# 1NC

### 1st Off

#### First intep- Restrict means prohibit—not monitoring

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 does not prohibit action

#### 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.

### 2nd Off

#### Text: The United States Congress should pass and an appropriate number of the states should ratify a constitutional amendment to determine that a detainee should not be denied Suspension Clause protections because the government transported that detainee into an active theater where the Suspension Clause would arguably not reach.

#### More solid framework is needed to maintain the constitution on issues like indefinite detention than the courts or congressional legislation—Bush proves

Chemerinsky 6

[Chemerinsky, Erwin: Alston & Bird Professor of Law and Political Science, Duke University. "Assault on the Constitution: Executive Power and the War on Terrorism." *UC Davis Law Review*. 40.1 (2006): n. page. Web. 30 Jul. 2013. <http://heinonline.org/HOL/Page?handle=hein.journals/davlr40&div=7&g\_sent=1&collection=journals>. //Wyo-BF]

 Over thirty years ago, during the Nixon presidency, noted historian Arthur M. Schlesinger, Jr., wrote The Imperial Presidency.1 Nothing Schlesinger described begins to approach what has occurred during the presidency of George W. Bush. The Bush administration has claimed the authority to detain American citizens indefinitely as enemy combatants without warrants, grand jury indictments, or trial by jury and proof beyond a reasonable doubt.2 The administration has asserted the power to ignore statutes and treaties prohibiting torture.3 It has maintained that the administration can engage in warrantless electronic eavesdropping in violation of the Fourth Amendment and federal statutes.' The Bush administration has argued that it can detain foreign citizens indefinitely at Guantanamo Bay, Cuba, without judicial review. Together, these actions are an assault on the Constitution. The Bush administration's positions on these and other issues share several characteristics. First, they all aggrandize executive power. In fact, the Bush administration's approach to executive power can be traced back to Republican presidencies over the last forty years. The Nixon administration's efforts to increase presidential powers were intensified during the Reagan and first Bush presidencies and have come to fruition under President George W. Bush. Second, the Bush administration rejects the ability of the courts to review its actions and even of Congress to check its conduct. Its actions and positions cannot be reconciled with a system based on checks and balances. Third, the Bush administration's approach to presidential power is at odds with the traditional, conservative approach to interpreting the Constitution. For decades, conservatives have argued that the meaning of the Constitution should be determined by looking to its text and the framers' intent.6 But if anything is clear about the framers, it is that they deeply distrusted executive power. Unchecked executive authority cannot be reconciled with the text of the Constitution, and the framers accepted significant executive power only as a necessary evil. This essay discusses why the Bush administration's approach to presidential power is an assault on the Constitution. Part I suggests a framework for analyzing claims of presidential power. Part 11 describes some of the claims of executive power made by the Bush administration. Part III explains why this administration's approach to executive power is unprecedented and antithetical to basic constitutional principles.

### 3rd Off

#### Egalitarian politics is not real and not possible within the confines of the nation state- the state demands that woman give up her sexual difference to become a citizen, to become “neuter”, and to become incorporated into the masculine universal- women cannot participate in the law or judicial circuits because they have no language

Fermon 98

[Nicole Ferman, 1998, Women on the Global Market: Irigaray and the Democratic State, Diacritics, Vol. 28, No. 1, Irigaray and the Political Future of Sexual Difference¶ (Spring, 1998), pp. 120-137¶ uwyo//amp]

Best known for her subtle interrogation of philosophy and psychoanalysis, Luce Irigaray ¶ clearly also conducts a dialogue with the political, proposing that women's erasure from ¶ culture and society invalidates all economies, sexual or political. Because woman has ¶ disappeared both figuratively and literally from society [see Sen, "More Than 100 Million ¶ Women Are Missing"], Irigaray conceives the contemporary ethical project as a recall to ¶ difference rather than equality, to difference between women and men-that is, sexual ¶ difference. She characterizes relations between men and women as market relations in ¶ which women are commodities, objects, but never subjects of exchange, objects to men ¶ but not to themselves: women do not belong to themselves but exist "to keep relationships ¶ among men running smoothly" [TS 192]. Women under these conditions require imagi- ¶ native ways to reconfigure the self, to subvert the melancholy and regression of ¶ masculinist economies and envisage a future in which women would not be ashamed of ¶ the feminine, would experience it as a positivity worth emulating. ¶ Irigaray contends that after the gains of egalitarian politics are carefully examined, ¶ the inclusion of women in the political arena has failed to take into account women's ¶ distinct and different position from men, and from each other, as well as perpetuating the ¶ fiction of the "neutral" citizen, the ahistorical individual citizen of the nation-state. It is ¶ that fiction Irigaray dispels in her critique of liberal democratic politics and its creation, ¶ "citizens who are neuter in regard to familial singularity, its laws, and necessary sexual ¶ difference" [SG 112] in order to benefit the State and its laws. The subject is male; the ¶ citizen is neuter. Who is the female citizen in contemporary society? What is the ethical ¶ elaboration of the contractual relations between women and men, and between sexed ¶ individuals and the community? How do women imagine a distinct set of rights and ¶ responsibilities based on self-definition and autonomy, given the particular strictures of ¶ contemporary politics-that is, the market-driven, antidemocratic nature of the current ¶ economic national and global forces? Irigaray suggests that "the return of women to ¶ collective work, to public places, to social relations, demands linguistic mutations" and ¶ profound transformations, an embodied imagination with force and agency in civil life ¶ [TD 65]. ¶ Irigaray warns that if civil and political participation is construed in overly narrow ¶ terms, if focus is on economic or judicial "circuits" alone, we overlook the symbolic ¶ organization of power-women risk losing "everything without even being acknowl- ¶ edged" [TD 56]. Instead an interval of recognition can expand the political to include the ¶ concerns and activities of real women, lest silence imply consent to sexual neutrality, or ¶ more likely, to women's obliteration under men's interests and concerns. Women's ¶ insistence on self-definition and wage labor, on love and justly remunerated work, ¶ testifies to the obduracy of women's difference, one that is not likely to disappear. The ¶ patriarchal family is still the legal norm, even when certain exceptions are made, while ¶ enduring questions regarding women's health and children's physical welfare as priori- ¶ ties beyond market considerations are consigned to legislative obfuscation, still a political ¶ afterthought. Instead, in the US the liberal state removes the slender welfare net specific ¶ to women and children, Aid to Families with Dependent Children, and fails to provide ¶ medical coverage to those who are among the most vulnerable of its citizens. Women ¶ without access to the legal protection of sex-neutral citizenship, poor working women ¶ without language (the money for an effective "mouthpiece" to represent their distress in ¶ a court of law), are further disempowered by liberal politics' insistence on sexual ¶ neutrality-that is, on repression or amnesia regarding the lived experiences of women. ¶ Sexual difference is key to any project of self-definition by women. Irigaray insists ¶ on the sexual nature of this self-definition, not solely for its obvious procreative necessity, ¶ but because the natural world is a source of renewal and fecundity which requires attentive ¶ interrogation and respect [SG 15]. This rebirth seems alien to the structure of male politics, ¶ which instead seem to provoke disasters (Bhopal, Chernobyl, or the current runaway ¶ jungle fires of Indonesia, courtesy of commercial logging, spreading thick pollution to ¶ neighboring countries) and untimely death.' We talk about social justice and forget its ¶ origins in nature and not merely as an engagement between men in abstraction. Irigaray ¶ believes that recognition and respect of difference between the sexes is prior to productive ¶ and generative relations between women, between men, and between men and women. ¶ Sexual difference is universal and allows us to participate in "an immediate natural given, ¶ and it is a real and irreducible component of the universal" [ILTY 47]. It is this prior ¶ recognition of two, rather than the One that has dominated world politics and thought, ¶ which must be acknowledged, along with the possibility of a political economy of ¶ abundance, not only that of man-made scarcity then attributed to nature. This melancholic ¶ (male) script pays romantic tribute to motherhood in the abstract without due recognition ¶ of the relations between real mothers and children, thus failing to properly acknowledge ¶ and protect mother or child. Our ability to address the specifics of race, ethnicity, and ¶ religious and other differences with respect hinges on our ability to acknowledge and ¶ respect the feminine, to see it as a source of invention and possibilities. To do so would ¶ of course affect relations between the sexes, "men and women perhaps... communicat[ing] ¶ for the first time if two different genders are affirmed," it would allow a new configuration ¶ rather than continuing the present regime: "the globalization and universalization of ¶ culture ... ungovernable and beyond our control" [SG 120; ILTY 129].

#### splitting of the atom is a symptom of man’s persistence in his refusal to reunite with and affirm his body and the female body-only through this affirmation does the destruction of humynkind become unthinkable

Irigaray 85

[Luce Irigaray, 1985, “An Ethics of Sexual Difference”, uwyo//amp]

To forget being is to forget the air, this first fluid given us gratis and free of interest in the mother's blood, given us again when we are born, like a natural profusion that raises a cry of pain: the pain of a being who comes into the world and is abandoned, forced henceforth to live without the immediate assistance of another body. Unmitigated mourning for the intrauterine nest, elemental homesickness that man will seek to assuage through his work as builder of worlds, and notably of the dwelling which seems to form the essence of his maleness: language. In all his creations, all his works, man always seems to neglect thinking of himself as flesh, as one who has received his body as that primary home (that Gestell, as Heidegger would say, when, in "Logos," the seminar on Heraclitus, he recognizes that what metaphysics has not begun to address is the issue of the body) which determines the possibility of his coming into the world and the potential opening of a horizon of thought, of poetry, of celebration, that also includes the god or gods. The fundamental dereliction in our time may be interpreted as our failure to remember or prize the element that is indispensable to life in all its manifestations: from the lowliest plant and animal forms to the highest. Science and technology are reminding men of their careless neglect by forcing them to consider the most frightening question possible, the question of a radical polemic: the destruction of the universe and of the human race through the splitting of the atom and its exploitation to achieve goals that are beyond our capacities as mortals.

#### The alternative is to reject the a\*ffirmative’s masculine, universal silence and instead affirm a radical ethics of sexual difference that comes to grips with the sexual violence of the-+ 1AC.

