subsequent conduct. ¶ The Commission on War Powers understandably reflects the leadership and views of two former secretaries of State who no doubt see Congress as many of their predecessors have: as an ill-informed, noisy, quarrelsome and meddling micro-manager when it comes to deciding the great issues of war and peace. If the administration must accommodate Congress in some way before making such decisions, they reason, it is best done among a few power elites in Congress, behind closed doors and shielded by classified briefings and documents.

#### Vote negative- Topicality is a prima facie burden and should be evaluated as a question of competing interpretations.

### 2

#### War powers policy analysis is plagued with flawed scholarship based on constructed threats to US national security – these threats reify the power of the executive while resulting in endless warfare – questioning the underlying assumptions of the knowledge presented in the 1AC is critical to creating a base for substantive political change

Rana, ’11

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Despite such democratic concerns, a large part of what makes today’s dominant security concept so compelling are two purportedly objective sociological claims about the nature of modern threat. As these claims undergird the current security concept, by way of a conclusion I would like to assess them more directly and, in the process, indicate what they suggest about the prospects for any future reform. The first claim is that global interdependence means that the U.S. faces near continuous threats from abroad. Just as Pearl Harbor presented a physical attack on the homeland justifying a revised framework, the American position in the world since has been one of permanent insecurity in the face of new, equally objective dangers. Although today these threats no longer come from menacing totalitarian regimes like Nazi Germany or the Soviet Union, they nonetheless create of world of chaos and instability in which American domestic peace is imperiled by decentralized terrorists and aggressive rogue states. Second, and relatedly, the objective complexity of modern threats makes it impossible for ordinary citizens to comprehend fully the causes and likely consequences of existing dangers. Thus, the best response is the further entrenchment of Herring’s national security state, with the U.S. permanently mobilized militarily to gather intelligence and to combat enemies wherever they strike – at home or abroad. Accordingly, modern legal and political institutions that privilege executive authority and insulated decision making are simply the necessary consequence of these externally generated crises. Regardless of these trade-offs, the security benefits of an empowered presidency (one armed with countless secret and public agencies as well as with a truly global military footprint)188 greatly outweigh the costs. Yet, although these sociological views have become commonplace, the conclusions that Americans should draw about security requirements are not nearly as clear cut as the conventional wisdom assumes. In particular, a closer examination of contemporary arguments about endemic danger suggests that such claims are not objective empirical judgments but rather are socially complex and politically infused interpretations. Indeed, the openness of existing circumstances to multiple interpretations of threat implies that the presumptive need for secrecy and centralization is not self-evident. And as underscored by high profile failures in expert assessment, claims to security expertise are themselves riddled with ideological presuppositions and subjective biases. All this indicates that the gulf between elite knowledge and lay incomprehension in matters of security may be far less extensive than is ordinarily thought. It also means that the question of who decides – and with it the issue of how democratic or insular our institutions should be – remains open as well. Clearly technological changes, from airpower to biological and chemical weapons, have shifted the nature of America’s position in the world and its potential vulnerability. As has been widely remarked for nearly a century, the oceans alone cannot guarantee our permanent safety. Yet, in truth they never fully ensured domestic tranquility. The nineteenth century was one of near continuous violence, especially with indigenous communities fighting to protect their territory from expansionist settlers. But even if technological shifts make doomsday scenarios more chilling than those faced by Hamilton, Jefferson, or Taney, the mere existence of these scenarios tells us little about their likelihood or how best to address them. Indeed, these latter security judgments are inevitably permeated with subjective political assessments, assessments that carry with them preexisting ideological points of view – such as regarding how much risk constitutional societies should accept or how interventionist states should be in foreign policy. In fact, from its emergence in the 1930s and 1940s, supporters of the modern security concept have – at times unwittingly – reaffirmed the political rather than purely objective nature of interpreting external threats. In particular, commentators have repeatedly noted the link between the idea of insecurity and America’s post-World War II position of global primacy, one which today has only expanded following the Cold War. In 1961, none other than Senator James William Fulbright declared, in terms reminiscent of Herring and Frankfurter, that security imperatives meant that “our basic constitutional machinery, admirably suited to the needs of a remote agrarian republic in the 18th century,” was no longer “adequate” for the “20th- century nation.” For Fulbright, the driving impetus behind the need to jettison antiquated constitutional practices was the importance of sustaining the country’s “preeminen[ce] in political and military power.” Fulbright held that greater executive action and war-making capacities were essential precisely because the United States found itself “burdened with all the enormous responsibilities that accompany such power.”192 According to Fulbright, the United States had both a right and a duty to suppress those forms of chaos and disorder that existed at the edges of American authority. Thus, rather than being purely objective, the American condition of permanent danger was itself deeply tied to political calculations about the importance of global primacy. What generated the condition of continual crisis was not only technological change, but also the belief that the United States’ own ‘national security’ rested on the successful projection of power into the internal affairs of foreign states. The key point is that regardless of whether one agrees with such an underlying project, the value of this project is ultimately an open political question. This suggests that whether distant crises should be viewed as generating insecurity at home is similarly as much an interpretative judgment as an empirically verifiable conclusion. To appreciate the open nature of security determinations, one need only look at the presentation of terrorism as a principal and overriding danger facing the country. According to the State Department’s Annual Country Reports on Terrorism, in 2009 “[t]here were just 25 U.S. noncombatant fatalities from terrorism worldwide” (sixteen abroad and nine at home).194 While the fear of a terrorist attack is a legitimate concern, these numbers – which have been consistent in recent years – place the gravity of the threat in perspective. Rather than a condition of endemic danger – requiring everincreasing secrecy and centralization – such facts are perfectly consistent with a reading that Americans do not face an existential crisis (one presumably comparable to Pearl Harbor) and actually enjoy relative security. Indeed, the disconnect between numbers and resources expended, especially in a time of profound economic insecurity, highlights the political choice of policymakers and citizens to persist in interpreting foreign events through a World War II and early Cold War lens of permanent threat. In fact, the continuous alteration of basic constitutional values to fit ‘national security’ aims highlights just how entrenched Herring’s old vision of security as pre-political and foundational has become, regardless of whether other interpretations of the present moment may be equally compelling. It also underscores a telling and often ignored point about the nature of modern security expertise, particularly as reproduced by the United States’ massive intelligence infrastructure. To the extent that political assumptions – like the centrality of global primacy or the view that instability abroad necessarily implicates security at home – shape the interpretative approach of executive officials, what passes as objective security expertise is itself intertwined with contested claims about how to view external actors and their motivations. This means that while modern conditions may well be complex, the conclusions of the presumed experts may not be systematically less liable to subjective bias than judgments made by ordinary citizens based on publicly available information. It further underscores that the question of who decides cannot be foreclosed in advance by simply asserting deference to elite knowledge. If anything, one can argue that the presumptive gulf between elite awareness and suspect mass opinion has generated its own very dramatic political and legal pathologies. In recent years, the country has witnessed a variety of security crises built on the basic failure of ‘expertise.’ 195 At present, part of what obscures this fact is the very culture of secret information sustained by the modern security concept. Today, it is commonplace for government officials to leak security material about terrorism or external threat to newspapers as a method of shaping the public debate. These ‘open’ secrets allow greater public access to elite information and embody a central and routine instrument for incorporating mass voice into state decision-making. But this mode of popular involvement comes at a key cost. Secret information is generally treated as worthy of a higher status than information already present in the public realm – the shared collective information through which ordinary citizens reach conclusions about emergency and defense. Yet, oftentimes, as with the lead up to the Iraq War in 2003, although the actual content of this secret information is flawed, its status as secret masks these problems and allows policymakers to cloak their positions in added authority. This reality highlights the importance of approaching security information with far greater collective skepticism; it also means that security judgments may be more ‘Hobbesian’ – marked fundamentally by epistemological uncertainty as opposed to verifiable fact – than policymakers admit. If both objective sociological claims at the center of the modern security concept are themselves profoundly contested, what does this mean for reform efforts that seek to recalibrate the r elationship between liberty and security? Above all, it indicates that the central problem with the procedural solutions offered by constitutional scholars – emphasizing new statutory frameworks or greater judicial assertiveness – is that they mistake a question of politics for one of law. In other words, such scholars ignore the extent to which governing practices are the product of background political judgments about threat, democratic knowledge, professional expertise, and the necessity for insulated decision-making. To the extent that Americans are convinced that they face continuous danger from hidden and potentially limitless assailants – danger too complex for the average citizen to comprehend independently – it is inevitable that institutions (regardless of legal reform initiatives) will operate to centralize power in those hands presumed to enjoy military and security expertise. Thus, any systematic effort to challenge the current framing of the relationship between security and liberty must begin by challenging the underlying assumptions about knowledge and security upon which legal and political arrangements rest. Without a sustained and public debate about the validity of security expertise, its supporting institutions, and the broader legitimacy of secret information, there can be no substantive shift in our constitutional politics. The p roblem at present, however, is that no popular base exists to raise these questions. Unless such a base emerges, we can expect our prevailing security arrangements to become ever more entrenched.

#### These discourses of danger allow for the constructions of threats against the humanity when the real risk is nil, it also allow for the state to go after its geopolitical interests

Jackson 05

[Richard Jackson, Lecturer in International Security at The University of Manchester, “Security, Democracy, and the Rhetoric of Counter-Terrorism”, Democracy and Security, Volume 1, Issue 2, 2005, pages 147-171, Taylor and Francis Online Database, \\wyo-bb]

As David Campbell has shown, discourses of danger and foreign threat have been integral in constituting and disciplining American identity as practiced through its foreign policy. 43 Collectivities, especially those as disparate and diverse as America, are often only unified by an external threat or danger; in this sense, threat creation can be functional to political life. Historically, the American government has relied on the discourse of threat and danger on numerous occasions: the “red scares” of the native Americans who threatened the spread of peaceful civilization along the Western frontier, the workers’ unrest at the time of the Bolshevik Revolution, and the threat to the American way of life during the cold war; the threat of “rogue states” like Libya, Panama, Iran, North Korea, and Iraq; and the threats posed by the drug trade, the proliferation of weapons of mass destruction, and now of course, terrorism. These discourses of danger are scripted for the purposes of maintaining inside/outside, self/other boundaries—they write American identity—and for enforcing unity on an unruly and (dis)United States.¶ Of course, there are other more mundane political functions for constructing fear and moral panic: provoking and allaying anxiety to maintain quiescence, de-legitimizing dissent, elevating the status of security actors, diverting scarce resources into ideologically driven political projects, distracting the public from more complex and pressing social ills. 44 This is not to say that terrorism poses no real threat; the dangers can plainly be seen in the images of falling bodies and the piles of rubble. Rather, it is to point out that dangers are those facets of social life interpreted as threats (in one sense, dangers do not exist objectively, independent of perception), and what is interpreted as posing a threat may not always correspond to the realities of the actual risk of harm. Illegal narcotics, for example, pose less of a risk than the abuse of legal drugs, but a “war on drugs” makes it otherwise. Similarly, the “war on terrorism” is a multi-billion dollar exercise to protect Americans from a danger that, excluding the September 11, 2001 attacks, killed less people per year over several decades than bee stings and lightening strikes. Even in 2001, America's worst year of terrorist deaths, the casualties from terrorism were still vastly outnumbered by deaths from auto-related accidents, gun crimes, alcohol and tobacco-related illnesses, suicides, and a large number of diseases like influenza, cancer, and heart disease. Globally, terrorism, which kills a few thousand per year, pales into insignificance next to the 40,000 people who die every day from hunger, the half a million people who die every year from small wars, the 150,000 annual deaths from increased diseases caused by global warming, 45 and the millions who die from AIDS. And yet, the whole world is caught up in the global “war on terrorism” whose costs so far run into the hundreds of billions. In a world of multiple threats, many of which pose a far greater risk to individual safety, the fact that terrorism is widely seen as posing the greatest and most immediate threat is due to the deliberate construction of a discourse of danger.¶ The initial construction of the threat of terrorism involved fixing the attacks of 9/11 as the start of a whole new “age of terror,” rather than as an extraordinary event, or an aberration (out of 18,000 terrorist attacks since 1968 only a dozen or so have caused more than 100 deaths; high-casualty terrorist attacks are extremely rare and 9/11 was the rarest of the rare). Instead, the attacks were interpreted as the dawning of a new era of terrorist violence that knew no bounds. As Bush stated, “All of this was brought upon us in a single day—and night fell on a different world.” 46 Vice-President Dick Cheney made it even clearer:¶ Today, we are not just looking at a new era in national security policy, we are actually living through it. The exact nature of the new dangers revealed themselves on September 11, 2001, with the murder of 3,000 innocent, unsuspecting men, women, and children right here at home. 47¶ This construct was only possible by severing all links between this act of terrorism and countless others that had preceded it, and by de-contextualizing it from the history of al Qaeda's previous attacks. As we saw earlier, “9/11” was constructed without a pre-history; it stands alone as a defining act of cruelty and evil. This break with the past makes it possible to assign it future significance as the start of “super-terrorism,” “catastrophic terrorism,” or simply “the new terrorism.” Logically, if there's a new super-terrorism, then a new super-war-on-terrorism seems reasonable.¶ A second feature of this discourse of danger is the hyperbolic language of threat. It is not just a threat of sudden violent death, it is actually a “threat to civilization,” a “threat to the very essence of what you do,” 48 a “threat to our way of life,” 49 and a threat to “the peace of the world.” 50 The notion of a “threat to our way of life” is a Cold War expression that vastly inflates the danger: instead of a tiny group of dissidents with resources that do not even begin to rival that of the smallest states, it implies that they are as powerful as the Soviet empire was once thought to be with its tens of thousands of missiles and its massive conventional army. Moreover, as Cheney reminds us, the threat of terrorism, like the threat of Soviet nuclear weapons, is supremely catastrophic:¶ The attack on our country forced us to come to grips with the possibility that the next time terrorists strike, they may well be armed with more than just plane tickets and box cutters. The next time they might direct chemical agents or diseases at our population, or attempt to detonate a nuclear weapon in one of our cities. [ … ] no rational person can doubt that terrorists would use such weapons of mass murder the moment they are able to do so. [ … ] we are dealing with terrorists [ … ] who are willing to sacrifice their own lives in order to kill millions of others. 51¶ In other words, not only are we threatened by evil terrorists eager to kill millions (not to mention civilization itself, the peace of the world, and the American way of life), but this is a rational and reasonable fear to have. We should be afraid, very afraid: “If they had the capability to kill millions of innocent civilians, do any of us believe they would hesitate to do so?.” 52¶ As if this was not enough to spread panic throughout the community, officials then go to great lengths to explain how these same terrorists (who are eager to kill millions of us) are actually highly sophisticated, cunning, and extremely dangerous. As John Ashcroft put it: “The highly coordinated attacks of September 11 make it clear that terrorism is the activity of expertly organized, highly coordinated, and well–financed organizations and networks.” 53 Moreover, this is not a tiny and isolated group of dissidents, but “there are thousands of these terrorists in more than 60 countries” and they “hide in countries around the world to plot evil and destruction”; 54 or, like the plot of a popular novel: “Thousands of dangerous killers, schooled in the methods of murder, often supported by outlaw regimes, are now spread throughout the world like ticking time bombs, set to go off without warning.” 55 In other speeches, officials inflate the numbers of the terrorists to “tens of thousands” of killers spread throughout the world.¶ The next layer of fear is the notion that the threat resides within; that it is no longer confined outside the borders of the community, but that it is inside of us and all around us. As Ashcroft constructs it:¶ The attacks of September 11 were acts of terrorism against America orchestrated and carried out by individuals living within our borders. Today's terrorists enjoy the benefits of our free society even as they commit themselves to our destruction. They live in our communities—plotting, planning, and waiting to kill Americans again [ … ] a conspiracy of evil. 56¶ Like the “red scares” of the past, the discourse of danger is deployed in this mode to enforce social discipline, mute dissent, and increase the powers of the national security state. It is designed to bring the war home, or, as Bush puts it: “And make no mistake about it, we've got a war here just like we've got a war abroad.” 57¶ In another genealogical link to previous American foreign policy, the threat of terrorism is from a very early stage reflexively conflated with the threat of “weapons of mass destruction” and the “rogue states” who might hand them on to terrorists. According to the discourse, rogue states are apparently eager to assist terrorists in killing millions of Americans. As Bush stated in his now infamous “axis of evil” speech,¶ States like these, and their terrorist allies, constitute an axis of evil, arming to threaten the peace of the world. By seeking weapons of mass destruction, these regimes pose a grave and growing danger. They could provide these arms to terrorists, giving them the means to match their hatred. 58¶ This is actually an ingenious discursive slight of hand which allows America to re-target its military from a war against a tiny group of individual dissidents scattered across the globe, to territorially defined states who also happen to be the target of American foreign policy. It transforms the “war against terrorism” from a largely hidden and unspectacular intelligence gathering and criminal apprehension program, to a flag-waving public display of awesome military firepower that re-builds a rather dented American self-confidence. More importantly, it allows for the simultaneous pursuit of geo-strategic objectives in crucial regions such as the Middle East under the banner of the “war on terrorism.” 59¶ Instead of reassuring the nation that the attacks were an exceptional and a unique event in a long line of terrorist attacks against America (that have thus far failed to overthrow freedom), the Bush administration chose instead to construct them as the start of a whole new age of terror—the start of a deadly new form of violence directed at Americans, civilized people all over the world, freedom, and democracy. The Bush administration could have chosen to publicize the conclusions of the Gilmore Commission in 1999, a Clinton-appointed advisory panel on the threat of WMD falling into the hands of terrorists. Its final report concluded that “rogue states would hesitate to entrust such weapons to terrorists because of the likelihood that such a group's actions might be unpredictable even to the point of using the weapon against its sponsor,” and they would be reluctant to use such weapons themselves due to “the prospect of significant reprisals.” 60 Condoleeza Rice herself wrote in 2000 that there was no need to panic about rogue states, because “if they do acquire WMD—their weapons will be unusable because any attempt to use them will bring national obliteration.” 61 Instead, officials engaged in the deliberate construction of a world of unimaginable dangers and unspeakable threats; they encouraged social fear and moral panic. Within the suffocating confines of such an emergency, where Americans measure their daily safety by the color of a national terrorist alert scale (reflected in the glow of every traffic light), it seems perfectly reasonable that the entire resources of the state be mobilized in defense of the homeland, and that pre-emptive war should be pursued. It also seems reasonable that national unity be maintained and expressions of dissent curtailed.¶ The reality effect of scripting such a powerful danger moreover, can be seen in the two major wars fought in two years (followed by costly ongoing “security operations” in each of those states to root out the terrorists), the arrest of thousands of suspects in America and around the world, and the vast sums spent unquestioningly (even by the Democrats) on domestic security, border control and the expansion of the military. Only the “reality” of the threat of terrorism allows such extravagance; in fact, the manner in which the threat has been constructed—catastrophic, ubiquitous, and ongoing—normalizes the entire effort. If an alternative interpretation of the threat emerged to challenge the dominant orthodoxy (that it was vastly over-blown, or misdirected, for example), support for the consumption of such massive amounts of resources might be questioned and the political order destabilized. A massive threat of terrorism then, is necessary for the continued viability of the “war on terrorism”; writing the threat of terrorism is co-constitutive of the practice of counter-terrorism.

#### The discourse of China as a threat is rooted in the neorealist epistemology of security and survival, this framing predetermines solutions to problems and locks China into a securitized framing that makes alternative solutions impossible

Pan, 2004

(Chengxin, “The ‘China-threat’ in American Self-Imagination: The discursive construction of the other as power politics.” Alternatives 29 (2004) 305-331, MB)

Having examined how the "China threat" literature is enabled by and serves the purpose of a particular U.S. self-construction, I want to turn now to the issue of how this literature represents a discursive construction of other, instead of an "objective" account of Chinese reality. This, I argue, has less to do with its portrayal of China as a threat per se than with its essentialization and totalization of China as an externally knowable object, independent of historically contingent contexts or dynamic international interactions. In this sense, the discursive construction of China as a threatening other cannot be detached from (neo)realism, a positivist. ahistorical framework of analysis within which global life is reduced to endless interstate rivalry for power and survival. As many critical IR scholars have noted, (neo) realism is not a transcendent description of global reality but is predicated on the modernist Western identity, which, in the quest for scientific certainty, has come to define itself essentially as the sovereign territorial nation-state. This realist self-identity of Western states leads to the constitution of anarchy as the sphere of insecurity, disorder, and war. In an anarchical system, as (neo) realists argue, "the gain of one side is often considered to be the loss of the other,"''5 and "All other states are potential threats."'•^ In order to survive in such a system, states inevitably pursue power or capability. In doing so, these realist claims represent what R. B. J. Walker calls "a specific historical articulation of relations of universality/particularity and self/Other."^^ The (neo) realist paradigm has dominated the U.S. IR discipline in general and the U.S. China studies field in particular. As Kurt Campbell notes, after the end of the Cold War, a whole new crop of China experts "are much more likely to have a background in strategic studies or international relations than China itself. ""^^ As a result, for those experts to know China is nothing more or less than to undertake a geopolitical analysis of it, often by asking only a few questions such as how China will "behave" in a strategic sense and how it may affect the regional or global balance of power, with a particular emphasis on China's military power or capabilities. As Thomas J. Christensen notes, "Although many have focused on intentions as well as capabilities, the most prevalent component of the [China threat] debate is the assessment of China's overall future military power compared with that of the United States and other East Asian regional powers."''^ Consequently, almost by default, China emerges as an absolute other and a threat thanks to this (neo) realist prism. The (neo)realist emphasis on survival and security in inter- national relations dovetails perfectly with the U.S. self-imagination, because for the United States to define itself as the indispensable nation in a world of anarchy is often to demand absolute security. As James Chace and Caleb Carr note, "for over two centuries the aspiration toward an eventual condition of absolute security has been viewed as central to an effective American foreign policy."50 And this self-identification in turn leads to the definition of not only "tangible" foreign powers but global contingency and uncertainty per se as threats. For example, former U.S. President George H. W. Bush repeatedly said that "the enemy [of America] is unpredictability. The enemy is instability. "5' Similarly, arguing for the continuation of U.S. Cold War alliances, a high-ranking Pentagon official asked, "if we pull out, who knows what nervousness will result? "^2 Thus understood, by its very uncertain character, China would now automatically constitute a threat to the United States. For example, Bernstein and Munro believe that "China's political unpredictability, the always-present possibility that it will fall into a state of domestic disunion and factional fighting," constitutes a source of danger.s^ In like manner, Richard Betts and Thomas Christensen write: If the PLA [People's Liberation Army] remains second-rate, should the world breathe a sigh of relief? Not entirely. . . . Drawing China into the web of global interdependence may do more to encourage peace than war, but it cannot guarantee that the pursuit of heartfelt political interests will be blocked by a fear of economic consequences. . . . U.S. efforts to create a stable balance across the Taiwan Strait might deter the use of force under certain circumstances, but certainly not all.54 The upshot, therefore, is that since China displays no absolute certainty for peace, it must be, by definition, an uncertainty, and hence, a threat. In the same way, a multitude of other unpredictable factors (such as ethnic rivalry, local insurgencies, overpopulation, drug trafficking, environmental degradation, rogue states, the spread of weapons of mass destruction, and international terrorism) have also been labeled as "threats" to U.S. security. Yet, it seems that in the post-Cold War environment, China represents a kind of uncertainty par excellence. "Whatever the prospects for a more peaceful, more democratic, and more just world order, nothing seems more uncertain today than the future of post-Deng China,"55 argues Samuel Kim. And such an archetypical uncertainty is crucial to the enterprise of U.S. self-construction, because it seems that only an uncertainty with potentially global consequences such as China could justify U.S. indispensability or its continued world dominance. In this sense, Bruce Cumings aptly suggested in 1996 that China (as a threat) was basically "a metaphor for an enormously expensive Pentagon that has lost its bearings and that requires a formidable 'renegade state' to define its mission (Islam is rather vague, and Iran lacks necessary weights)."56

#### The logic of security makes violence inevitable, and is the root cause of destructive features of contemporary modernity