Irigaray 85

[Luce Irigaray, 1985, “An Ethics of Sexual Difference”, uwyo//amp]

Sexual difference is one of the major philosophical issues, if not the issue, of our age. According to Heidegger, each age has one issue to think through, and one only. Sexual difference is prQbably the issue in our time which could be our "salvation" if we thought it through. But, whether I turn to philosophy, to science, or to religion, I find this underlying issue still cries out in vain for our attention. Think of it as an approach that would allow us to check the many forms that destruction takes in our world, to counteract a nihilism that merely affirms the reversal or the repetitive proliferation of status quo values-whether you call them the consumer society, the circularity of discourse, the more or less cancerous diseases of our age, the unreliability of words, the end of philosophy, religious despair or regression to religiosity, scientis tic or technical imperialism that fails to consider the living subject. Sexual difference would constitute the horizon of worlds more fecund than any known to date-at least in the West-and without reducing fecundity to the reproduction of bodies and flesh. For loving partners this would be a fecundity of birth and regeneration, but also the production of a new age of thought, art, poetry, and language: the creation of a new poetics. Both in theory and in practice, everything resists the discovery and affirmation of such an advent or event. In theory, philosophy wants to be literature or rhetoric, wishing either to break with ontology or to regress to the ontological. Using the same ground and the same framework as "first philosophy," working toward its disintegration but without proposing any other goals that might assure new foundations and new works. In politics, some overtures have been made to the world of women. But these overtures remain partial and local: some concessions have been made by those in power, but no new values have been established. Rarely have these measures been thought through and affirmed by women themselves, who consequently remain at the level of critical demands. Has a worldwide erosion of the gains won in women's struggles occurred because of the failure to lay foundations different from those on which the world of men is constructed? Psychoanalytic theory and therapy, the scenes of sexuality as such, are a long way from having effected their revolution. And with a few exceptions, sexual practice today is often divided between two parallel worlds: the world of men and the world of women. A nontraditional, fecund encounter between the sexes barely exists. It does not voice its demands publicly, except through certain kinds of silence and polemics. A revolution in thought and ethics is needed if the work of sexual difference is to take place. We need to reinterpret everything concerning the relations between the subject and discourse, the subject and the world, the subject and the cosmic,' the microcosmic and the macrocosmic. Everything, beginning with the way in which the subject has always been written in the masculine form, as man, even when it claimed to be universal or neutral. Despite the fact that man-at least in French-rather than being neutral, is sexed.

### 4th Off

#### PQD adherence for foreign affairs cases is intact—but a contrary ruling destroys it

Franck ‘12

Thomas, Murray and Ida Becker Professor of Law, New York University School of Law Wolfgang Friedmann Memorial Award 1999, *Political Questions/Judicial Answers*

We may be on the verge of a new era in which avoidance or abdication is no longer the Supreme Court’s response when government thaumaturgically invokes the “national-security” or “foreign-policy” talisman. Except in Goldwater, the Court has lately avoided invoking the political-question doctrine, yet it achieved this truce largely by turning away petitions for review of foreign-affairs cases. Mean while, in the lower courts, as we have seen, “the political question doctrine has had a busy life.”35 However, when the Supreme Court occasionally does grant certiorari in such matters now, it seems increasingly willing to review the allegation of aces de pouvoir, and as we have seen in chapter 5, even if the case has evident national-security and foreign-policy elements, judges currently appear somewhat more willing to review the legality and constitutionality of the act. This subtle shift, if it is one, deserves clearer doctrinal enunciation by the Court. Thus, the debate ought soon to move on: from whether review is permissible (justiciability) to what the proper standard of review should be—a matter of onus and evidentiary weight. That too raises questions quite as controversial, but different and manageable, as those presented by adherence to the doctrine of abstention. In Fiullo, for example, Marshall and Brennan, concluded in dissent that despite its protestations, Congress’s discrimination be tween male and female parents was void because based on “reasons unrelated to foreign policy concerns or threats to national security” and that whatever the ends sought, any gender-based classification must “serve important governmental objectives and ... be substan tially related to achievement of those objectives” and must not be “il logical and unjust.”” “Logical and just” is a tougher standard for ju dicial review of an exercise of political discretion than the “devoid of conceivable rational purpose” test adopted by the majority. But majority and dissent agreed that their difference was precisely that: disagreement over the applicable standard of judicial review where a coordinate political branch of government seeks to defend the consti tutionality of its choice among policy options. Moreover, the justices evinced understandable disagreement over whether the distinction between genders served a genuine national-security purpose. They did not disagree, however, about where the final word on that issue properly resides—in the Court. Constitutionality, majority and dissent agreed, is for courts to de termine. Increasingly, such a view of the judiciary’s role seems to be shared by almost all the justices in the cases they have recently accepted. When it grants certiorari, the Court now seems invariably disinclined to treat as beyond challenge the story told by a political branch about the circumstances in which it made its policy choice. But since most cases with foreign-policy or national-security implica tions do not reach the highest tribunal, the Court has a hortatory obligation it must soon discharge. In the lower courts, the nonjusticiability of foreign-relations cases is still prevalent doctrine, rooted in older Supreme Court cases, prodigious obiter dicta, and prevailing juris prudential myth. Sooner or later this chaotic condition will have to be set right, if necessary with the help of Congress, by a comprehensive new theoretical pronouncement from the highest tribunal.

#### That spills over to climate change cases---litigants are turning to the Courts now and asking them to abrogate the PQD

Laurence H. Tribe 10, the Carl M. Loeb University Professor, Harvard Law School; Joshua D. Branson, J.D., Harvard Law School and NDT Champion, Northwestern University; and Tristan L. Duncan, Partner, Shook, Hardy & Bacon L.L.P., January 2010, “TOOHOTFORCOURTSTO HANDLE: FUEL TEMPERATURES, GLOBAL WARMING, AND THE POLITICAL QUESTION DOCTRINE,” <http://www.wlf.org/Upload/legalstudies/workingpaper/012910Tribe_WP.pdf>

Two sets of problems, one manifested at a microcosmic level and the other about as macrocosmic as imaginable, powerfully illustrate these propositions. Not coincidentally, both stem from concerns about temperature and its chemical and climactic effects, concerns playing an increasingly central role in the American policy process. As those concerns have come to the fore, courts have correspondingly warmed to the idea of judicial intervention, drawn by the siren song of making the world a better place and fueled by the incentives for lawyers to convert public concern into private profit. In both the fuel temperature and global warming cases, litigants, at times justifying their circumvention of representative democracy by pointing to the slow pace of policy reform, have turned to the courts. By donning the cloak of adjudication, they have found judges for whom the common law doctrines of unjust enrichment, consumer fraud, and nuisance appear to furnish constitutionally acceptable and pragmatically useful tools with which to manage temperature’s effects. Like the proverbial carpenter armed with a hammer to whom everything looks like a nail, those judges are wrong. For both retail gasoline and global climate, the judicial application of common law principles provides a constitutionally deficient—and structurally unsound—mechanism for remedying temperature’s unwanted effects.

It has been axiomatic throughout our constitutional history that there exist some questions beyond the proper reach of the judiciary. In fact, the political question doctrine originates in no less august a case than Marbury v. Madison, where Chief Justice Marshall stated that “[q]uestions in their nature political, or which are, by the constitution and laws, submitted to the executive, can never be made in this court.”1 Well over a century after that landmark ruling, the Supreme Court, in Baker v. Carr, famously announced six identifying characteristics of such nonjusticiable political questions, which, primarily as a “function of the separation of powers,” courts may not adjudicate.2 Of these six characteristics, the Court recently made clear that two are particularly important: (1) the presence of “a textually demonstrable constitutional commitment of the issue to a coordinate political department;” and (2) “a lack of judicially discoverable and manageable standards for resolving it.”3

The spectrum of nonjusticiable political questions in a sense spans the poles formed by these two principles. At one pole, the Constitution’s specific textual commitments shield issues expressly reserved to the political branches from judicial interference. At the other pole lie matters not necessarily reserved in so many words to one of the political branches but nonetheless institutionally incapable of coherent and principled resolution by courts acting in a truly judicial capacity; such matters are protected from judicial meddling by the requirement that “judicial action must be governed by standard, by rule” and by the correlative axiom that “law pronounced by the courts must be principled, rational, and based upon reasoned distinctions.”4

At a deeper level, however, the two poles collapse into one. The reason emerges if one considers issues that courts are asked to address involving novel problems the Constitution’s framers, farsighted though they were, could not have anticipated with sufficient specificity to entrust their resolution to Congress or to the Executive in haec verba. A perfect exemplar of such problems is the nest of puzzles posed by humaninduced climate change. When matters of that character are taken to court for resolution by judges, what marks them as “political” for purposes of the “political question doctrine” is not some problem-specific language but, rather, the demonstrable intractability of those matters to principled resolution through lawsuits. And one way to understand that intractability is to view it as itself marking the Constitution’s textual, albeit broadly couched, commitment of the questions presented to the processes we denominate “legislative” or “executive”—that is, to the pluralistic processes of legislation and treaty-making rather than to the principle-bound process of judicially resolving what Article III denominates “cases” and “controversies.” In other words, the judicial unmanageability of an issue serves as powerful evidence that the Constitution’s text reserves that issue, even if broadly and implicitly, to the political branches.5

It has become commonplace that confusion and controversy have long distinguished the doctrine that determines, as a basic matter of the Constitution’s separation of powers, which questions are “political” in the specific sense of falling outside the constitutional competence of courts and which are properly justiciable despite the “political” issues they may touch. But that the principles in play have yet to be reduced to any generally accepted and readily applied formula cannot mean that courts are simply free to toss the separation of powers to the winds and plunge ahead in blissful disregard of the profoundly important principles that the political question doctrine embodies. Unfortunately, that appears to be just what some courts have done in the two temperature-related cases—one involving hot fuels, the other a hot earth— that inspired this publication. In the first, a court allowed a claim about measuring fuels to proceed despite a constitutional provision specifically reserving the issue to Congress. In the second—a case in which the specific issue could not have been anticipated, much less expressly reserved, but in which the only imaginable solutions clearly lie beyond judicial competence—a court, rather than dismissing the case as it ought to have done, instead summarily dismissed the intractable obstacles to judicial management presented by climate change merely because it was familiar with the underlying cause of action. As this pair of bookend cases demonstrates, the political question doctrine is feeling heat from both directions.