Burke 7 (Anthony, Senior Lecturer in Politics and International Relations at UNSW, Sydney, “Ontologies of War: Violence, Existence and Reason”, Theory and Event, 10.2, Muse)

My argument here, whilst normatively sympathetic to Kant's moral demand for the eventual abolition of war, militates against excessive optimism.86 Even as I am arguing that **war is not an enduring historical or anthropological feature, or a neutral and rational instrument of policy** -- that it is **rather the** product of hegemonic forms of knowledge **about political action and community** -- my analysis does suggest some sobering conclusions about its power as an idea and formation. **Neither the progressive flow of history nor the pacific tendencies of an international society of republican states will save us. The violent ontologies** I have described here in fact **dominate the conceptual and policy frameworks of modern republican states** and have come, against everything Kant hoped for, to stand in for progress, modernity and reason. Indeed what Heidegger argues, I think with some credibility, is that **the enframing world view has come to stand in for being itself. Enframing**, argues Heidegger, **'does not simply endanger man in his relationship to himself and to everything that is...it drives out every other possibility of revealing.**..the rule of Enframing threatens man with the possibility that it could be denied to him to enter into a more original revealing and hence to experience the call of a more primal truth.'87 What I take from Heidegger's argument -- one that I have sought to extend by analysing the militaristic power of modern ontologies of political existence and security -- is a view that **the challenge is posed not merely by a few varieties of weapon, government, technology or policy, but by an overarching system of thinking and understanding that lays claim to our entire space of truth and existence. Many of the** most destructive features of contemporary modernity **-- militarism, repression, coercive diplomacy, covert intervention, geopolitics, economic exploitation and ecological destruction -- derive not merely from particular choices by policymakers based on their particular interests, but from calculative, 'empirical' discourses of** scientific and **political truth rooted in powerful enlightenment images of being. Confined within such an epistemological and cultural universe,** policymakers' choices become necessities**, their actions become inevitabilities, and humans suffer and die**. Viewed in this light, **'rationality' is the name we give the chain of reasoning which builds one structure of truth on another until a course of action, however violent or dangerous, becomes preordained through that reasoning's very operation and existence. It creates both discursive constraints -- available choices may simply not be seen as credible or legitimate -- and material constraints that derive from the mutually reinforcing cascade of discourses and events which then preordain militarism and violence as necessary policy responses**, however ineffective, dysfunctional or chaotic. The force of my own and Heidegger's analysis does, admittedly, tend towards a deterministic fatalism. On my part this is quite deliberate; it is important to allow this possible conclusion to weigh on us. **Large sections of modern societies -- especially parts of the media, political leaderships and national security institutions -- are utterly trapped within the Clausewitzian paradigm, within the instrumental utilitarianism of 'enframing'** and the stark ontology of the friend and enemy. They are certainly tremendously aggressive and energetic in continually stating and reinstating its force. But is there a way out? Is there no possibility of agency and choice? Is this not the key normative problem I raised at the outset, of how **the modern ontologies of war efface agency, causality and responsibility from decision making**; the responsibility that comes with having choices and making decisions, with exercising power? (In this I am much closer to Connolly than Foucault, in Connolly's insistence that, **even in the face of the anonymous power of discourse to produce and limit subjects, selves remain capable of agency and thus incur responsibilities.**88) There seems no point in following Heidegger in seeking a more 'primal truth' of being -- that is to reinstate ontology and obscure its worldly manifestations and consequences from critique. However we can, while refusing Heidegger's unworldly89 nostalgia, appreciate that he was searching for a way out of the modern system of calculation; that he was searching for a 'questioning', 'free relationship' to technology that would not be immediately recaptured by the strategic, calculating vision of enframing. Yet his path out is somewhat chimerical -- his faith in 'art' and the older Greek attitudes of 'responsibility and indebtedness' offer us valuable clues to the kind of sensibility needed, but little more. **When we consider the problem of policy, the force of this analysis suggests that choice and agency can be all too often limited; they can remain confined** (sometimes quite wilfully) **within the overarching strategic and security paradigms.** Or, more hopefully, policy choices could aim to bring into being **a more enduringly inclusive, cosmopolitan and peaceful logic of the political.** But this **cannot be done without seizing alternatives** from outside the space of enframing and utilitarian strategic thought, by being aware of its presence and weight and activating a very different concept of existence, security and action.90 This would seem to hinge upon 'questioning' as such -- on the questions we put to the real and our efforts to create and act into it. Do security and strategic policies seek to exploit and direct humans as material, as energy, or do they seek to protect and enlarge human dignity and autonomy? Do they seek to impose by force an unjust status quo (as in Palestine), or to remove one injustice only to replace it with others (the U.S. in Iraq or Afghanistan), or do so at an unacceptable human, economic, and environmental price? **Do we see our actions within an instrumental, amoral framework (of 'interests') and a linear chain of causes and effects (the idea of force), or do we see them as folding into a complex interplay of languages, norms, events and consequences which are less predictable and controllable**?91 And most fundamentally: Are we seeking to coerce or persuade? Are less violent and more sustainable choices available? Will our actions perpetuate or help to end the global rule of insecurity and violence? Will our thought?

#### The alternative is to reject the security discourse of the 1ac.

#### We need to question the assumptions and language that frame policies. The alternative is a prerequisite to effective policies in the future

Bruce 96

(Robert, Associate Professor in Social Science – Curtin University and Graeme Cheeseman, Senior Lecturer – University of New South Wales, Discourses of Danger and Dread Frontiers, p. 5-9)

This goal is pursued in ways which are still unconventional in the intellectual milieu of international relations in Australia, even though they are gaining influence worldwide as traditional modes of theory and practice are rendered inadequate by global trends that defy comprehension, let alone policy. The inability to give meaning to global changes reflects partly the enclosed, elitist world of professional security analysts and bureaucratic experts, where entry is gained by learning and accepting to speak a particular, exclusionary language. The contributors to this book are familiar with the discourse, but accord no privileged place to its ‘knowledge form as reality’ in debates on defence and security. Indeed, they believe that debate will be furthered only through a long overdue critical re-evaluation of elite perspectives. Pluralistic, democratically-oriented perspectives on Australia’s identity are both required and essential if Australia’s thinking on defence and security is to be invigorated. This is not a conventional policy book; nor should it be, in the sense of offering policy-makers and their academic counterparts sets of neat alternative solutions, in familiar language and format, to problems they pose. This expectation is in itself a considerable part of the problem to be analysed. It is, however, a book about policy, one that questions how problems are framed by policy-makers. It challenges the proposition that irreducible bodies of real knowledge on defence and security exist independently of their ‘context in the world’, and it demonstrates how security policy is articulated authoritatively by the elite keepers of that knowledge, experts trained to recognize enduring, universal wisdom. All others, from this perspective, must accept such wisdom or remain outside the expert domain, tainted by their inability to comply with the ‘rightness’ of the official line. But it is precisely the official line, or at least its image of the world, that needs to be problematised. If the critic responds directly to the demand for policy alternatives, without addressing this image, he or she is tacitly endorsing it. Before engaging in the policy debate the critics need to reframe the basic terms of reference. This book, then, reflects and underlines the importance of Antonio Gramsci and Edward Said’s ‘critical intellectuals’.15 The demand, tacit or otherwise, that the policy-maker’s frame of reference be accepted as the only basis for discussion and analysis ignores a three thousand year old tradition commonly associated with Socrates and purportedly integral to the Western tradition of democratic dialogue. More immediately, it ignores post-seventeenth century democratic traditions which insist that a good society must have within it some way of critically assessing its knowledge and the decisions based upon that knowledge which impact upon citizens of such a society. This is a tradition with a slightly different connotation in contemporary liberal democracies which, during the Cold War, were proclaimed different and superior to the totalitarian enemy precisely because there were institutional checks and balances upon power. In short, one of the major differences between ‘open societies’ and their (closed) counterparts behind the Iron Curtain was that the former encouraged the critical testing of the knowledge and decisions of the powerful and assessing them against liberal democratic principles. The latter tolerated criticism only on rare and limited occasions. For some, this represented the triumph of rational-scientific methods of inquiry and techniques of falsification. For others, especially since positivism and rationalism have lost much of their allure, it meant that for society to become open and liberal, sectors of the population must be independent of the state and free to question its knowledge and power. Though we do not expect this position to be accepted by every reader, contributors to this book believe that critical dialogue is long overdue in Australia and needs to be listened to. For all its liberal democratic trappings, Australia’s security community continues to invoke closed monological narratives on defence and security. This book also questions the distinctions between policy practice and academic theory that inform conventional accounts of Australian security. One of its major concerns, particularly in chapters 1 and 2, is to illustrate how theory is integral to the practice of security analysis and policy prescription. The book also calls on policy-makers, academics and students of defence and security to think critically about what they are reading, writing and saying; to begin to ask, of their work and study, difficult and searching questions raised in other disciplines; to recognise, no matter how uncomfortable it feels, that what is involved in theory and practice is not the ability to identify a replacement for failed models, but a realisation that terms and concepts – state sovereignty, balance of power, security, and so on – are contested and problematic, and that the world is indeterminate, always becoming what is written about it. Critical analysis which shows how particular kinds of theoretical presumptions can effectively exclude vital areas of political life from analysis has direct practical implications for policy-makers, academics and citizens who face the daunting task of steering Australia through some potentially choppy international waters over the next few years. There is also much of interest in the chapters for those struggling to give meaning to a world where so much that has long been taken for granted now demands imaginative, incisive reappraisal. The contributors, too, have struggled to find meaning, often despairing at the terrible human costs of international violence. This is why readers will find no single, fully formed panacea for the world’s ills in general, or Australia’s security in particular. There are none. Every chapter, however, in its own way, offers something more than is found in orthodox literature, often by exposing ritualistic Cold War defence and security mind-sets that are dressed up as new thinking. Chapters 7 and 9, for example, present alternative ways of engaging in security and defence practice. Others (chapters 3, 4, 5, 6 and 8) seek to alert policy-makers, academics and students to alternative theoretical possibilities which might better serve an Australian community pursuing security and prosperity in an uncertain world. All chapters confront the policy community and its counterparts in the academy with a deep awareness of the intellectual and material constraints imposed by dominant traditions of realism, but they avoid dismissive and exclusionary terms which often in the past characterized exchanges between policy-makers and their critics. This is because, as noted earlier, attention needs to be paid to the words and the thought processes of those being criticized. A close reading of this kind draws attention to underlying assumptions, showing they need to be recognized and questioned. A sense of doubt (in place of confident certainty) is a necessary prelude to a genuine search for alternative policies. First comes an awareness of the need for new perspectives, then specific policies may follow. As Jim George argues in the following chapter, we need to look not so much at contending policies as they are made for us but at challenging ‘the discursive process which gives [favoured interpretations of “reality”] their meaning and which direct [Australia’s] policy/analytical/military responses’. This process is not restricted to the small, official defence and security establishment huddled around the US-Australian War Memorial in Canberra. It also encompasses much of Australia’s academic defence and security community located primarily though not exclusively within the Australian National University and the University College of the University of New South Wales. These discursive processes are examined in detail in subsequent chapters as authors attempt to make sense of a politics of exclusion and closure which exercises disciplinary power over Australia’s security community. They also question the discourse of ‘regional security’, ‘security cooperation’, ‘peacekeeping’ and ‘alliance politics’ that are central to Australia’s official and academic security agenda in the 1990s. This is seen as an important task especially when, as is revealed, the disciplines of International Relations and Strategic Studies are under challenge from critical and theoretical debates ranging across the social sciences and humanities; debates that are nowhere to be found in Australian defence and security studies. The chapters graphically illustrate how Australia’s public policies on defence and security are informed, underpinned and legitimised by a narrowly-based intellectual enterprise which draws strength from contested concepts of realism and liberalism, which in turn seek legitimacy through policy-making processes. Contributors ask whether Australia’s policy-makers and their academic advisors are unaware of broader intellectual debates, or resistant to them, or choose not to understand them, and why?