#### That wrecks coordination necessary to solve warming

Laurence H. Tribe 10, the Carl M. Loeb University Professor, Harvard Law School; Joshua D. Branson, J.D., Harvard Law School and NDT Champion, Northwestern University; and Tristan L. Duncan, Partner, Shook, Hardy & Bacon L.L.P., January 2010, “TOOHOTFORCOURTSTO HANDLE: FUEL TEMPERATURES, GLOBAL WARMING, AND THE POLITICAL QUESTION DOCTRINE,” <http://www.wlf.org/Upload/legalstudies/workingpaper/012910Tribe_WP.pdf>

But that being said, if the Second Circuit was implying that such claims are justiciable in part because they are relatively costless, it was wrong again. In the wake of the recent Copenhagen climate negotiations, America is at a crossroads regarding its energy policy. At Copenhagen, the world—for the first time including both the United States and China—took a tremulous first step towards a comprehensive and truly global solution to climate change.44 By securing a modicum of international consensus—albeit not yet with binding commitments—President Obama laid the foundation for what could eventually be a groundbreaking congressional overhaul of American energy policy, an effort that will undoubtedly be shaped by considerations as obviously political as our energy independence from hostile and unreliable foreign regimes and that will both influence and be influenced by the delicate state of international climate negotiations.45

Against this backdrop, courts would be wise to heed the conclusion of one report that what “makes climate change such a difficult policy problem is that decisions made today can have significant, uncertain, and difficult to reverse consequences extending many years into the future."46 This observation is even more salient given that America—and the world—stand at the precipice of major systemic climate reform, if not in the coming year then in the coming decade. It would be disastrous for climate policy if, as at least one commentator has predicted,47 courts were to “beat Congress to the punch” and begin to concoct common law “solutions” to climate change problems before the emergence of a legislative resolution. Not only does judicial action in this field require costly and irreversible technological change on the part of defendants, but the prior existence of an ad hoc mishmash of common law regimes will frustrate legislators’ attempts to design coherent and systematic marketbased solutions.48 Indeed, both emissions trading regimes and carbon taxes seek to harness the fungibility of GHG emissions by creating incentives for reductions to take place where they are most efficient. But if courts were to require reductions of randomly chosen defendants—with no regard for whether they are efficient reducers— they would inhibit the effective operation of legislatively-created, market-based regimes by prematurely and artificially constricting the size of the market. And as one analyst succinctly put it before Congress, “[a]n insufficient number of participants will doom an emissions trading market.”49

There is no doubt that the “Copenhagen Accord only begins the battle” against climate change, as diplomats, bureaucrats, and legislators all now begin the lengthy struggle to turn that Accord’s audacious vision into concrete reality.50 But whatever one’s position in the debate between emissions trading and carbon taxes, or even in the debate over the extent or indeed the reality of anthropogenic climate change, one thing is clear: legislators, armed with the best economic and scientific analysis, and with the capability of binding, or at least strongly incentivizing, all involved parties, are the only ones constitutionally entitled to fight that battle.

CONCLUSION

Some prognosticators opine that the political question doctrine has fallen into disrepute and that it no longer constitutes a viable basis upon which to combat unconstitutional judicial overreaching.51 No doubt the standing doctrine could theoretically suffice to prevent some of the most audacious judicial sallies into the political thicket, as it might in the climate change case, where plaintiffs assert only undifferentiated and generalized causal chains from their chosen defendants to their alleged injuries. But when courts lose sight of the important limitations that the political question doctrine independently imposes upon judicial power–even where standing problems are at low ebb, as with the Motor Fuel case–then constitutional governance, and in turn the protection of individual rights and preservation of legal boundaries, suffer. The specter of two leading circuit courts manifestly losing their way in the equally real thicket of political question doctrine underscores the urgency, perhaps through the intervention of the Supreme Court, of restoring the checks and balances of our constitutional system by reinforcing rather than eroding the doctrine’s bulwark against judicial meddling in disputes either expressly entrusted by the Constitution to the political branches or so plainly immune to coherent judicial management as to be implicitly entrusted to political processes. It is not only the climate of the globe that carries profound implications for our future; it is also the climate of the times and its implications for how we govern ourselves.

#### Extinction

Flournoy 12

-- Citing Feng Hsu, PhD NASA Scientist @ the Goddard Space Flight Center. Don Flournoy is a PhD and MA from the University of Texas, Former Dean of the University College @ Ohio University, Former Associate Dean @ State University of New York and Case Institute of Technology, Project Manager for University/Industry Experiments for the NASA ACTS Satellite, Currently Professor of Telecommunications @ Scripps College of Communications @ Ohio University (Don, "Solar Power Satellites," January, Springer Briefs in Space Development, Book, p. 10-11

In the Online Journal of Space Communication , Dr. Feng Hsu, a  NASA scientist at Goddard Space Flight Center, a research center in the forefront of science of space and Earth, writes, “The evidence of global warming is alarming,” noting the potential for a catastrophic planetary climate change is real and troubling (Hsu 2010 ) . Hsu and his NASA colleagues were engaged in monitoring and analyzing climate changes on a global scale, through which they received first-hand scientific information and data relating to global warming issues, including the dynamics of polar ice cap melting. After discussing this research with colleagues who were world experts on the subject, he wrote: I now have no doubt global temperatures are rising, and that global warming is a serious problem confronting all of humanity. No matter whether these trends are due to human interference or to the cosmic cycling of our solar system, there are two basic facts that are crystal clear: (a) there is overwhelming scientific evidence showing positive correlations between the level of CO2 concentrations in Earth’s atmosphere with respect to the historical fluctuations of global temperature changes; and (b) the overwhelming majority of the world’s scientific community is in agreement about the risks of a potential catastrophic global climate change. That is, if we humans continue to ignore this problem and do nothing, if we continue dumping huge quantities of greenhouse gases into Earth’s biosphere, humanity will be at dire risk (Hsu 2010 ) . As a technology risk assessment expert, Hsu says he can show with some confidence that the planet will face more risk doing nothing to curb its fossil-based energy addictions than it will in making a fundamental shift in its energy supply. “This,” he writes, “is because the risks of a catastrophic anthropogenic climate change can be potentially the extinction of human species, a risk that is simply too high for us to take any chances” (Hsu 2010 )

### Solvency

#### Presidents circumvent courts

#### [1.] Obama invokes state secrets privilege on war powers and cases are dismissed

Deveraux 2010

[Ryan Devereaux is a freelance journalist and a Fall 2010 intern at The Nation., September 29th, 2010, Is Obama's Use of State Secrets Privilege the New Normal?, http://www.thenation.com/article/155080/obamas-use-state-secrets-privilege-new-normal#, uwyo//amp]

This is not the first time the Obama administration has invoked the state secrets privilege. On September 8, the United States Court of Appeals for the 9th Circuit dismissed another lawsuit filed by the ACLU in a narrow 6-to-5 decision. The defendant in the case was Jeppesen Dataplan, Inc. The ACLU claimed that Jeppesen, a subsidiary of Boeing Company, had knowingly provided flight services to the CIA to carry out its unlawful extraordinary rendition program. The plaintiffs in the case, Binyam Mohamed, Abou Elkassim Britel and Ahmed Agiza claim that they were flown to secret overseas locations and tortured at the behest of US intelligence agencies. Binyam Mohamed, in particular, told a story of brutal and degrading torture at the hands of Moroccan integrators working in conjunction with the US. Mohamed claims that he was regularly beaten unconscious, was cut 20 to 30 times on his genitals and on one occasion had hot stinging liquid poured into open wounds on his penis as he was being cut.

####  [2.] Bush ignored counterterrorism rulings

Posner and Vermeule 2010 [Eric A. , Professor of Law at the University of Chicago Law School and Editor of The Journal of Legal Studies; Adrian , Harvard Law Professor, The Executive Unbound: After the Madisonian Republic, Oxford Press, p. 204//wyo-sc]

In general, judicial opposition to the Bush administration's counterterrorism policies took the form of incremental rulings handed down at a glacial pace, none of which actually stopped any of the major counterterrorism tactics of that administration, including the application of military power against Al Qaeda, the indefinite detention of members of Al Qaeda, targeted assassinations, the immigration sweeps, even coercive interrogation. The (limited) modifications of those tactics that have occurred resulted not from legal interventions but from policy adjustments driven by changed circumstances and public opinion, and by electoral victory of the Obama administration. However, the Obama administration has mostly confirmed and in some areas even expanded the counterterrorism policies of the Bush administration. Strong executive government is bipartisan.

#### [3.] Warrantless surveillance proves

Congressional Record 2007

[Congressional Record, November 15th, 2007, House Debate on the RESTORE Act to Amend the FISA, <https://www.fas.org/irp/congress/2007_cr/h111507.html>, uwyo//amp]

The American people know all too well that this administration is now considered the most secretive in the history of our country. It has operated with unchecked power and without judicial or congressional oversight. We now know that the President went around the courts to conduct a program of warrantless surveillance of calls to Americans. We now know that the FBI abused the authorities granted under the PATRIOT Act improperly using National Security Letters to American businesses, including medical, financial and library records, instead of seeking a warrant from the court. In hundreds of signing statements, the President has quietly claimed he had the authority to set aside statutes passed by Congress.

#### Administration is striking deals to send prisoners home now

Cloud Nov. 6th

[David S. Cloud, November 6th, 2013, U.S. holds talks about Yemen detention center for Guantanamo inmates, [http://www.latimes.com/world/la-fg-yemen-gitmo-20131107,0,3163913.story#axzz2kP5Z3JkD](http://www.latimes.com/world/la-fg-yemen-gitmo-20131107%2C0%2C3163913.story#axzz2kP5Z3JkD), uwyo//amp]

U.S. officials have discussed building a Yemeni facility for several years. The idea took on new life after Obama vowed in May to renew efforts to close Guantanamo Bay and appointed special envoys at the State Department and Pentagon to make it happen.¶ Blocked by Congress from moving the terrorism suspects to prisons on U.S. soil, the administration has focused on reaching agreements with other governments to take their citizens home.¶

#### No new prisoners since ‘08

Greenburg 2013

[Karen Greenburg is director of the centre on netional security at Fordham University law school. Formerly, she was director of the centre on law and security at NYU law school, and is author of The Least Worst Place: Guantánamo's First 100 Days, May 07, 2012, Five myths about Guantánamo Bay, <http://www.theguardian.com/world/2013/may/07/five-myths-about-guantanamo-bay>, uwyo//amp]

Guantánamo Bay is in limbo. It's neither closed nor fully open. The prison hasn't accepted any new detainees since 2008. Instead, in recent months, non-US citizens accused of international terrorism and apprehended abroad have been brought into federal custody.