### NATO

#### NATO isn’t necessary – The US will always remain engaged with Europe.

Michael Gallagher 03, Assistant Secretary of Commerce, Winter 2003 Houston Journal of International Law

NATO’s supporters argue that ending NATO will destabilize Europe. Ending NATO, they claim, will destroy the transatlantic link between the United States and Europe, and isolate the United States from Europe. The ties of history, however, prevent this outcome. The United States has long enjoyed a “special relationship” with the United Kingdom. The United States also has strong relations with such nations as Italy, Turkey, Germany, the Netherlands, Denmark, and Norway. Some claim that NATO is the foremost expression of U.S. commitment to Europe. The United States, however, aided Europe in two world wars, and stood firmly by Europe’s side during the Cold War – this commitment surpasses diplomatic formalities. The United States will not isolate itself from Europe merely because NATO disbands. Additionally, European nations do not need a formal security link to the United States. Even with NATO gone, “there is still plenty of life in, and need for, [the United States-Europe security] partnership.”

#### Impact inevitable- Continued economic decline will crush NATO

Daniel Hamilton et al, Richard von Weizsäcker Professor and Director of the Center for Transatlantic Relations at the Paul H. Nitze School of Advanced International Studies (SAIS), Feb. 2009 (“Alliance Reborn: An Atlantic Compact for the 21st Century” http://foreign.senate.gov/testimony/2009/HamiltonTestimony090506p.pdf)

First, we must tackle immediate economic challenges while positioning our economies for the future. Few issues are likely to shape European-American relations over the next few years as the global economic crisis. This epochal event has erased any doubt about how interconnected the transatlantic economy has become. The deeper and more prolonged the economic recession of 2009, the greater the risks of inward, insular policies on both sides of the Atlantic. Our common challenge is to show our citizens and millions around the world that it is possible to reap globalization’s benefits while making its costs bearable to those most directly affected, without succumbing to protectionist temptations. This requires more than large dollops of fiscal and monetary stimuli. Bolder thinking and action are needed.

#### 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%22%20%5Cl%20%22f47) 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%22%20%5Cl%20%22f48)¶ 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%22%20%5Cl%20%22f49) 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%22%20%5Cl%20%22f50)¶ 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%22%20%5Cl%20%22f51) ¶ 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%22%20%5Cl%20%22f52) 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%22%20%5Cl%20%22f53) 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.

**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.

### Limiting Judicial

#### Continued unfettered deference ensures adventurism and global instability

Ann Scales 12, University of Denver Sturm College of Law, and Laura Spitz, University of Colorado Law School, 2012, “The Jurisprudence of the Military-Industrial Complex”, Seattle Journal for Social Justice, <http://digitalcommons.law.seattleu.edu/sjsj/vol1/iss3/51>

So, what is the jurisprudence of the military-industrial complex? The short answer is this: the military-industrial complex has arrived at a comfy situation where it is either exempt from the rule of law, or else gets to make every decision that informs what the rule of law would require in a given situation. It is kind of like having your cake and eating it with the Lord. Eisenhower could have no idea how huge, seamless, and synergistic this complex would become, including not just weapons manufacture, but virtually all relations of law, production, and populations in the world. I am going to take a couple of minutes to spell out how the military side of this complex presently works, erasing boundaries with industrial interests, and indeed, with any other legally recognized interests at all. First, our nation’s history and legitimacy rest upon a separation of military power from democratic governance. For that reason, the armed forces are subject to constitutional constraint. Second, however, as an aspect of separation of powers, courts try not to interfere in areas of foreign policy and military affairs. Often this is referred to as the “political question” doctrine, a determination that a matter is beyond the capabilities of judges. The strongest argument for this deference is that the political branches—or the military itself—have superior expertise in military matters. That may be true in some situations. I am not sure, for example, the Supreme Court would have been the best crowd to organize the invasion of Normandy. But what we now have is an increasingly irrational deference. 7 Consider three cases: a. In Korematsu v. United States, 8 the Supreme Court said the internment of Japanese-Americans at the beginning of 1942 was constitutional, based upon a military assessment of the possibility of espionage in preparation for a Japanese invasion of the United States. It turns out that the information provided by the military to the Supreme Court was falsified. 9 But note two things: (1) the nation was in the midst of a declared world war, and (2) in subsequent less urgent circumstances, Korematsu would seem to argue strongly for military justifications to have to be based upon better, more reliable information than was offered there. b. In the 1981 case of Rostker v. Goldberg , 10 the Supreme Court decided that it was constitutional for Congress to exclude women from the peacetime registration of potential draftees, even though both the Department of Defense and the Army Chief of Staff had testified that including women would increase military readiness. But Congress got the benefit of the military deference doctrine as a cover for what I think was a sinister political purpose—to protect the manliness of war—and the Supreme Court felt perfectly free to ignore what those with the real expertise had to say . c. Most recently, in Hamdi v. Rumsfeld , 11 the Fourth Circuit held that a U.S. citizen who had been designated an “enemy combatant” 12 could be detained indefinitely without access to counsel. In this case, however, not only is there no declared war, 13 but also, the only evidence regarding Mr. Hamdi was a two-page affidavit by a Defense Department underling, Mr. Mobbs. Mobbs stated that Mr. Hamdi was captured in Afghanistan, and had been affiliated with a Taliban military unit. The government would not disclose the criteria for the “enemy combatant” designation, the statements of Mr. Hamdi that allegedly satisfied those criteria, nor any other bases for the conclusion of Taliban “affiliation.” 14 And that is as good as the evidence for life imprisonment without trial has to be. Deference to the military has become abdication. In other words, what we presently have is not civilian government under military control, but something potentially worse, a civilian government ignoring military advice, 15 but using the legal doctrine of military deference for its own imperialist ends. Third, the gigantic military establishment and permanent arms industry are now in the business of justifying their continued existences. This justification is done primarily, as you know, by retooling for post-Cold War enemies—the so-called “rogue states ”—while at the same time creating new ones, for example by arming corrupt regimes in Southeast Asia. 16 I was reminded of this recently when we went to see comedian Kate Clinton. She thought Secretary Powell had taken too much trouble in his presentation attempting to convince the Security Council that Iraq had weapons of mass destruction. 17 Why not, she asked, “just show them the receipts?” Fourth, we have seen the exercise of extraordinary influence by arms makers on both domestic and foreign policy. For domestic pork barrel and campaign finance reasons, obsolete or unproven weapons systems continue to be funded even when the military does not want them! 18 And, just when we thought we had survived the nuclear arms race nightmare, the United States has undertaken to design new kinds of nuclear weapons, 19 even when those designs have little military value. 20 Overseas, limitations on arms sales are being repealed, and arms markets that should not exist are being constantly expanded 21 for the sake of dumping inventory, even if those weapons are eventually used for “rogue” purposes by rogue states. This system skews security considerations, and militarizes foreign policy. Force has to be the preferred option because other conduits of policy are not sufficiently well-funded. Plus, those stockpiled weapons have got to be used or sold so that we can build more.

#### Fast and flexible doesn’t mean effective, unilateral action doesn’t solve aff impacts

O’Neil 11

(Robert, Houston Law Review, “The Price of Purity: Weakening the Executive Model of the United States’ Counter-Terror Legal System,” Winter 2011, Lexis//wyo-mm)

Those opposed to enacting anti-terror policy through the regular bicameral process criticize the legislative method as being ill-suited for responding to threats to national security because of the time it requires before any plan of action may be [\*1446] implemented. n160 Unilateral executive action certainly permits greater speed in enacting policy decisions and may be preferable in urgent situations that call for swift action. n161 Under the pure form of the executive model, the executive is theoretically limited only by the time it takes him or her to divine the strategy, policy, or act. In contrast, the weak form of the executive model's preference for congressionally enacted counter-terror policy does tend to slow the pace at which new strategies are put in place. Fast action, however, even in exigent circumstances, does not necessarily equate effective action. n162 Feeling compelled to react immediately in a crisis situation can lead the executive to act impulsively, without considering potentially more effective alternatives. n163 For example, the violent interrogation sessions that followed the sudden executively authorized departure from longstanding international rules regarding the treatment of detainees caused great domestic and international controversy during the Bush Administration, and compromised the United States' credibility abroad. n164

#### Alt causes for flex loss

Rozell 12

(Mark Rozell, Professor of Public Policy, George Mason University, “From Idealism to Power: The Presidency in the Age of Obama” 2012, <http://www.libertylawsite.org/book-review/from-idealism-to-power-the-presidency-in-the-age-of-obama/>, KB)

A substantial portion of Goldsmith’s book presents in detail his case that various forces outside of government, and some within, are responsible for hamstringing the president in unprecedented fashion: Aggressive, often intrusive, journalism, that at times endangers national security; human rights and other advocacy groups, some domestic and other cross-national, teamed with big resources and talented, aggressive lawyers, using every legal category and technicality possible to complicate executive action; courts thrust into the mix, having to decide critical national security law controversies, even when the judges themselves have little direct knowledge or expertise on the topics brought before them; attorneys within the executive branch itself advising against actions based on often narrow legal interpretations and with little understanding of the broader implications of tying down the president with legalisms.

### Drone Shift

#### Drone Shift Locked-In

Jay Lefkowitz 13, senior lawyer and former domestic policy advisor to President George W. Bush and John O'Quinn, former DOJ official in the Bush administration, Financial Times, "Drones are no substitute for detention", March 4, www.ft.com/cms/s/0/dae6552c-84c2-11e2-891d-00144feabdc0.html#axzz2dZnIVyqb

Memo to all those critics of Guantánamo Bay: beware what you wish for. The nomination of John Brennan to head the CIA was put on hold, in no small part because of the growing debate over the use of drone strikes to kill suspected high-value al-Qaeda operatives and other alleged terrorists. President Barack Obama’s administration defends these strikes as “legal”, “ethical”, “wise” and even “humane”. Opponents characterise them as an aggrandisement of executive power in which the president becomes judge, jury and executioner. Sound familiar? It should – because it parallels the debate over the policy of detaining terrorist suspects at Guantánamo that punctuated most of George W. Bush’s time in office.¶ In the past four years, there has been a dramatic shift from detention to drone strikes as the tool of choice for removing al-Qaeda operatives from the field of battle. They have reportedly been used more than 300 times in Pakistan alone by the Obama administration, at least six times more than under Mr Bush. They inevitably come with collateral damage. Meanwhile, not one detainee has been transferred to Guantánamo, and the US has largely outsourced the running of the detention facility at Bagram air base to the Afghan government. Rather than capture enemies and collect valuable information, this administration prefers to pick them off. In short, every successful drone strike is another wasted intelligence-gathering opportunity.¶ Lost amid recent hysteria over the drone programme is the question of why – when detention produces little collateral damage – there appears to be little appetite for capturing and questioning suspects. The answer: it poses hard choices for an administration fearful of the criticism directed at its predecessors – one that in effect abandoned its efforts to close Guantánamo, and came round largely to defending Bush-era policies regarding detention, but only very reluctantly.¶ Detention requires the government to decide: when is a detainee no longer a threat? Should they be tried, and where? When, where and how can they can be repatriated? What intelligence can be shared with a court or opposing counsel? And, one of the hardest questions of all: what if you release a detainee and they take up arms again?¶ On top of that, it raises questions about intelligence-gathering, a primary mission at Guantánamo. Indeed, it has been widely reported that intelligence from detainees helped lead the US to Osama bin Laden. But how is it to be gathered? What techniques are permissible? Moreover, accusations of torture are easily made – it is literally part of the al-Qaeda play book to do so – but hard to debunk without compromising intelligence.¶ By contrast, drone strikes are easy. With a single key stroke, a suspected enemy is eliminated once and for all, with no fuss, no judicial second-guessing and no legions of lawyers poised to challenge detention. Indeed, one of the unintended consequences of the criticism of Guantánamo is to make drone strikes more attractive than detention for removing al-Qaeda operatives from the field of battle.¶ Yet, even as potential intelligence assets are bombed out of existence, the information trail from detainees captured 10 years ago grows cold. At the same time, al-Qaeda evolves and expands. What could we have learnt from even a handful of the high-value operatives killed in drone strikes?¶ We do not dispute that use of drones against al-Qaeda is a legitimate part of the president’s powers as commander-in-chief, and we have doubts about some proposals that purport to circumscribe that authority. But it is clear this administration is using them as a substitute for capture, detention and intelligence-gathering. The current debate highlights the need for Congress and the administration to refocus their efforts on developing a sensible, sustainable policy for detention of foreign enemy combatants – in which enemies are safely held far from US soil, intelligence is actively gathered and justice promptly administered through military courts – instead of taking the easy way out.