### Heg

#### US voluntarily surrendering hegemony now and it’s popular with policy makers

Wolfworth 12

(Prof. William C. Wohlforth, political scientist and Daniel Webster Professor of Government at the Department of Government of the Dartmouth College. “US Decline? (No.2): William Wohlforth: The United States Lost Some Ground over the Past Decade” 12-23-12 [http://www.iranreview.org/content/Documents/US-Decline-No-2-William-Wohlforth-The-United-States-Lost-Some-Ground-over-the-Past-Decade.htm//wyoccd](http://www.iranreview.org/content/Documents/US-Decline-No-2-William-Wohlforth-The-United-States-Lost-Some-Ground-over-the-Past-Decade.htm//wyoccd%22%20%5Ct%20%22_blank))

It seems that the United States is voluntarily retreating from its position as a global hegemon, as a result of a remarkable increase in the costs of the unipolar and hegemonic order and the considerable decrease in its utilities. What’s your viewpoint in this regard?¶ A: This is far more likely, as the U.S. confronts mounting budget pressures—which stem mainly from domestic programs for an aging population rather than military commitments. But the sorure of the budget pressure is not the issue: the effect may well be to place major pressure on Washington to come up with a cheaper foreign policy approach. That said, at 4.5% of GDP and shrinking, the cost of US military primacy is low by historical standards. And it is set to sink further as Washington winds down the costly wars in Iraq and Afghanistan. Defense spending is projected to hit 3% of GDP by 2017. If the country can avoid getting itself into major counterinsurgency wars like Iraq and Afghanistan, the costs of leadership would appear to be sustainable. And, indeed, this is what President Obama and the overwhelming majority of the U.S. political establishment wants to do.¶There is a precedent for this—after Vietnam, the United States carried on for the rest of the Cold War without undertaking a major war on that scale even though it maintained its basic grand strategy of containing Soviet power globally. If the United States can repeat that feat of sustaining a global presence while avoiding “wars of choice” like Afghanistan and Iraq, the costs of its current approach should be sustainable.¶ But the United States might not be able to keep itself out of another costly war. And even if it does, it still could choose to “come home” and disengage from the world. Because it is a powerful country that is geographically removed from the world’s power centers, the United States has a choice. And even though most politicians continue to speak in favor of the current approach, and even though the public for the most part, remains willing to go along, a growing cadre of experts and opinion leaders is arguing evermore insistently that the current grand strategy makes no sense for America. They argue that the world takes advantage of the U.S., which is spilling blood and treasure for other peoples’ problems. They claim that the current strategy of global engagement just creates more and more enemies, and threat the country would be much safer if it pull back from the world. Their argument gains plausibility as the budget problems of the U.S. get worse. If their argument wins the day, the U.S. could pull back. And that would be transformational.

#### Data disproves hegemony impacts

Fettweis, 11

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

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

**No spillover — lack of credibility in one commitment doesn’t affect others at all**

Paul K. **MacDonald 11**, Assistant Professor of Political Science at Williams College, and Joseph M. Parent, Assistant Professor of Political Science at the University of Miami, Spring 2011, “Graceful Decline?: The Surprising Success of Great Power Retrenchment,” International Security, Vol. 35, No. 4, p. 7-44

Second, **pessimists** **overstate** **the extent to which a policy of retrenchment can** **damage a great power's capabilities or prestige**. Gilpin, in particular, assumes that a great power's commitments are on equal footing and interdependent. **In practice**, however, **great powers make commitments of varying degrees that are** **functionally independent** of one another. **Concession in one area need not be seen as** **influencing a commitment in another area**.25 **Far from being perceived as interdependent**, **great power commitments are often** **seen as** being **rivalrous**, **so that** **abandoning commitments in one area may actually** **bolster the strength of a commitment in another area**. During the Korean War, for instance, President Harry Truman's administration explicitly backed away from total victory on the peninsula to strengthen deterrence in Europe.26 **Retreat in an area of lesser importance** **freed up resources** **and** **signaled a strong commitment to an area of greater significance**.

**Credibility theory wrong**

**Drezner 9/16**/13 (Daniel, Swing and a Miss The Sabermetric spat about whether it's important for a president to appear "credible." http://www.foreignpolicy.com/articles/2013/09/16/swing\_and\_a\_miss\_credibility\_syria?print=yes&hidecomments=yes&page=full)

If nothing else, Barack **Obama's Syria policy has succeeded in exposing the widening fissures in America's foreign policy community**. Even with what looks to be a brokered deal that, if implemented, would remove Syria's chemical weapons stockpile, the administration's gyrations over Syria have generated significant consternation in the foreign policy community. **The most intriguing divide,** however**, is over** the question of whether President Obama must respond forcefully to Syria's use of chemical weapons because of concerns about **credibility**. Administration officials have repeatedly argued that if the president fails to follow through on his "red line" comment about chemical weapons by keeping military options at the ready, other actors in the world like Iran and Russia will view the United States as a paper tiger. Earlier this month, Secretary of State John Kerry pleaded with Congress to authorize the use of force in order to preserve the "core to American credibility in foreign policy." Secretary of Defense Chuck Hagel explicitly argued that acting on Syria was necessary to ensure U.S. credibility vis-à-vis Iran. And both Kerry and Hagel suggested in congressional testimony that a failure to act would embolden North Korea to use its chemical weapons stockpile. After rhetoric like this, it's not shocking that GOP Sen. Bob **Corker took to CNN to blast the president for not caring more about U.S. credibility in the region after Obama reversed course.**¶ Influential **pundits have made similar points**. The Council on Foreign Relations's Richard Haass tweeted the importance of making the military option a credible one. Ross Douthat at the New York Times warned that there would be, "unknowable consequences for the credibility of American foreign policy" if Obama failed to rally congressional support for military action, while Roger Cohen reported that, "In Berlin ... the change has been noted. It has also been noted in Tehran, Moscow, Beijing and Jerusalem." Here at Foreign Policy, David Rothkopf argued that action in Syria was essential: "we must also consider what the 'too little, too late' message sends to others in the region who might consider violating the most important norms of international behavior." **It is not hard to find other former policymakers or even straight news stories that articulate this thesis.**¶ **The odd thing about all of this emphasis on "credibility" is that the trend in international relations scholarship has moved in the opposite direction**. **The notion that a country or its leader has a single reputation for resolve or credibility has been pretty much dismissed.** As one recent literature review by University of Alabama political scientist Douglas **Gibler noted, "empirical support for the effects of reputation has been lacking."** Dartmouth professor **Daryl Press**'s Calculating Credibility **argues that the balance of forces on the ground matter far more in how leaders assess each other's intentions than past reputation**. To be sure, reputation and credibility do matter in some well-defined circumstances. Countries that perpetually default on their foreign debts face higher interest rates because of bad prior reputation. Nevertheless, **credibility doesn't matter nearly as much as policymakers claim.**

#### Legitimacy fails—institutions suck and divergent interests prevent broader cooperation

**Chang 10** – Counsel to the American law firm Paul Weiss and earlier in Hong Kong as Partner in the international law firm Baker & McKenzie. oken at Columbia, Cornell, Princeton, Yale, and other universities and at The Brookings Institution, The Heritage Foundation, the Cato Institute, RAND, the American Enterprise Institute, the Council on Foreign Relations, and other institutions.  He has given briefings at the National Intelligence Council, the Central Intelligence Agency, the State Department, and the Pentagon.  He has also spoken before industry and investor groups including Bloomberg, Sanford Bernstein, and Credit Lyonnais Securities Asia.  Chang has testified before the U.S.-China Economic and Security Review Commission and has delivered to the Commission a report on the future of China’s economy, and has appeared on CNN, Fox News Channel, CNBC, MSNBC, PBS, the BBC, and Bloomberg Television. He has appeared on The Daily Show with Jon Stewart (Gordon G. January 18, “The End of Multilateralism” Vol. 15, No. 17 http://www.weeklystandard.com/articles/end-multilateralism )