#### No link

Robert Chesney 11, Charles I. Francis Professor in Law at the UT School of Law as well as a non-resident Senior Fellow at Brookings, "Examining the Evidence of a Detention-Drone Strike Tradeoff", October 17, www.lawfareblog.com/2011/10/examining-the-evidence-of-a-detention-drone-strike-tradeoff/

Yesterday Jack linked to this piece by Noah Feldman, which among other things advances the argument that the Obama administration has resorted to drone strikes at least in part in order to avoid having to grapple with the legal and political problems associated with military detention:¶ Guantanamo is still open, in part because Congress put obstacles in the way. Instead of detaining new terror suspects there, however, Obama vastly expanded the tactic of targeting them, with eight times more drone strikes in his first year than in all of Bush’s time in office.¶ Is there truly a detention-drone strike tradeoff, such that the Obama administration favors killing rather than capturing? As an initial matter, the numbers quoted above aren’t correct according to the New America Foundation database of drone strikes in Pakistan, 2008 saw a total of 33 strikes, while in 2009 there were 53 (51 subsequent to President Obama’s inauguration). Of course, you can recapture something close to the same point conveyed in the quote by looking instead to the full number of strikes conducted under Bush and Obama, respectively. There were relatively few drone strikes prior to 2008, after all, while the numbers jump to 118 for 2010 and at least 60 this year (plus an emerging Yemen drone strike campaign). But what does all this really prove?¶ Not much, I think. Most if not all of the difference in drone strike rates can be accounted for by specific policy decisions relating to the quantity of drones available for these missions, the locations in Pakistan where drones have been permitted to operate, and most notably whether drone strikes were conditioned on obtaining Pakistani permission. Here is how I summarize the matter in my forthcoming article on the legal consequences of the convergence of military and intelligence activities:¶ According to an analysis published by the New America Foundation, two more drone strikes in Pakistan’s FATA region followed in 2005, with at least two more in 2006, four more in 2007, and four more in the first half of 2008.[1] The pattern was halting at best. Yet that soon changed. U.S. policy up to that point had been to obtain Pakistan’s consent for strikes,[2] and toward that end to provide the Pakistani government with advance notification of them.[3] But intelligence suggested that on some occasions “the Pakistanis would delay planned strikes in order to warn al Qaeda and the Afghan Taliban, whose fighters would then disperse.”[4] A former official explained that in this environment, it was rare to get permission and not have the target slip away: “If you had to ask for permission, you got one of three answers: either ‘No,’ or ‘We’re thinking about it,’ or ‘Oops, where did the target go?”[5]¶ Declaring that he’d “had enough,” Bush in the summer of 2008 “ordered stepped-up Predator drone strikes on al Qaeda leaders and specific camps,” and specified that Pakistani officials going forward should receive only “‘concurrent notification’…meaning they learned of a strike as it was underway or, just to be sure, a few minutes after.”[6] Pakistani permission no longer was required.[7] ¶ The results were dramatic. The CIA conducted dozens of strikes in Pakistan over the remainder of 2008, vastly exceeding the number of strikes over the prior four years combined.[8] That pace continued in 2009, which eventually saw a total of 53 strikes.[9] And then, in 2010, the rate more than doubled, with 188 attacks (followed by 56 more as of late August 2011).[10] The further acceleration in 2010 appears to stem at least in part from a meeting in October 2009 during which President Obama granted a CIA request both for more drones and for permission to extend drone operations into areas of Pakistan’s FATA that previously had been off limits or at least discouraged.[11] ¶ There is an additional reason to doubt that the number of drone strikes tells us much about a potential detention/targeting tradeoff: most of these strikes involved circumstances in which there was no feasible option for capturing the target. These strikes are concentrated in the FATA region, after all. ¶ Having said all that: it does not follow that there is no detention-targeting tradeoff at work. I’m just saying that drone strikes in the FATA typically should not be understood in that way (though there might be limited exceptions where a capture raid could have been feasible). Where else to look, then, for evidence of a detention/targeting tradeoff?¶ Bear in mind that it is not as if we can simply assume that the same number of targets emerge in the same locations and circumstances each year, enabling an apples-to-apples comparison. But set that aside.¶ First, consider locations that (i) are outside Afghanistan (since we obviously still do conduct detention ops for new captures there) and (ii) entail host-state government control over the relevant territory plus a willingness either to enable us to conduct our own ops on their territory or to simply effectuate captures themselves and then turn the person(s) over to us. This is how most GTMO detainees captured outside Afghanistan ended up at GTMO. Think Bosnia with respect to the Boumediene petitioners, Pakistan’s non-FATA regions, and a variety of African and Asian states where such conditions obtained in years past. In such locations, we seem to be using neither drones nor detention. Rather, we either are relying on host-state intervention or we are limiting ourselves to surveillance. Very hard to know how much of each might be going on, of course. If it is occurring often, moreover, it might reflect a decline in host-state willingness to cooperate with us (in light of increased domestic and diplomatic pressure from being seen to be responsible for funneling someone into our hands, and the backdrop understanding that, in the age of wikileaks, we simply can’t promise credibly that such cooperation will be kept secret). In any event, this tradeoff is not about detention versus targeting, but something much more complex and difficult to measure.

#### Drones are inevitable

Henning, 2-20-12

[Job, NYT, Embracing the Drone, http://www.nytimes.com/2012/02/21/opinion/embracing-the-drone.html?pagewanted=all&\_r=0] /Wyo-MB

Drones — more formally armed Unmanned Aerial Vehicles, or UAVs — are “in.” Since a Predator strike in Yemen against Al Qaeda in November 2002 — the first known use of a drone attack outside a theater of war — the United States has made extensive use of drones. There were nearly four times as many drone strikes in Pakistan during the first two years of the Obama administration as there were during the entire Bush administration.¶ The United States is now conducting drone strikes in Somalia as well, and their use is expected to dramatically increase in Afghanistan over the next five years as NATO troops withdraw from there.¶ Armed drones are both inevitable, since they allow the fusing of a reconnaissance platform with a weapons system, and, in many respects, highly desirable. They can loiter, observe and strike, with a far more precise application of force. They eliminate risk to pilots and sharply reduce the financial costs of projecting power. Moreover, polls show that a vast majority of Americans support the use of drones.¶

#### Economics prevent conflict escalation

Creehan 12 – Senior Editor of the SAIS Review of International Affairs (Sean, “Assessing the Risks of Conflict in the South China Sea,” Winter/Spring, SAIS Review, Vol. 32, No. 1)

Regarding Secretary Clinton’s first requirement, the risk of actual closure of the South China Sea remains remote, as instability in the region would affect the entire global economy, raising the price of various goods and commodities. According to some estimates, for example, as much as 50 percent of global oil tanker shipments pass through the South China Sea— that represents more than three times the tanker traffic through the Suez Canal and over five times the tanker traffic through the Panama Canal.4 It is in no country’s interest to see instability there, least of all China’s, given the central economic importance of Chinese exports originating from the country’s major southern ports and energy imports coming through the South China Sea (annual U.S. trade passing through the Sea amounts to $1.2 trillion).5 Invoking the language of nuclear deterrence theory, disruption in these sea lanes implies mutually assured economic destruction, and that possibility should moderate the behavior of all participants. Furthermore, with the United States continuing to operate from a position of naval strength (or at least managing a broader alliance that collectively balances China’s naval presence in the future), the sea lanes will remain open. While small military disputes within such a balance of power are, of course, possible, the economic risks of extended conflict are so great that significant changes to the status quo are unlikely.

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

**Law and Bersteeg ‘12**

[David S., Mila, Professor of Law and Professor of Political Science, Washington University in St. Louis. B.A., M.A., Ph.D., Stanford University; J.D., Harvard Law School; B.C.L. in European and Comparative Law, University of Oxford. Associate Professor, University of Virginia School of Law. B.A., LL.M., Tilburg University; LL.M., Harvard Law School; D.Phil., University of Oxford, “THE DECLINING INFLUENCE OF THE UNITED STATES CONSTITUTION” 06.2012. New York University Law Review <<http://www.lexisnexis.com/hottopics/lnacademic/?verb=sr&csi=7351&sr=TITLE(The%20declining%20influence%20of%20the%20United%20States%20Constitution)%20and%20date%20is%20June%201,%202012>>//wyo-hdm]

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.

# 2NC

### 2NC Long Framework

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

#### OUR INTERPRETATION IS GOOD FOR DEBATE BECAUSE:

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

#### 2.EDUCATIONAL- THE K 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.

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

#### AND WE ARE A PREREQUISITE FOR ALL POLICYMAKING OFFENSE:

#### 1.K2 POLICY EDUCATION- ONLY BY CRITICIZING DISCOURSE CAN WE DERIVE POLICIES THAT IDENTIFY THE RIGHT PROBLEM AND ENGENDER BETTER SOLUTIONS - THAT’S BRUCE 96

#### 2.SERIAL POLICY FAILURE- ONLY BY ABANDONING THE CULT OF EXPERTISE CAN WE DERIVE BETTER POLICIES THAT WON’T CONTINUALLY FAIL. THAT’S RAZA 11 AND BURKE 7

#### 4.IF WE WIN ANY FRAMING ARGUMENTS THEY DON’T GET TO WEIGH THEIR AFFIRMATIVE, WE WILL HAVE WON THAT THEORY COMES FIRST-

### AT: Perm

#### K IS A PREREQUISITE- BEFORE HAVING THE CORRECT POLICY YOU HAVE TO CHECK YOUR ASSUMPTIONS AT THE DOOR. THE PERM WOULD RAM ROD THEIR FLAWED ONTOLOGY LEADING TO THE IMPACTS OF THE K- THAT’S BRUCE 96

#### PERM IS SEVERANCE- CUTS THE LINKS OF THE 1AC. YOU MUST OLD THE 1AC TO THEIR DISCOURSE OTHERWISE THEIR A MOVING TARGET. REJECT THE TEAM FOR FAIRNESS.

#### BEGS THE QUESTION OF A LINK- ANY PERMUTATION WOULD JUST FURTHER THAT FLAWED ONTOLOGY AND CAUSE THE SAME IMPACTS [EXPLAIN LINKS]

#### NO REFORM - THE PLAN CANNOT BE DETACHED FROM IT’S DISCURSIVE UNDERPINNINGS

Burke 07

Anthony Burke, Senior Lecturer @ School of Politics & IR @ Univ. of New South Wales, ‘7 [Beyond Security, Ethics and Violence, p. 3-4]

These frameworks are interrogated at the level both of their theoretical conceptualisation and their practice: in their influence and implementation in specific policy contexts and conflicts in East and Central Asia, the Middle East and the 'war on terror', where their meaning and impact take on greater clarity. This approach is based on a conviction that the meaning of powerful political concepts cannot be abstract or easily universalised: they all have histories, often complex and conflictual; their forms and meanings change over time; and they are developed, refined and deployed in concrete struggles over power, wealth and societal form. While this should not preclude normative debate over how political or ethical concepts should be defined and used, and thus be beneficial or destructive to humanity, it embodies a caution that the meaning of concepts can never be stabilised or unproblematic in practice. Their normative potential must always be considered in relation to their utilisation in systems of political, social and economic power and their consequent worldly effects. Hence this book embodies a caution by Michel Foucault, who warned us about the 'politics of truth . . the battle about the status of truth and the economic and political role it plays', and it is inspired by his call to 'detach the power of truth from the forms of hegemony, social, economic and cultural, within which it operates at the present time'.1 It is clear that traditionally coercive and violent approaches to security and strategy are both still culturally dominant, and politically and ethically suspect. However, the reasons for pursuing a critical analysis relate not only to the most destructive or controversial approaches, such as the war in Iraq, but also to their available (and generally preferable) alternatives. There is a necessity to question not merely extremist versions such as the Bush doctrine, Indonesian militarism or Israeli expansionism, but also their mainstream critiques - whether they take the form of liberal policy approaches in international relations (IR), just war theory, US realism, optimistic accounts of globalisation, rhetorics of sensitivity to cultural difference, or centrist Israeli security discourses based on territorial compromise with the Palestinians. The surface appearance of lively (and often significant) debate masks a deeper agreement about major concepts, forms of political identity and the imperative to secure them. Debates about when and how it may be effective and legitimate to use military force in tandem with other policy options, for example, mask a more fundamental discursive consensus about the meaning of security, the effectiveness of strategic power, the nature of progress, the value of freedom or the promises of national and cultural identity. As a result, political and intellectual debate about insecurity, violent conflict and global injustice can become hostage to a claustrophic structure of political and ethical possibility that systematically wards off critique.

### Link work

Dispersal of radioactive material by detonation of conventional explosives (“dirty bombs”) is a method that is most accessible for terrorists

Dvorkin 12

the world is experiencing intensifying popular unrest made all the more menacing by the growing accessibility of weapons of mass destruction

Brzezinski 9

Geneva Conventions, which concern either inter-state¶ or internal armed conflict, do not sit well with the new face of armed conflict presented by Al Qaeda

Continued detention of persons deemed not to be a threat is unlawful and¶ unconscionable.

Murphy 7

#### 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.

nuclear weapons are among the most serious problems

rapid pace of change and improvements in weapons technology mean that the executive branch must respond to emergencies long before the courts have an opportunity to weigh in.

Knowles 9 (

#### Soft power is a euphemism for hegemonic coercion

Bilgin, 08 – Pinar Prof. of IR @ Bilkent, Berivan Elis, PhD Candidate in IR @ Ankara, ‘8 [Hard Power, Soft Power: Toward a More Realistic Power Analysis, <http://www.bilkent.edu.tr/~pbilgin/Bilgin-Elis-IT-2008.pdf>]

On another level, Nye’s (soft) power analysis is problematic insofar as his own agenda of ‘success in world politics’ is concerned. This is not only because his analysis fosters the false impression that ‘soft power’ is a nice and cuddly surrogate to ‘hard power’, but also because he underestimates the extent to which U.S. soft power is produced and expressed through compulsion. After all, compulsory power is not limited to the use of material resources. Non-material forms of power, such as ‘symbolic power’, may also be used for the purpose of coercing another. Barnett’s analysis of Arab politics is highly illuminating in this regard; during the Arab Cold War ‘symbolic power’ was used by ‘radical’ Arab states to bring into line their ‘conservative’ counterparts by touting the attractiveness of ‘Arab nationalism’ for Arab peoples across the Middle East.51 By failing to inquire into how the production and expression of soft power can also cause harm, Nye does disservice to both his power analysis and his agenda for U.S. ‘success’ in world politics. To recapitulate, in Part I we pointed to the poverty of realist power analysis for taking agents as well as the stockpile of power as pre-given and focusing on decision-making in cases of visible conflict. Following Lukes, we called for adopting Bachrach and Baratz’s conception of two-dimensional power, which would allow looking at instances of decision-making and nondecision-making. Nye’s conception of soft power constitutes an improvement upon realist power analysis insofar as it raises the analyst’s awareness of the ‘second face of power’. For, **the** very notion of ‘attraction’ suggests that there is a conflict of interest that does not come to the surface. That is to say, B does not express its grievances and does what A wants it to do, because it is attracted to A’s culture, political values and/or foreign policy. That said, Nye’s analysis rests on a conception of power that is somehow less than three-dimensional. While Nye encourages the analyst to be curious about those instances of power expression where there is no visible conflict and/or clash of interests, his failure to register how soft power is ‘not-so-soft’ means that his (soft) power analysis does not fully capture the ‘third face of power’. Let us clarify. Lukes understands the ‘third face of power’ as those instances when “A may exercise power over B by getting him to do what he does not want to do, but he also exercises power over him by influencing, shaping, or determining his very wants”.52 Post-colonial peoples’ post-WWII rush towards sovereign statehood may be viewed as an example of the ‘third face of power’ whereby the international society shaped their wants while their actual circumstances called for other forms of political community. That is to say, in Lukes’ framework, B does what A wants in apparent readiness contrary to its own interests. Put differently, by exercising soft power, A prevents B from recognizing its own ‘real interests’. While Nye’s attention to A’s ability to shape B’s wants seem to render his analysis three-dimensional, his lack of curiosity into ‘not-so-soft’ expressions of U.S. power renders his (soft) power analysis two-and-a-half dimensional. This is mostly because Nye assumes that B’s ‘real interests’ are also served when it follows A’s lead. It is true that soft power does not involve physical coercion, but as Lukes reminded us, it is the supreme and most insidious exercise of power to prevent people, to whatever degree, from having grievances by shaping their perceptions, cognitions and preferences in such a way that they accept their role in the existing order of things, either because they can see or imagine no alternative to it, or because they see it as natural and unchangeable, or because they value it as divinely ordained and beneficial.53 Going back to the example of North/South relations, power is involved not only when the South does not express its grievance because of the absence of opportunities to do so, but also when it seemingly has no grievances as a consequence of the prevalent system of ideas that depoliticizes its status within the international economic order.54 In a similar fashion, Nye is not interested in inquiring into the sources of U.S. ‘attraction’, for he considers the U.S.’s ability to shape the wants of others as befitting the latter’s ‘real interests’. Accordingly, he misses a ‘fundamental part of soft power’, what Bohas describes as “the early shaping of taste, collective imaginary and ideals which constitutes a way of dominating other countries. This includes the reinforcing effect of the social process in favor of American power through goods and values”.55 As such, Nye’s analysis remains limited in regard to the third face of soft power, where the existing state of things is internalized by the actors, and the U.S.’s expression of power seems benign and in accordance with the ‘real interests’ of others. In sum, the limits of Nye’s approach, which could be characterized as ‘two-and-a-half dimensional power analysis’, does not allow him to offer a theory of power that reflects upon its own moment(s) and site(s) of production and ‘not-so-soft’ expression. This is not to underestimate what Nye’s (soft) power analysis delivers. Rather, our aim has been to push his analysis further towards generating a more realistic framework where one’s scope of research is not limited to the acts or inacts of actors but investigates how different actors’ needs and wants as well as their understanding of themselves and their ‘real interests’ are shaped by other actors or by the existing structures.

### AT: Threats Real

#### ANY RISK OF A LINK MAKES THIS FALSE, PREFER THE SPECIFICITY OF OUR LINKS- [EXPLAIN YOUR LINKS]

#### AND EVEN IF SOME THREATS ARE REAL OUR RESPONSES AND ASSUMPTIONS ABOUT THEM ARE SHAPED BY OUR DISCOURSE. ANY RISK OF A LINK MEANS YOU VOTE NEG TO DERIVE BETTER POLICIES- THAT’S BRUCE.

#### STATE SECURITY IS A PLOY THAT CONJURES NON-EXISTENT SCENARIOS TO JUSTIFY STATE POWER

Neocleous 2003

[Mark, Teaches politics @ Brunel, Imagining the state, Philadelphia: Open University Press, 107-8//uwyo-ajl]

The state system and the statist political imaginary together use terrorism to effect a political rationalization of violence under the firm control of the state. In this context, the declaration of a war on terrorism by the US state and its allies in 2001 proves nothing other than the state's own misunderstanding of the world it has created. (And note that such a declaration was immediately expanded to include designated states which could then properly be con- fronted.) The standard Left-liberal critique of the category `terrorism' is to point to the lack of any internationally agreed definition of the term (the UN, the North Atlantic Treaty Organization - NATO - and the European Union - EU - have all struggled to come up with an acceptable definition); or to point to the contradiction involved in the once denigrated `terrorist' being feted as `world statesman' (Mandela), or to the once-celebrated `freedom fighter' being castigated as `terrorist' (Bin Laden); or, finally, to point to the hypocrisy of western liberal democracies training and funding armed rebellions in some parts of the globe while objecting to them elsewhere. While pertinent, these arguments miss the central point, which is that terrorism is defined according to the demands of the raison d'Etat of hegemonic powers. States define terror- ism according to their own interests, and the predominant interests are neces- sarily those of the hegemonic forces. This then consolidates the state's claim to a monopoly of violence: terrorism will only end, says the state, when you all fully obey the demand to use violence only when we say so. As such, terrorism turns out to be the lifeblood of state terror. Such obedience as demanded by the state has traditionally been offered in exchange for protection. The state attempts to `set before mens eyes the mutu- all Relation between Protection and Obedience', as Hobbes puts it.34 This mutual relation has remained a key trope throughout western thought con- cerning the state. But what is meant by `protection'? Charles Tilly has noted that the word sounds two contrasting tones. One is comforting, calling up images of a friendly shelter against danger and a form of security or safety provided by a powerful friend, a large insurance policy, a sturdy roof or a bulwark against terrorism. The other, however, is more ominous, evoking the racket in which a local strong man forces merchants to pay tribute in order to avoid damage. In the second scenario, of course, the dangers are often imaginary: the strong man encourages the imagination of danger and may even threaten the danger himself in order to prove that it really does exist. The state's provision of protection plays on the first meaning of the term - recall how crucial the ideas of `security' and `welfare' are to statecraft - but the state could equally be said to be providing `protection' in the second sense of the term: To the extent that the threats against which a given government protects its citizens are imaginary or are consequences of its own activities, the government has organized a protection racket. Since governments themselves commonly simulate, stimulate, or even fabricate threats of external war and since the repressive and extractive activities of governments often constitute the largest current threats to the livelihoods of their own citizens, many governments operate in essentially the same way as racketeers. ~ The state, in other words, is a protection racket - and like all protection rackets it is a process of domination in which the `protected' become evermore subordinated to the `protector'. But this begs a question: who is to be protected? Better still: who is not to be protected? And what about those who appear to be `protected' by no state at all?

### AT: Predictions Good/Possible

#### BEGS THE QUESTION OF THE LINK- IF WE PROVE YOUR ASSUMPTIONS ARE FLAWED, SO ARE YOUR PREDICTIONS

#### PREDICTIONS FAIL- PREDICTIONS ARE NEVER EFFECTIVE, COMPLEXITY OF THE WORLD ELIMINATES THIS ABILITY.

McDaniel et al. 3

(Reuben, Ed.D., is the Charles and Elizabeth Prothro Regents Chair in Health Care Management,

McCombs School of Business, The University of Texas at Austin, Health Care Management Review

Issue: Volume 28(3), “Surprise, Surprise, Surprise! A Complexity Science View of the Unexpected,” 2003/wyo-mm)