Just before Christmas, the U.N. Security Council adopted an arms embargo on Eritrea, which has been supplying weapons to Islamic insurgents in nearby Somalia. In one sense, the strictly worded measure is a symbol of the international community’s determination to stop tragic conflicts in the Horn of Africa. The resolution, however, is years late and could end up having little effect. A similar U.N. embargo on Somalia has not prevented weapons from being freely traded in Mogadishu. The concept of global collective security, unfortunately, has not worked well, either last century or this one. It is no surprise that the United Nations is not meeting important challenges, but even once-successful global institutions are losing effectiveness. The International Monetary Fund, for instance, completely failed to handle—or even anticipate—the global economic downturn. The G-7 and G-8 are now thought to be irrelevant, and the G-20, considered a replacement for these two groupings, has little to show for three grand gatherings in 2008 and 2009. The World Trade Organization has been unable to prevent a resurgence of protectionism, § Marked 17:28 § and its Doha Round negotiations, now more than eight years old, have stalled. These negotiations could be the first major trade talks to fail since the 1930s. Last month’s Copenhagen climate change summit, the 15th installment of the once-productive Conference of the Parties talks, flopped even though it was hailed as “the most important meeting in the history of the world.” Weak nuclear rogues like Syria are now getting the better of the once-mighty International Atomic Energy Agency. North Korea has already outsmarted the watchdog organization by covertly building plutonium-core weapons, and Iran is developing an atomic warhead with impunity.  President Obama says the United States cannot solve the world’s problems alone. Maybe that’s true, but sooner or later he has to realize he’s not going to get the help of the world’s other powers. The “international community” is not coming together to solve common problems. This is not how we thought things would work out two decades ago. In the early 1990s, optimistic Western analysts predicted that, with the Soviet Union gone, the world would enter a generally harmonious era. As Francis Fukuyama famously argued, events would continue to occur, but “the evolution of human societies through different forms of government had culminated in modern liberal democracy and market-oriented capitalism.” Because democracies did not fight one another, the reasoning went, the international system would become more manageable. Nations would generally tend to agree with one another on the big issues—or at least manage to get along. In this type of world, multilateralism was not only considered possible, it was thought to be necessary and even desirable. Multilateralism, by its emphasis on consensual action, implicitly delegitimized America’s leading role in defending core Western values. So did the concept of globalization. Trade, the theory went, would lead to open -economies, open economies to prosperity, prosperity to representative governance, and representative governance to peace. In this extraordinarily benign environment, the impersonal forces of history, relentlessly grinding forward, would finish off Communists, autocrats, and bad actors of all stripes. As we now know, the opposite occurred. When the political barriers to trade fell, globalization indeed kicked into high gear, creating unprecedented amounts of wealth and liquidity. But global prosperity also strengthened hardline states, notably China and Russia, giving them the means to resist democratization, pursue aggressive foreign policies, and even bend the international system more to their liking. The Chinese, in particular, are displaying a newfound “sense of triumphalism” (as a senior U.S. official put it to the Washington Post last week) and are acting as if their economic success means they don’t have to listen to anybody. Developing democracies, such as India and Brazil, also gained prominence and a platform to pursue policies that differed from those of the more advanced nations.  The result is a world with many different voices, one where consensus, or even agreement, on important issues is not possible. Simply put, among the 195 nations of the world there is no common view of the troubling events of the day and no accepted approach to handling them. Even though the conditions that gave rise to multilateralism no longer exist, the concept has not only survived but attained the status almost of a geopolitical religion. In this environment, solutions are legitimate only if they are multilateral. Yet because multilateral solutions are becoming increasingly difficult to reach, problems fester. Most of the time, the best the international community can manage are lowest common denominator fixes on matters marginal to global security. It was thus utterly predictable that the Security Council chose last month to deal with Eritrea instead of, say, the Islamic Republic of Iran.

### Adventurism

#### No impact to African war- no external involvement

#### Barrett, 05

Robert Barrett, PhD student Centre for Military and Strategic Studies, University of Calgary, June 1, 2005, http://papers.ssrn.com/sol3/Delivery.cfm/SSRN\_ID726162\_code327511.pdf?abstractid=726162&mirid=1

Westerners eager to promote democracy must be wary of African politicians who promise democratic reform without sincere commitment to the process. Offering money to corrupt leaders in exchange for their taking small steps away from autocracy may in fact be a way of pushing countries into anocracy. As such, world financial lenders and interventionists who wield leverage and influence must take responsibility in considering the ramifications of African nations who adopt democracy in order to maintain elite political privileges. The obvious reason for this, aside from the potential costs in human life should conflict arise from hastily constructed democratic reforms, is the fact that Western donors, in the face of intrastate war would then be faced with channeling funds and resources away from democratization efforts and toward conflict intervention based on issues of human security. This is a problem, as Western nations may be increasingly wary of intervening in Africa hotspots after experiencing firsthand the unpredictable and unforgiving nature of societal warfare in both Somalia and Rwanda. On a costbenefit basis, the West continues to be somewhat reluctant to get to get involved in Africa’s dirty wars, evidenced by its political hesitation when discussing ongoing sanguinary grassroots conflicts in Africa. Even as the world apologizes for bearing witness to the Rwandan genocide without having intervened, the United States, recently using the label ‘genocide’ in the context of the Sudanese conflict (in September of 2004), has only proclaimed sanctions against Sudan, while dismissing any suggestions at actual intervention (Giry, 2005). Part of the problem is that traditional military and diplomatic approaches at separating combatants and enforcing ceasefires have yielded little in Africa. No powerful nations want to get embroiled in conflicts they cannot win – especially those conflicts in which the intervening nation has very little interest..

#### No risk of Asia war – Peaceful China and multilateral institutions

Bitzinger and Desker, 9

[Richard, Senior Fellow at the S. Rajaratnam School of International Studies, Barry, Dean of the S. Rajaratnam School of International Studies and Director of the Institute of Defense and Strategic Studies, Nanyang Technological University, Singapore, “ Why East Asian War is Unlikely,” Survival | vol. 50 no. 6 | December 2008–January 2009

 The Asia-Pacific region can be regarded as a zone of both relative insecurity and strategic stability. It contains some of the world’s most significant flashpoints – the Korean peninsula, the Taiwan Strait, the Siachen Glacier – where tensions between nations could escalate to the point of major war. It is replete with unresolved border issues; is a breeding ground for transnational terrorism and the site of many terrorist activities (the Bali bombings, the Manila superferry bombing); and contains overlapping claims for maritime territories (the Spratly Islands, the Senkaku/Diaoyu Islands) with considerable actual or potential wealth in resources such as oil, gas and fisheries. Finally, the Asia-Pacific is an area of strategic significance with many key sea lines of communication and important chokepoints. Yet despite all these potential crucibles of conflict, the Asia-Pacific, if not an area of serenity and calm, is certainly more stable than one might expect. To be sure, there are separatist movements and internal struggles, particularly with insurgencies, as in Thailand, the Philippines and Tibet. Since the resolution of the East Timor crisis, however, the region has been relatively free of open armed warfare. Separatism remains a challenge, but the break-up of states is unlikely. Terrorism is a nuisance, but its impact is contained. The North Korean nuclear issue, while not fully resolved, is at least moving toward a conclusion with the likely denuclearisation of the peninsula. Tensions between China and Taiwan, while always just beneath the surface, seem unlikely to erupt in open conflict any time soon, especially given recent Kuomintang Party victories in Taiwan and efforts by Taiwan and China to re-open informal channels of consultation as well as institutional relationships between organisations responsible for cross-strait relations. And while in Asia there is no strong supranational political entity like the European Union, there are many multilateral organisations and international initiatives dedicated to enhancing peace and stability, including the Asia-Pacific Economic Cooperation (APEC) forum, the Proliferation Security Initiative and the Shanghai Co-operation Organisation. In Southeast Asia, countries are united in a common geopolitical and economic organisation – the Association of Southeast Asian Nations (ASEAN) – which is dedicated to peaceful economic, social and cultural development, and to the promotion of regional peace and stability. ASEAN has played a key role in conceiving and establishing broader regional institutions such as the East Asian Summit, ASEAN+3 (China, Japan and South Korea) and the ASEAN Regional Forum. All this suggests that war in Asia – while not inconceivable – is unlikely. This is not to say that the region will not undergo significant changes. The rise of China constitutes perhaps the most significant challenge to regional security and stability – and, from Washington’s vantage point, to American hegemony in the Asia-Pacific. The United States increasingly sees China as its key peer challenger in Asia: China was singled out in the 2006 Quadrennial Defense Review as having, among the ‘major and emerging powers … the greatest potential to compete militarily with the United States’.1 Although the United States has been the hegemon in the Asia-Pacific since the end of the Second World War, it will probably not remain so over the next 25 years. A rising China will present a critical foreign-policy challenge, in some ways more difficult than that posed by the Soviet Union during the Cold War.2 While the Soviet Union was a political and strategic competitor, China will be a formidable political, strategic and economic competitor. This development will lead to profound changes in the strategic environment of the Asia-Pacific. Still, the rise of China does not automatically mean that conflict is more likely; the emergence of a more assertive China does not mean a more aggressive China. While Beijing is increasingly prone to push its own agenda, defend its interests, engage in more nationalistic – even chauvinistic – behaviour (witness the Olympic torch counter-protests), and seek to displace the United States as the regional hegemon, this does not necessarily translate into an expansionist or warlike China. If anything, Beijing appears content to press its claims peacefully (if forcefully) through existing avenues and institutions of international relations, particularly by co-opting these to meet its own purposes. This ‘soft power’ process can be described as an emerging ‘Beijing Consensus’ in regional international affairs. Moreover, when the Chinese military build-up is examined closely, it is clear that the country’s war machine, while certainly worth taking seriously, is not quite as threatening as some might argue.

#### No East Asian war --- informal processes secure and maintain East Asian peace

Weissmann, 09

 --- senior fellow at the Swedish School of Advanced Asia Pacific Studies (Mikael Weissmann, “Understanding the East Asian Peace: Some Findings on the Role of Informal Processes,” Nordic Asia Research Community, November 2, 2009, http://barha.asiaportal.info/blogs/in-focus/2009/november/understanding-east-asian-peace-some-findings-role-informal-processes-mi)

The findings concerning China’s role in keeping peace in the Taiwan Strait, the South China Sea, and on the Korean Peninsula confirm the underlying hypothesis that various informal processes and related mechanisms can help explain the relative peace. Virtually all of the identified processes and related mechanisms have been informal rather than formal. It should be noted that it is not necessarily the same types of processes that have been of importance in each and every case. In different ways these informal processes have demonstrated that the relative lack of formalised security structures and/or mechanisms have not prevented the region from moving towards a stable peace. **Informal processes have been sufficient both to prevent tension and disputes from escalating into war and for moving East Asia towards a stable peace.**

#### Zero risk of Korean conflict

Ashley **Rowland**, 12/3/20**10**. Stars and Stripes. “Despite threats, war not likely in Korea, experts say,” http://www.stripes.com/news/despite-threats-war-not-likely-in-korea-experts-say-1.127344?localLinksEnabled=false.