Attempts to manage and avoid surprise through complicated, rigorous managerial strategies are not likely to be successful, particularly in health care settings where the science and art of medicine come together in unpredictable ways.49 What complexity science suggests, if we take it seriously, is the "inevitability of surprise."50 The nonlinearity of the organizational system, manifested in trajectories, bifurcations, self-organization, emergence, and co-evolution, leads inevitably to unpredictable states of nature. The sources of fundamental uncertainty are interdependent and therefore cannot be managed through a divide-and-conquer strategy. For example, the environment constrains the system's ability to self-organize, while at the same time it affects co-evolution: The future states of the universe are 'open,' in the sense that they cannot be predicted before they actually occur. … Regardless of what interpretation we favor, the one thing that can be said for certain is that the existence of such intrinsically unpredictable processes means that we will never be able to prove that the future of the universe is fixed. If there is a cosmic book containing history of each and every particle and person, the last chapter of that magnum opus will remain forever unwritten.51(p.114) Efforts to overcome uncertainty or to explain the unexpected are futile wastes of energy because it is not a question of whether you're smart enough to know what's going to happen. Don't try to develop within your organization a posture that gives you the confidence of knowing what's going on. Instead, develop a posture that gives you the confidence of knowing that, even when you don't know what's going to happen, you and your organization will have the capacity for effective action in the face of the unknown.52 Health care managers who are successful are not those who can follow the mandates, but those who have developed the capacity to deal with surprise; they are not those who exhaust themselves trying to escape uncertainty like a curse, but those who rejuvenate themselves and others by embracing surprise as a gift. A GIFT FROM AN UNCERTAIN WORLD: CREATIVITY AND LEARNING It is the embracing of surprise rather than the avoidance of surprise that opens a door for creativity and learning in organizations, allowing surprise to become a gift from an uncertain world. "Learning and thinking in general exemplify complex adaptive systems at work, and perhaps the highest expression on Earth of that kind of skill is human creative thinking."53(p.266) Creativity The unfolding of events in an unknowable way often gives rise to Cartesian anxiety,33 and this anxiety can be the impetus for creativity. Whenever creativity or creative instances are described, they show a similar pattern: they result from a contradiction between the established way of doing things and something that needs to be accomplished.51 Creative systems generate tension by pulling in opposing directions.28 The act of trying to solve an unexpected problem forces one to break loose and give way to a completely different way of approaching the task. A welcoming attitude toward surprise can help in loosening the frame of established and traditional ways of thinking and doing things. Creativity can even be seen as a force for self-organization. Ideas recombine into configurations during the creative thought process; new patterns emerge and are explored as solutions to a problem. Within an organization, the process of idea creation is chaotic, but it is exactly this nonlinear interaction (feedback) that structures the quantity and quality of resulting outcomes. Guastello invites chaos as a welcome inducer of creativity, describing it as a "spontaneous process that produces some very profitable disruptions,"54(p.320) the effects of which are emergent, and cannot be predicted. It is common response for managers to brush off new ideas as amusements or annoyances, but it is exactly this spontaneous process that can produce profitable disruptions.54 Surprise generates an opportunity for creative response. The state of a system at any point in time throughout its evolution can show evolving patterns that are unpredictable; therefore it will probably never be in a state that you thought it would be. You cannot control systems properties that produce surprise; you can only control your response to the unknowability of the world. Whether the evolution of a system is in a period of pattern or complete randomness, the job of the manager is the same: respond to surprise. The question cannot be, "How can I keep this from happening?" Rather, the question becomes, "Can I make creative use of what is happening?" For example, the informal organization that emerges from interactions among people and systems over time will likely have properties of some degree of randomness and some degree of order. Managers who choose to try to bind these interactions or lessen their effects will fail. A creative manager will work with these emergent properties, inviting the unknown opportunities that can emerge from these exchanges and using the unexpected as opportunity for creativity-even when the outcome of the creativity is also a surprise. Creativity is not an agent's property; it flows from relationships. It flows from the way in which we relate to each other. Creativity is not a property that you have or that I have; it's a property that we have.55 The importance of relationships in the creative process is highlighted by Guastello: The enriched environment is just another example of the feedback channels that Stace~ claimed as essential to successful creative efforts. Such channels run between the environment and problem solvers, among the problem solvers, and back and forth with other members of the organization who are in a position to do something about the idea.54(p.320

#### TURN- WINNING ANY RISK OF A LINK MEANS THEIR RESPONSE IS ROOTED IN CERTAINTY AND CONTROL WHICH LEADS TO A SECURITIZED RELATIONSHIP WITH THE WORLD. IT ENGENDERS A VIOLENT RELATIONSHIP THAT IS THE ROOT CAUSE OF ALL VIOLENCE- BURKE

#### ALT SOLVES- RESHAPES OUR ASSUMPTIONS- BRUCE

### AT: Realism

#### TURN-DISCOURSE SHAPES THE IDENTIFICATION OF THE PROBLEM AND SOLUTIONS THAT ARE FOUND, REALISM MAKES THE CONFLICTS INEVITABLE BECAUSE OF HOW THEY THINK OF REALISM- THAT’S BRUCE AND BURKE

#### AND REALISM DOESN’T LIMIT WAR- IT’S THE ROOT CAUSE

Burke 07

(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)

I was motivated to begin the larger project from which this essay derives by a number of concerns. I felt that the available critical, interpretive or performative languages of war -- realist and liberal international relations theories, just war theories, and various Clausewitzian derivations of strategy -- failed us, because they either perform or refuse to place under suspicion the underlying political ontologies that I have sought to unmask and question here. Many realists have quite nuanced and critical attitudes to the use of force, but ultimately affirm strategic thought and remain embedded within the existential framework of the nation-state. Both liberal internationalist and just war doctrines seek mainly to improve the accountability of decision-making in security affairs and to limit some of the worst moral enormities of war, but (apart from the more radical versions of cosmopolitanism) they fail to question the ontological claims of political community or strategic theory.82

#### ALTERNATIVE SOLVES- BY A RETHINKING OF OUR ASSUMPTIONS IT SOLVES THE ROOT CAUSE OF VIOLENCE ISOLATED ABOVE BY CHALLENGING INEVITABILITY OF STATE COMPETITION.

# 1NR

### 2NC/1NR O/V

**Topical affs must create a restriction that *prohibits* war power authority in an *entire* topic list area – the aff only \_\_\_\_\_\_\_.**

#### To restrict is very different than supervise or monitoring, it means to prohibit an action. That’s our Schiedler-Brown 12

#### This is impacted by our limits DA and the bidirectionality DA.

### Limits DA

#### Limits- The topic is already vague and huge. Without out placing our own certainty in to the topic there is no way to place stable ground or predictable ground for the negative.

**They underlimit the topic destroying the negative research burden**

**Only impact that leaves the room—broad topics destroy participation and education**

**Rowland ‘84**

Robert C., Baylor U., “Topic Selection in Debate”, American Forensics in Perspective. Ed. Parson, p.53-54

The first major problem identified by the work group as relating to topic selection is the decline in participation in the National Debate Tournament (NDT) policy debate. As Boman notes: There is a growing dissatisfaction with academic debate that utilizes a policy proposition. Programs which are oriented toward debating the national policy debate proposition, so-called “NDT” programs, are diminishing both in scope and size. This decline in policy debate is tied, many in the work group believe, to excessively broad topics. The most obvious characteristic of some recent policy debate topics is extreme breadth. A resolution calling for regulation of land use literally and figuratively covers a lot of ground. National debate topics have not always been so broad. Before the late 1960s the topic often specified a particular policy change. The move from narrow to broad topics has had, according to some, the effect of limiting the number of students who participate in policy debate. First, the breadth of topics has all but destroyed novice debate. Paul Gaske argues that because the stock issues of policy debate are clearly defined, it is superior to value debate as a means of introducing students to the debate process. Despite this advantage of policy debate, Gaske believes that NDT debate is not the best vehicle for teaching beginners. The problem is that broad topics terrify novice debaters, especially those who lack high school debate experience. They are unable to cope with the breath of the topic and experience “negophobia,” the fear of debating negative. As a consequence, the educational advantages associated with teaching novice through policy debate are lost: “Yet all of these benefits fly out the window as rookies in their formative stage quickly experience humiliation at being caught without evidence or substantive awareness of the issues that confront them at a tournament.” The ultimate result is that fewer novices participate in NDT, thus lessening the educational value of the activity and limiting the number of debaters who eventually participate in more advanced divisions of policy debate. In addition to noting the effect on novices, participants argued that broad topics also discourage experienced debaters from continued participation in policy debate. Here, the claim is that it takes so much time and effort to be competitive on a broad topic that students who are concerned with doing more than just debate are forced out of the activity. Gaske notes, that “broad topics discourage participation because of insufficient time to do requisite research.” The final effect may be that entire programs wither cease functioning or shift to value debate as a way to avoid unreasonable research burdens. Boman supports this point: “It is this expanding necessity of evidence, and thereby research, which has created a competitive imbalance between institutions that participate in academic debate.” In this view, it is the competitive imbalance resulting from the use of broad topics that has led some small schools to cancel their programs.

**Also internal link turns all their education args—if the topic’s too big to research all debates will come down to conditions or the K.**

**Bidirectionality DA**

**Their interp creates a bidirectional topic—conditions placed on presidential authority lead to expansions of his powers—that’s 1NC Wilson center**

 **Bidirectionality doubles the size of the topic and explodes our research burden. This is impacted on the limits debate.**

**Also destroys neg ground—they get access to all the reasons war powers are good and can link turn all of our offense.**

**This is proven abuse—they read a prez flex advantage—just because they kick it doesn’t mean they didn’t create a bidirectional topic**

### AT WM

#### Authority means “authorization” – topical affirmatives must remove the permission to act, not just regulate the President

Hohfeld,Yale Law,1919(Wesley, <http://www.hku.hk/philodep/courses/law/HohfeldRights.htm>)

Many examples of legal powers may readily be given. Thus, X, the owner of ordinary personal property "in a tangible object" has the power to extinguish his own legal interest (rights, powers, immunities, etc.) through that totality of operative facts known as abandonment; and-simultaneously and correlatively-to create in other persons privileges and powers relating to the abandoned object,-e. g., the power to acquire title to the latter by appropriating it. Similarly, X has the power to transfer his interest to Y, that is to extinguish his own interest and concomitantly create in Y a new and corresponding interest. So also X has the power to create contractual obligations of various kinds. Agency cases are likewise instructive. By the use of some metaphorical expression such as the Latin, qui facit per alium, facit per se\* the true nature of agency relations is only too frequently obscured. The creation of an agency relation involves, inter alia, the grant of legal powers to the so-called agent, and the creation of correlative liabilities in the principal. That is to say, one party, P, has the power to create agency powers in another party, A,-for example, the power to convey P's property, the power to impose (so called) contractual obligations on P, the power to discharge a debt owing to P, the power to "receive" title to property so that it shall vest in P, and so forth. In passing, it may be well to observe that the term "authority," so frequently used in agency cases, is very ambiguous and slippery in its connotation. Properly employed in the present connection, the word seems to be an abstract or qualitative term corresponding to the concrete "authorization," the latter consisting of a particular group of operative facts taking place between the principal and the agent. All too often, however, the term in question is so used as to blend and confuse these operative facts with the powers and privileges thereby created in the agent. A careful discrimination in these particulars would, it is submitted, go far toward clearing up certain problems in the law of agency.

### AT CI

Their Rice and Saul evidence says that a second option would be to suppress everything—either this isn’t a counter interp because it’s the same our our interp, OR they don’t meet the CI

Their law.com evidence says that restrictions in the case of a real estate development meets the category of restrictions or conditions—proves that their CI is part of a condition

#### They say restrict is to limit—

#### Restriction requires prohibition

Northglenn 11

(City of Northglenn Zoning Ordinance, “Rules of Construction – Definitions”, http://www.northglenn.org/municode/ch11/content\_11-5.html)

Section 11-5-3. Restrictions. As used in this Chapter 11 of the Municipal Code, the term "restriction" shall mean a prohibitive regulation. Any use, activity, operation, building, structure or thing which is the subject of a restriction is prohibited, and no such use, activity, operation, building, structure or thing shall be authorized by any permit or license.

### AT Competing interpretation/Reasonability

#### 1. Voting for the better topic is the only standard not manipulated to set the bar just low enough for questionable affs. The existence of any other aff proves they chose this one for strategic gain, not out of necessity.

#### 2. Begs the question—reasonability is a function of everything above, asserting a general standard for “good enough” takes the debate out of the hands of the debaters and crushes predictability.

#### Lit doesn’t check- Our limits arguments prove the topic is not only huge but vague.

#### Doesn’t define out of the room- Our argument is a warranted way debate should be, not trivial “you’re not t args.”

#### Finally precision is vital—turns solvency and research quality

**Resnick 1** [Evan Resnick, Journal of International Affairs, 0022197X, Spring 2001, Vol. 54, Issue 2, “Defining Engagement”]

In matters of national security, establishing a clear definition of terms is a precondition for effective policymaking. Decisionmakers who invoke critical terms in an erratic, ad hoc fashion risk alienating their constituencies. They also risk exacerbating misperceptions and hostility among those the policies target. Scholars who commit the same error undercut their ability to conduct valuable empirical research. Hence, if scholars and policymakers fail rigorously to define "engagement," they undermine the ability to build an effective foreign policy.