Despite increasingly belligerent threats to respond swiftly and strongly to military attacks, analysts say there is one thing both North Korea and South Korea want to avoid: an escalation into war. The latest promise to retaliate with violence came Friday, when South Korea’s defense minister-to-be said during a confirmation hearing that he supports airstrikes against North Korea in the case of future provocations from the communist country. “In case the enemy attacks our territory and people again, we will thoroughly retaliate to ensure that the enemy cannot provoke again,” Kim Kwan-jin said, according to The Associated Press. The hearing was a formality because South Korea’s National Assembly does not have the power to reject South Korean president Lee Myung-bak’s appointment. Kim’s comments came 10 days after North Korea bombarded South Korea’s Yeonpyeong island near the maritime border, killing two marines and two civilians — the first North Korean attack against civilians since the Korean War. South Korea responded by firing 80 rounds, less than half of the 170 fired by North Korea. It was the second deadly provocation from the North this year. In March, a North Korean torpedo sank the South Korean warship Cheonan, killing 46 sailors, although North Korea has denied involvement in the incident. The South launched a series of military exercises, some with U.S. participation, intended to show its military strength following the attack. John Delury, a professor at Yonsei University in Seoul, said South Korea is using “textbook posturing” to deter another attack by emphasizing that it is tough and firm. But it’s hard to predict how the South would respond to another attack. The country usually errs on the side of restraint, he said. “I think they’re trying to send a very clear signal to North Korea: Don’t push us again,” Delury said. “For all of the criticism of the initial South Korean response that it was too weak, in the end I think people don’t want another hot conflict. I think the strategy is to rattle the sabers a bit to prevent another incident.” Meanwhile, Yonhap News reported Friday that North Korea recently added multiple-launch rockets that are capable of hitting Seoul, located about 31 miles from the border. The report was based on comments from an unnamed South Korean military source who said the North now has 5,200 multiple-launch rockets. A spokesman for South Korea’s Joint Chiefs of Staff would not comment on the accuracy of the report because of the sensitivity of the information. Experts say it is a question of when — not if — North Korea will launch another attack. But those experts doubt the situation will escalate into full-scale war. “I think that it’s certainly possible, but I think that what North Korea wants, as well as South Korea, is to contain this,” said Bruce Bechtol, author of “Defiant Failed State: The North Korean Threat to International Security” and an associate professor of political science at Angelo State University in Texas. He said North Korea typically launches small, surprise attacks that can be contained — not ones that are likely to escalate. Delury said both Koreas want to avoid war, and North Korea’s leaders have a particular interest in avoiding conflict — they know the first people to be hit in a full-scale fight would be the elites.

# 2NC

#### War is the product of gendered understandings of life in which the masculine dominates the feminine – it can be removed only when these understandings change

Workman 96 [Thom, Poli Sci @ U of New Brunswick, YCISS Paper no. 31, p. 5, January 1996, http://www.yorku.ca/yciss/publications/OP31-Workman.pdf]

**The gender critique of war** provides a generalized account of wars and the way they are fought. The gender critique tells us why we have wars at all. While it is suggestive with respect to the frequency, character, and scope of war, it does not try to account for the timing and location of specific wars**. It tells us why war is viewed widely as an acceptable practice or way to resolve human differences** (although this acceptance invariably is accompanied with obligatory protestations of reluctance). The gender critique of war, for example, cannot account for the timing and location of the 1991 Gulf War, although it can provide an explanation of the warring proclivities of modern Western states, especially the inconsistency between the peaceful rhetoric of the US and its incessant warring practices. It can account for the spectre of war in the aftermath of Vietnam, with the end of the Cold War, and with the election of George Bush. It is less able to account for the appearance of war in the Middle East in January of 1991. The opening intellectual orientation of the gender critique of war rests upon a constructivist view of human understanding and practice, that is, a view that anchors practices, including war, within humankind's self-made historico-cultural matrix. This view is contrasted starkly with those that ground human practices psychologically or biologically or genetically. **War is not** viewed as a **natural practice as if delivered by the Gods; it arises out of human-created understandings and ways-ofliving** that have evolved over the millennia. More specifically, the assumption that men (the nearly exclusive makers and doers of war) are biologically hard-wired for aggression and violence is resisted, as is the related notion that women are naturally passive and non-violent. **The explanation for war will not be found in testosterone levels**. It is not the essential or bio-social male that makes war. **War is the product of the gendered understandings of life—understandings of the celebrated masculine and the subordinated feminine—that have been fashioned over** vast tracts of **cultural time.** And **since war arises from human-created understandings and practices it can be removed when these understandings change**. **War is not insuperable**. Indeed, the rooting of war in human created phenomena is recognized as a response to the political incapacitation associated with biologically determinist arguments: "Attempts of genetic determinists to show a biological basis for individual aggression and to link this to social aggression, are not only unscientific, but they support the idea that wars of conquest between nations are inevitable."8

### AT: Framework

ROB- vote for the team who best produces scholarship that

enables resistance to gendered oppression.

#### Sexual difference must come first- the ethical informs the political and this politics refuses the reduction of woman to the male subject

Braidotti 2011

[Braidotti, Rosi. Nomadic Subjects : Embodiment and Sexual Difference in Contemporary Feminist Theory (2nd Edition). New York, NY, USA: Columbia University Press, 2011. p 5.

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This implies the redefinition of the relationship of power to knowledge within feminism: as women of ideas devoted to the elaboration of the theory and practice of sexual difference, we are responsible for the very notions that we enact and empower. Thinking justly— of justness and not only of justice— is a top item in our agenda. This ethical dimension is for me as important as the political imperative. Feminist thinking cannot be purely strategic, i.e., the expression of a political will, it must rather attempt to be adequate as a representation of experience. Feminist theorizing must be adequate conceptually, as well as being suitable politically: one’s relationship to thinking is the prototype of a different relationship to alterity altogether. If we lose sight of this ethical, relational foundation of thinking, that is to say, the bond that certain discourses create among us, we are indeed in danger of homologation and therefore of purely strategic or instrumental kinds of thought. There can be no justice without justness, no political truth without adequation of our words, our ideas, and consequently our thought to the project of redefining female subjectivity in a nonlogocentric mode. As a consequence, the first priority for feminist theory today is to redefine the subject as a gendered unity inextricably connected to the other. For feminism, in the beginning there is alterity, the nonone, a multiplicity. The founding agent is the common corpus of female subjects who posit themselves theoretically and politically as a collective subject. This communal bond comes first— then and only then there arises the question of what political line to enforce. It is the ethical that defines the political and not vice versa: hence the importance of positing the feminist audience as the receptive, active participant in a discursive exchange that aims at changing the very rules of the game. This is the feminist community to which the “she-I” makes herself accountable. The paradox of the ontological basis of desire is that not only is it intersubjective, but it also transcends the subject. Desire also functions as the threshold for a redefinition of a new common plane of experience: “each woman is the woman of all women . . . ” The recognition of a common ground of experience as women mutually engaged in a political task of resistance to “Woman”—the dominant view of female subjectivity— lays the foundation for new images and symbolizations of the feminist subject. If we take as our starting point sexual difference as the positive affirmation of my facticity as a woman, working through the layers of complexity of the signifier “I, woman,” we end up opening a window onto a new genderized bond among different women. Identity politics is, in feminism, a collective project. By genderized collective subjectivity I mean a symbolic dimension proper to women in recognition of the nonreductability of the feminine to the masculine and yet, at the same time, of the indestructible unity of the human as an embodied self structurally linked to the other. It is the complex intersecting of never-ending levels of differing of self from other and self from self. As Adriana Cavarero (1990) put it: what is at stake in this is the representability of a feminine subject as a self-representing entity. It is less a question of founding the subject than of elucidating the categories by which the female feminist subject can be adequately represented. This is an important political gesture because thinking through the fullness of one’s complexity in the force of one’s transcendence is something women have never historically been able to afford. What seems to be at stake in the project of sexual difference, through the extreme sexualization of the subject, is a Nietzschean transmutation of the very value we give to the human and to a universal notion of commonness, of common belonging. I will want to argue that the aim of this transmutation of values is to be able to bring the multilayered structure of the subject to the fore. As Lispector points out: “the life in me does not have my name, “I” is not the owner of the portion of being that constitutes his being. To the extent that “she-I” accepts this, can “she-I” become the woman of all women and be accountable for her humanness? Only this highly defined notion of singularity can allow us to posit a new general sense of being: only situated perspectives can legitimate new general standpoints. In this sense, the experience of utter singularity that G.H. undergoes in her microcosm remains emblematic of the process of women becoming other than the “Woman” they were expected and socialized into being. G.H. shows us paths of transcendence specific to our gender and to women’s own, discontinuous time of becoming.

#### An ethics of sexual difference is a prerequisite to all questions of subjectivity- sexual difference constitutes the first and ever-forgotten symbol that is deployed to systematically exclude women from access to the symbolic and thus, their own subjectivity ALSO a limits d/a

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[Luce Irigaray, 1985, “An Ethics of Sexual Difference”, uwyo//amp]

Nietzsche used to say that we would continue to believe in God as long as we believed in grammar. Yet even, or perhaps particularly after the fall of a certain God, discourse still defends its untouchable status. To say that discourse has a sex, especially in its syntax, is to question the last bastion of semantic order. It amounts to taking issue with the God of men in his most tradi-tional form. Even if language is emptied of meaning-or perhaps the more it is emptied of meaning?-respect for its technical architecture must remain intact. Discourse would be the erection of the totem and the taboo of the world of man. And the more man strives to analyze the world, the universe, himself, the more he seems to resist upsetting the foundations of discourse. His analysis would serve only to confirm and double discourse's immutability. From the start, discourse would be for man that other of nature, that mother, that nature-womb, within which he lived, survived, and risked being lost. The discourse that had been intended as his tool for breaking ground and cultivating the world changed into an intangible, sacred horizon for him. That which is most his own and yet most alien to him? His home within the universe. And, inside that tentacular technical machine that man has made, a machine that threatens him today, not only in stark reality but also by assimilation to his fantasies and the nightmares he has of a devouring mother, man seems to cling ever tighter to that semblance of familiarity he finds in both his everyday and his scientific discourse. As if that technical universe and that language were not his creation, which, because of its failure to preserve the other, fails to preserve him too. The work of his hand, in which he cannot even recognize himself, in which he has drowned the other, now threatens to drown him in turn. He has all the animist fears of a child in the face of nature. He is afraid to touch his machine in case it is activated by his approach, as if it were a mechanism owed respect because of its transcendence. Language, in all its shapes and sizes, would dimly represent for man the allpowerful and ever-unknown mother as well as the transcendent God. Both. Man cannot or will not recognize or reinterpret in his symbols this duality in his technical productions The most obvious symbol, that closest to hand and also most easily forgotten, is the living symbol of sexual difference. But theory would claim that this symbolizes only itself. And women would serve only as a potential symbol to be exchanged by men, by peoples, and would never achieve symbolism or be able to use symbols. 11 Does the symbol constituted by sexual difference implacably split into two? The female would fall into the category of fallow land, matter to be made into a product, or currency symbol, mother or virgin without any identity as a woman. The masculine would no longer enter into. the body or the flesh of the symbol but fashion it or pass it from hand to hand from the outside. The bond between or the function shared by the pieces would be achieved secretly thanks to the female; the exchange of symbols would be assured by the masculine. By serving in this way as mediation from within the symbol, the feminine would have no access to sharing, exchanging, or coining symbols. In particular, the mother-daughter relationship, the attraction between mother and daughter, would be hidden in the symbol. Daughters, wives, and indeed mothers would not have, or would no longer have, signs available for their own relationships, or the means of designating a reality transcendent to themselves-their Other, their God or divine being. No articulated language would help women escape from the sameness of man or from an uninhabitable sameness of their own, lacking a passage from the inside to the outside of themselves, among themselves. Because they are used in mediation, as mediators, women can have within themselves and among themselves a same, an Other only if they move out of the existing systems of exchange. Their only recourse is flight, explosion, implosion, into an immediate relationship to nature or to God.

#### Failure to account for the ontological roots of modern politics ensures serial policy failure – we will repeatedly reproduce the same problems that we seek to solve

Dillon & Reid 2000 [Michael & Julian, Prof of Politics & Prof of International Relations, “Global Governance, Liberal Peace, and Complex Emergency,” *Alternatives: Social Transformation & Humane Governance* 25.1]

As a precursor to global governance, governmentality, according to Foucault's initial account, poses the question of order not in terms of the origin of the law and the location of sovereignty, as do traditional accounts of power, but in terms instead of the management of population. The management of population is further refined in terms of specific problematics to which population management may be reduced. These typically include but are not necessarily exhausted by the following topoi of governmental power: economy, health, welfare, poverty, security, sexuality, demographics, resources, skills, culture, and so on. Now, where there is an operation of power there is knowledge, and where there is knowledge there is an operation of power. Here discursive formations emerge and, as Foucault noted, in every society the production of discourse is at once controlled, selected, organised and redistributed by a certain number of procedures whose role is to ward off its powers and dangers, to gain mastery over its chance events, to evade its ponderous, formidable materiality.[ [34](http://web.ebscohost.com/ehost/detail?vid=4&hid=106&sid=5c6ed1cd-918f-452a-a061-c91626aee543%40sessionmgr113&bdata=JnNpdGU9ZWhvc3QtbGl2ZSZzY29wZT1zaXRl#bib34)] More specifically, where there is a policy problematic there is expertise, and where there is expertise there, too, a policy problematic will emerge. Such problematics are detailed and elaborated in terms of discrete forms of knowledge as well as interlocking policy domains. Policy domains reify the problematization of life in certain ways by turning these epistemically and politically contestable orderings of life into "problems" that require the continuous attention of policy science and the continuous resolutions of policymakers. Policy "actors" develop and compete on the basis of the expertise that grows up around such problems or clusters of problems and their client populations. Here, too, we may also discover what might be called "epistemic entrepreneurs." Albeit the market for discourse is prescribed and policed in ways that Foucault indicated, bidding to formulate novel problematizations they seek to "sell" these, or otherwise have them officially adopted. In principle, there is no limit to the ways in which the management of population may be problematized. All aspects of human conduct, any encounter with life, is problematizable. Any problematization is capable of becoming a policy problem. Governmentality thereby creates a market for policy, for science and for policy science, in which problematizations go looking for policy sponsors while policy sponsors fiercely compete on behalf of their favored problematizations. Reproblematization of problems is constrained by the institutional and ideological investments surrounding accepted "problems," and by the sheer difficulty of challenging the inescapable ontological and epistemological assumptions that go into their very formation. There is nothing so fiercely contested as an epistemological or ontological assumption. And there is nothing so fiercely ridiculed as the suggestion that the real problem with problematizations exists precisely at the level of such assumptions. Such "paralysis of analysis" is precisely what policymakers seek to avoid since they are compelled constantly to respond to circumstances over which they ordinarily have in fact both more and less control than they proclaim. What they do not have is precisely the control that they want. Yet serial policy failure--the fate and the fuel of all policy--compels them into a continuous search for the new analysis that will extract them from the aporias in which they constantly find themselves enmeshed.[ [35](http://web.ebscohost.com/ehost/detail?vid=4&hid=106&sid=5c6ed1cd-918f-452a-a061-c91626aee543%40sessionmgr113&bdata=JnNpdGU9ZWhvc3QtbGl2ZSZzY29wZT1zaXRl#bib35)] Serial policy failure is no simple shortcoming that science and policy--and policy science--will ultimately overcome. Serial policy failure is rooted in the ontological and epistemological assumptions that fashion the ways in which global governance encounters and problematizes life as a process of emergence through fitness landscapes that constantly adaptive and changing ensembles have continuously to negotiate. As a particular kind of intervention into life, global governance promotes the very changes and unintended outcomes that it then serially reproblematizes in terms of policy failure. Thus, global liberal governance is not a linear problem-solving process committed to the resolution of objective policy problems simply by bringing better information and knowledge to bear upon them. A nonlinear economy of power/knowledge, it deliberately installs socially specific and radically inequitable distributions of wealth, opportunity, and mortal danger both locally and globally through the very detailed ways in which life is variously (policy) problematized by it. In consequence, thinking and acting politically is displaced by the institutional and epistemic rivalries that infuse its power/ knowledge networks, and by the local conditions of application that govern the introduction of their policies. These now threaten to exhaust what "politics," locally as well as globally, is about.[ [36](http://web.ebscohost.com/ehost/detail?vid=4&hid=106&sid=5c6ed1cd-918f-452a-a061-c91626aee543%40sessionmgr113&bdata=JnNpdGU9ZWhvc3QtbGl2ZSZzY29wZT1zaXRl#bib36)] It is here that the "emergence" characteristic of governance begins to make its appearance. For it is increasingly recognized that there are no definitive policy solutions to objective, neat, discrete policy problems. The "subjects" of policy increasingly also become a matter of definition as well, since the concept population does not have a stable referent either and has itself also evolved in biophilosophical and biomolecular as well as Foucauldian "biopower" ways.

#### First, Oppression D/A-The permutation is not an act of love-it rejects woman’s attempt to stand outside of the masculine universal, undifferentiated, and demands her oppression

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[Luce Irigaray, 1985, “An Ethics of Sexual Difference”, uwyo//amp]

One configuration remains in latency, in abeyance: that of love among women. A configuration that constitutes a substrate that is sometimes mute, sometimes a disturbing force in our culture. A very live substrate whose outlines, shapes, are yet blurred, chaotic, or confused. Traditionally, therefore, this love among women has been a matter of rivalry with: - the real mother, - an all-powerful prototype of maternity, - the desire of man: of father, son, brother. This involves quantitative estimates of love that ceaselessly interrupt love's attraction and development. When we hear women talking to each other, we tend to hear expressions like the following: -like you; - me too; - me more (or me less). Such nagging calculations (which may be unconscious or preconscious) paralyze the fluidity of affect. We harden, borrow, situate ourselves on the edges of the other in order to "exist." As proofs of love, these comparatives eliminate the possibility of a place among women. We prize one another by standards that are not our own and which occupy, without inhabiting, the potential place of our identity. These statements bear witness to affects which are still childish or which fail to survive the death struggle of a narcissism that is always put off: to infinity or else to the hands of a third party as judge. One of the remarks you often hear one woman say to another woman who is a little better situated in her identity is: just like everyone else. Here we have no proof of love, but a judgmental statement that prevents the woman from standing out from an undifferentiated grouping, from a sort of primitive community of women, unconscious utopias or atopias that some women exploit at times to prevent one of their number from affirming her identity. Without realizing it, or willing it, in most cases, women constitute the most terrible instrument of their own oppression: they destroy anything that emerges from their undifferentiated condition and thus become agents of their own annihilation, their reduction to a sameness that is not their own. A kind of magma, of "night in which all the cats are gray," from which man, or humanity, extracts for free what he needs for food, lodging, and survival. These like you J me too J me more (or less) J just like everyone else kinds of remarks have little to do with a loving ethics. They are trace-symptoms of the polemos7 among women. There is no with you in this economy. But there may be a fusional state out of which nothing emerges or should emerge, or else a blind competition to occupy a place or space that is ill-defined but which arouses attraction, envy, passion. It is still not another woman who is loved but merely the place she occupies, that she creates, and that must be taken away from her, rather than respected. This tends to be the way with passions among women. We have to move against the current of history for things to be any different. Which does happen. And constitutes one of the most essential places for an ethics of the passions: no love oj other without love oj same.

#### Third, Incrementalism D/A-doesn’t solve-language and subjectivity is fundamentally disparately sexuate- a radical affirmation of difference is a prerequisite

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[Luce Irigaray, 1985, “An Ethics of Sexual Difference”, uwyo//amp]

Up to this point, my reading and my interpretation of the history of philosophy agree with Merleau-Ponty: we must go back to a moment of prediscursive experience, recommence ev~ rything, all the categories by which we understand things, the world, subject-object divisions, recommence everything and pause at the "mystery, as familiar as it is unexplained, of a light which, illuminating the rest, remains at its source in obscurity. ""If we could rediscover within the exercise of seeing and speaking some of the living references that assign themselves such a destiny in a language, perhaps they would teach us how to form our new instruments, and first of all to understand our research, our interrogation themselves." (P. 130). This operation is absolutely necessary in order to bring the maternal-feminine into language: at the level of theme, motif, subject, articulation, syntax, and so on. Which requires passage through the night, a light that remains in obscurity.

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#### - Links act as disads to the perm-

#### The perm is severance and demands the rejection of the aff-Men in feminism, even queer activists and theorists, cannot participate in feminism because they have not experienced the historical oppression on the basis of sex-results in metaphysical cannibalism in which men become subversive at the expense of the subjectivity of woman

Braidotti 2011

[Braidotti, Rosi. Nomadic Subjects : Embodiment and Sexual Difference in Contemporary Feminist Theory (2nd Edition). New York, NY, USA: Columbia University Press, 2011. p 5.