### NO modeling

#### No US precedent---not causal

Kenneth Anderson 11, Professor of International Law at American University, 10/9/11, “What Kind of Drones Arms Race Is Coming?,” <http://www.volokh.com/2011/10/09/what-kind-of-drones-arms-race-is-coming/#more-51516>

New York Times national security correspondent Scott Shane has an opinion piece in today’s Sunday Times predicting an “arms race” in military drones. The methodology essentially looks at the US as the leader, followed by Israel – countries that have built, deployed and used drones in both surveillance and as weapons platforms. It then looks at the list of other countries that are following fast in US footsteps to both build and deploy, as well as purchase or sell the technology – noting, correctly, that the list is a long one, starting with China. The predicament is put this way:

Eventually, the United States will face a military adversary or terrorist group armed with drones, military analysts say. But what the short-run hazard experts foresee is not an attack on the United States, which faces no enemies with significant combat drone capabilities, but the political and legal challenges posed when another country follows the American example. The Bush administration, and even more aggressively the Obama administration, embraced an extraordinary principle: that the United States can send this robotic weapon over borders to kill perceived enemies, even American citizens, who are viewed as a threat.

“Is this the world we want to live in?” asks Micah Zenko, a fellow at the Council on Foreign Relations. “Because we’re creating it.”

By asserting that “we’re” creating it, this is a claim that there is an arms race among states over military drones, and that it is a consequence of the US creating the technology and deploying it – and then, beyond the technology, changing the normative legal and moral rules in the international community about using it across borders. In effect, the combination of those two, technological and normative, forces other countries in strategic competition with the US to follow suit. (The other unstated premise underlying the whole opinion piece is a studiously neutral moral relativism signaled by that otherwise unexamined phrase “perceived enemies.” Does it matter if they are not merely our “perceived” but are our actual enemies? Irrespective of what one might be entitled to do to them, is it so very difficult to conclude, even in the New York Times, that Anwar al-Awlaki was, in objective terms, our enemy?)

It sounds like it must be true. But is it? There are a number of reasons to doubt that moves by other countries are an arms race in the sense that the US “created” it or could have stopped it, or that something different would have happened had the US not pursued the technology or not used it in the ways it has against non-state terrorist actors. Here are a couple of quick reasons why I don’t find this thesis very persuasive, and what I think the real “arms race” surrounding drones will be.

Unmanned aerial vehicles have clearly got a big push from the US military in the way of research, development, and deployment. But the reality today is that the technology will transform civil aviation, in many of the same ways and for the same reasons that another robotic technology, driverless cars (which Google is busily plying up and down the streets of San Francisco, but which started as a DARPA project). UAVs will eventually move into many roles in ordinary aviation, because it is cheaper, relatively safer, more reliable – and it will eventually include cargo planes, crop dusting, border patrol, forest fire patrols, and many other tasks. There is a reason for this – the avionics involved are simply not so complicated as to be beyond the abilities of many, many states. Military applications will carry drones many different directions, from next-generation unmanned fighter aircraft able to operate against other craft at much higher G stresses to tiny surveillance drones. But the flying-around technology for aircraft that are generally sizes flown today is not that difficult, and any substantial state that feels like developing them will be able to do so.

But the point is that this was happening anyway, and the technology was already available. The US might have been first, but it hasn’t sparked an arms race in any sense that absent the US push, no one would have done this. That’s just a fantasy reading of where the technology in general aviation was already going; Zenko’s ‘original sin’ attribution of this to the US opening Pandora’s box is not a credible understanding of the development and applications of the technology. Had the US not moved on this, the result would have been a US playing catch-up to someone else. For that matter, the off-the-shelf technology for small, hobbyist UAVs is simple enough and available enough that terrorists will eventually try to do their own amateur version, putting some kind of bomb on it.

Moving on from the avionics, weaponizing the craft is also not difficult. The US stuck an anti-tank missile on a Predator; this is also not rocket science. Many states can build drones, many states can operate them, and crudely weaponizing them is also not rocket science. The US didn’t spark an arms race; this would occur to any state with a drone. To the extent that there is real development here, it lies in the development of specialized weapons that enable vastly more discriminating targeting. The details are sketchy, but there are indications from DangerRoom and other observers (including some comments from military officials off the record) that US military budgets include amounts for much smaller missiles designed not as anti-tank weapons, but to penetrate and kill persons inside a car without blowing it to bits, for example. This is genuinely harder to do – but still not all that difficult for a major state, whether leading NATO states, China, Russia, or India. The question is whether it would be a bad thing to have states competing to come up with weapons technologies that are … more discriminating.

#### Zero chance that U.S. self-restraint causes any other country to give up their plans for drones

Max Boot 11, the Jeane J. Kirkpatrick Senior Fellow in National Security Studies at the Council on Foreign Relations, 10/9/11, “We Cannot Afford to Stop Drone Strikes,” Commentary Magazine, <http://www.commentarymagazine.com/2011/10/09/drone-arms-race/>

The New York Times engages in some scare-mongering today about a drone ams race. Scott Shane notes correctly other nations such as China are building their own drones and in the future U.S. forces could be attacked by them–our forces will not have a monopoly on their use forever. Fair enough, but he goes further, suggesting our current use of drones to target terrorists will backfire:

If China, for instance, sends killer drones into Kazakhstan to hunt minority Uighur Muslims it accuses of plotting terrorism, what will the United States say? What if India uses remotely controlled craft to hit terrorism suspects in Kashmir, or Russia sends drones after militants in the Caucasus? American officials who protest will likely find their own example thrown back at them.

“The problem is that we’re creating an international norm” — asserting the right to strike preemptively against those we suspect of planning attacks, argues Dennis M. Gormley, a senior research fellow at the University of Pittsburgh and author of Missile Contagion, who has called for tougher export controls on American drone technology. “The copycatting is what I worry about most.”

This is a familiar trope of liberal critics who are always claiming we should forego “X” weapons system or capability, otherwise our enemies will adopt it too. We have heard this with regard to ballistic missile defense, ballistic missiles, nuclear weapons, chemical and biological weapons, land mines, exploding bullets, and other fearsome weapons. Some have even suggested the U.S. should abjure the first use of nuclear weapons–and cut down our own arsenal–to encourage similar restraint from Iran.

The argument falls apart rather quickly because it is founded on a false premise: that other nations will follow our example. In point of fact, Iran is hell-bent on getting nuclear weapons no matter what we do; China is hell-bent on getting drones; and so forth. Whether and under what circumstances they will use those weapons remains an open question–but there is little reason to think self-restraint on our part will be matched by equal self-restraint on theirs. Is Pakistan avoiding nuking India because we haven’t used nuclear weapons since 1945? Hardly. The reason is that India has a powerful nuclear deterrent to use against Pakistan. If there is one lesson of history it is a strong deterrent is a better upholder of peace than is unilateral disarmament–which is what the New York Times implicitly suggests.

Imagine if we did refrain from drone strikes against al-Qaeda–what would be the consequence? If we were to stop the strikes, would China really decide to take a softer line on Uighurs or Russia on Chechen separatists? That seems unlikely given the viciousness those states already employ in their battles against ethnic separatists–which at least in Russia’s case already includes the suspected assassination of Chechen leaders abroad. What’s the difference between sending a hit team and sending a drone?

While a decision on our part to stop drone strikes would be unlikely to alter Russian or Chinese thinking, it would have one immediate consequence: al-Qaeda would be strengthened and could regenerate the ability to attack our homeland. Drone strikes are the only effective weapon we have to combat terrorist groups in places like Pakistan or Yemen where we don’t have a lot of boots on the ground or a lot of cooperation from local authorities. We cannot afford to give them up in the vain hope it will encourage disarmament on the part of dictatorial states.

#### B. Authortarian States won’t listen and democratic states make their own norms

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

The second benefit to foreigners of distinctive U.S. legal norms is information. The costs and benefits of our norms will be visible for all to see. n268 Particularly in an era of increased empirical social science testing, over time we will be able to analyze and identify the effects of differences in norms between the United States and other nations. n269 Such diversity benefits foreigners as foreign nations can decide to adopt our good norms and avoid our bad ones. The only noteworthy counterargument is the claim that U.S. norms will have more harmful effects than those of raw international law, yet other nations will still copy them. But both parts of this proposition seem doubtful. First, U.S. law emerges from a democratic process that creates a likelihood that it will cause less harm than rules that emerge from the nondemocratic processes [\*1235] that create international law. Second, other democratic nations can use their own political processes to screen out American norms that might cause harm if copied.

Of course, many nations remain authoritarian. n270 But our norms are not likely to have much influence on their choice of norms. Authoritarian states are likely to select norms that serve the interests of those in power, regardless of the norms we adopt. It is true that sometimes they might cite our norms as cover for their decisions. But the crucial word here is "cover." They would have adopted the same rules, anyway. The cover may bamboozle some and thus be counted a cost. But this would seem marginal compared to the harm of allowing raw international law to trump domestic law.

#### China won’t use drones to resolve territorial disputes – fears international backlash and creating a precedent for U.S. strikes in the area

Erickson, associate professor at the Naval War College and Associate in Research at Harvard University's Fairbank Centre, and Strange, researcher at the Naval War College's China Maritime Studies Institute and graduate student at Zhejiang University, 5-29-13 (Andrew and Austin, China has drones. Now how will it use them? Foreign Affairs, McClatchy-Tribune, 29 May 2013, http://www.nationmultimedia.com/opinion/China-has-drones-Now-how-will-it-use-them-30207095.html, da 8-3-13) PC

Drones, able to dispatch death remotely, without human eyes on their targets or a pilot's life at stake, make people uncomfortable - even when they belong to democratic governments that presumably have some limits on using them for ill. (On May 23, in a major speech, US President Barack Obama laid out what some of those limits are.) An even more alarming prospect is that unmanned aircraft will be acquired and deployed by authoritarian regimes, with fewer checks on their use of lethal force.¶ Those worried about exactly that tend to point their fingers at China. In March, after details emerged that China had considered taking out a drug trafficker in Myanmar with a drone strike, a CNN blog post warned, "Today, it's Myanmar. Tomorrow, it could very well be some other place in Asia or beyond." Around the same time, a National Journal article entitled "When the Whole World Has Drones" teased out some of the consequences of Beijing's drone programme, asking, "What happens if China arms one of its remote-piloted planes and strikes Philippine or Indian trawlers in the South China Sea?"¶ Indeed, the time to fret about when China and other authoritarian countries will acquire drones is over: they have them. The question now is when and how they will use them. But as with its other, less exotic military capabilities, Beijing has cleared only a technological hurdle - and its behaviour will continue to be constrained by politics.¶ China has been developing a drone capacity for over half a century, starting with its reverse engineering of Soviet Lavochkin La-17C target drones that it had received from Moscow in the late 1950s. Today, Beijing's opacity makes it difficult to gauge the exact scale of the programme, but according to Ian Easton, an analyst at the Project 2049 Institute, an American think-tank devoted to Asia-Pacific security matters, by 2011 China's air force alone had over 280 combat drones. In other words, its fleet of unmanned aerial vehicles is already bigger and more sophisticated than all but the United States'; in this relatively new field Beijing is less of a newcomer and more of a fast follower. And the force will only become more effective: the Lijian ("sharp sword" in Chinese), a combat drone in the final stages of development, will make China one of the very few states that have or are building a stealth drone capacity.¶ This impressive arsenal may tempt China to pull the trigger. The fact that a Chinese official acknowledged that Beijing had considered using drones to eliminate the Myanmar drug trafficker, Naw Kham, makes clear that it would not be out of the question for China to launch a drone strike in a security operation against a non-state actor. Meanwhile, as China's territorial disputes with its neighbours have escalated, there is a chance that Beijing would introduce unmanned aircraft, especially since India, the Philippines and Vietnam distantly trail China in drone funding and capacity, and would find it difficult to compete. Beijing is already using drones to photograph the Senkaku/Diaoyu islands it disputes with Japan, as the retired Chinese major-general Peng Guangqian revealed earlier this year, and to keep an eye on movements near the North Korean border.¶ Beijing, however, is unlikely to use its drones lightly. It already faces tremendous criticism from much of the international community for its perceived brazenness in continental and maritime sovereignty disputes. With its leaders attempting to allay notions that China's rise poses a threat to the region, injecting drones conspicuously into these disputes would prove counterproductive. China also fears setting a precedent for the use of drones in East Asian hotspots that the United States could eventually exploit.

For now, Beijing is showing that it understands these risks, and to date it has limited its use of drones in these areas to surveillance, according to recent public statements from China's Defence Ministry.