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In spite of my commitment to joyful, positive affirmation of alternative values, according to the Dionysian spirit of nomadic philosophy, there are times when a dose of resentful criticism appears as irresistible as it is necessary. Such is the case whenever I cast an ironic glance at “male-stream” poststructuralist philosophy. The question I will start of with is what is the position of men in feminism. How does the nomadic feminist look upon this issue? There is something both appealing and suspect in the notion of “men in feminism,” like many of the other contributors, my gaze lingers on the preposition “IN” wondering about the spatial dimension it throws open. Is it the battleground for the eternal war of the sexes? Is the space where bodily sexed subjectivities come to a head-on collision? I can only envisage this topic as a knot of interconnected tensions, an area of intense turmoil, a set of contradictions. Somewhere along the line, I am viscerally opposed to the whole idea: men aren’t and shouldn’t be IN feminism: the feminist space is not theirs and not for them to see. Thus the discursive game we are trying to play is either profoundly precarious or perversely provocative— or both at once. A sort of impatience awakens in me at the thought of a whole class/caste of men who are fascinated, puzzled, and intimidated by the sight of a penhandling female intelligentsia of the feminist kind. I do not know what is at stake in this for them and thus, to let my irony shine through between the lines, I am tempted to de/reform a sign and write, instead of phallic subtexts, “men in Pheminism.” Why insist on a letter, for instance? Contextual Constraints Of all Foucault ever taught me, the notion of the “materiality of ideas” has had the deepest impact. One cannot make an abstraction of the network of truth and power formations that govern the practice of one’s enunciation; ideas are sharp-edged discursive events that cannot be analyzed simply in terms of their propositional content. There is something incongruous for me to be sitting here in ethnocentric messed up Europe, thinking about “men in Pheminism.” I cannot say this is a major problem in my mind or in the context within which I am trying to live. There is something very American, in a positive sense, about this issue. The interest that American men display in feminism reflects a specific historical and cultural context: one in which feminist scholarship has made it to the cutting edge of the academic scene. This is not the case in Europe yet. As a European feminist I feel both resistant to and disenchanted with the reduction of feminism to “feminist theory” and the confining of both within academic discourse. This attitude points out a danger that the pioneers of women’s studies courses emphasized from the start: that our male “allies” may not be able to learn how to respect the material foundations, experiential bases, and hence the complexity of the issues raised by feminism. Following a century-old mental habit that Adrienne Rich (1977) analyzes so lucidly, men-in-feminism, however, cannot resist the temptation of short-circuiting this complexity. In a drive to straighten out feminist theory and practice, they streamline the feminist project in a mold. Blinded by what they have learned to recognize as “theory,” they bulldoze their way through feminism as if it were not qualitatively different from any other academic discipline. They are walking all over us. “They” are those white, middle-class male intellectuals who have “got it right” in that they have sensed where the subversive edge of feminist theory is. “They” are a very special generation of postbeat, preneoconfortyto-fifty-year-old men who have “been through” the upheavals of the 1960s and have inherited the values and the neuroses of that period. “They” are the “new men” in the “postfeminist” context of the politically reactionary 1990s. “They” are the best male friends we’ve got, and “they” are not really what we had hoped for. “They” can circle round women’s studies departments in crisis-struck arts faculties, knowing that here’s one of the few areas of the academy tht is still expanding financially with student enrollment at both undergraduate and graduate levels. “They” play the academic career game with great finesse, knowing the rule about feminist politics of locations and yet ignoring it. “They” know that feminist theory is the last bastion of constructive radical thought amidst the ruins of the postmodern gloom. “They” are conscious of the fact that the debate about modernity and beyond is coextensive with the woman question. Some of them are gay theorists and activists whose political sensibility may be the closest to feminist concerns. Next are heterosexual “ladies men,” whose preoccupation with the feminine shines for its ambiguity. What the heterosexual men are lacking intellectually— the peculiar blindness to sexual difference for which the term sexism is an inadequate assessment— is a reflection on their position in history. The politics of location is just not part of their genealogical legacy. They have not inherited a world of oppression and exclusion based on their sexed corporal being; they do not have the lived experience of oppression because of their sex. Thus most of them fail to grasp the specificity of feminism in terms of its articulation of theory and practice, of thought and life. Maybe they have no alternative. It must be very uncomfortable to be a male, white, middle-class, heterosexual intellectual at a time in history when so many minorities and oppressed groups are speaking up for themselves; a time when the hegemony of the white knowing subject is crumbling. Lacking the historical experience of oppression on the basis of sex, they paradoxically lack a minus. Lacking the lack, they cannot participate in the great ferment of ideas that is shaking up Western culture: it must be very painful, indeed, to have no option other than being the empirical referent of the historical oppressor of women, asked to account for his atrocities. The problem, in my perspective, is that the exclusion of women and the denigration of the feminine— or of blackness— are not just a small omission that can be fixed with a little good will. Rather, they point to the underlying theme in the textual and historical continuity of masculine self-legitimation and ideal self-projection (Lloyd 1985; Benjamin 1980). It’s on the woman’s body— on her absence, her silence, her disqualification— that phallocentric discourse rests. This sort of “metaphysical cannibalism,” which Ti-Grace Atkinson (1974) analyzed in terms of uterus envy, positions the woman as the silent groundwork of male subjectivity— the condition of possibility for his story. Psychoanalytic theory, of the Freudian or the Lacanian brand, circles around the question of origins— the mother’s body— by elucidating the psychic mechanisms that make the paternal presence, the father’s body, necessary as a figure of authority over her. Following Luce Irigaray, I see psychoanalysis as a patriarchal discourse that apologizes for and provides a political anatomy of metaphysical canni­ balism: the silencing of the powerfulness of the feminine (potentia). Refusing to dissociate the discourse about the feminine, the maternal, from the historical realities of the condition and status of women in Western culture, Irigaray equates the metaphorization of women (the feminine, the maternal) with their victimization or historical oppression. One does not become a member of the dark continent, one is born into it. The question is how to transform this century-old silence into a presence of women as subjects in every aspect of existence. I am sure “they” know this, don’t “they”?

#### Their gender-neutral discourse is what allows men to have free reign to wage war against the other

**Weedon** 19**99**

Chris, the Chair of the Centre for Critical and Cultural Theory at Cardiff University, Feminism, theory, and the politics of difference, p. 90-93

In the order of reason which has governed Western thought since the rise of Ancient Greek philosophy, feminine otherness is denied and reconstituted as a male-defined otherness. This results in the denial of subjectivity to potentially non-male-defined women. A maternal feminine subjectivity, were it to be realized, would enable women to step outside of patriarchal definitions of the feminine and become subjects in their own right. Whereas the unconscious in Freud and Lacan lays claim to fixed universal status, for Irigaray its actual form and content is a product of history. Thus, however patriarchal the symbolic order may be in Lacan, it is open to change. The question is how this change might be brought about. For Irigaray, the key to change is the development of a female imaginary. This can only be achieved under patriarchy in a fragmented way, as what she terms the excess that is realized in margins of the dominant culture. The move towards a female imaginary would also entail the transformation of the symbolic, since the relationship between the two is one of mutual shaping. This would enable women to assume subjectivity in their own right. Although, for Irigaray, the imaginary and the symbolic are both historical and changeable, this does not mean that, after thousands of years of repression and exclusion, change is easy. In a move not unlike that of ecofeminists, Irigaray suggests that the symbolic order, men and masculinity are shaped by patriarchy in ways which are immensely problematic not just for women but also for the future of the planet. The apparently objective, gender-neutral discourses of science and philosophy — the discourses of a male subject — have led to the threat of global nuclear destruction. In An Ethics of Sexual Difference (1993; original 1984), Irigaray suggests that the patriarchal male subject is himself shaped by the loss of the maternal feminine which motivates a desire for mastery: Man's self-affect depends on the woman who has given him being and birth, who has born/e him, enveloped him, warmed him, fed him. Love of self would seemingly take the form of a long return to and through the other. A unique female other, who is forever lost and must be sought in many others, an infinite number of others. The distance for this return can be conquered by the transcendence of God. The (female) other who is sought and cherished may be assimilated to the unique god. The (female) other is mingled or confused with God or the gods. (Irigaray 1993: 60-1; original 1984) Irigaray takes this theme further in Thinking the Difference: For a Peaceful Revolution (1994; original 1989) when she suggests that the desire for godlike mastery and transcendence has dire consequences for the world: Huge amounts of capital are allocated to the development of death machines in order to ensure peace, we are told. This warlike method of organising society is not self-evident. It has its m origin in patriarchy. It has a sex. But the age of technology has given weapons of war a power that exceeds the conflicts and risks taken among patriarchs. Women, children, all living things, including elemental matter, are drawn into the maelstrom. And death and destruction cannot be associated solely with war. They are part of the physical and mental aggression to which we are constantly subjected. What we need is an overall cultural transformation. Mankind [le peuple des homines] wages war everywhere all the time with a perfectly clear conscience. Mankind is traditionally carnivorous, sometimes cannibalistic. So men must eat to kill, must increase their domination of nature in order to live or to survive, must seek on the most distant stars what no longer exists here, must defend by any means the small patch of land they are exploiting here or over there. Men always go further, exploit further, seize more, without really knowing where they are going. Men seek what they think they need without considering who they are and how their identity is defined by what they do. To overcome this ignorance, I think that mankind needs those who are persons in their own right to help them understand and find their limits. ////Only women can play this role. Women are not genuinely responsible subjects in the patriarchal community. That is why it may be possible for them to interpret this culture in which they have less involvement and fewer interests than do men, and of which they are not themselves products to the point where they have been blinded by it. Given their relative exclusion from society, women may, from their outside perspective, reflect back a more objective image of society than can men. (Irigaray 1994: 4—5; original 1989) The destructive force of the patriarchal symbolic order makes all the more pressing Irigaray's project of creating a female imaginary and symbolic, specific to women, which might in its turn transform the male-defined symbolic order in the West, in which women figure only as lesser men. In this process, separatism becomes a strategy in the struggle for a nonpatriarchal society in which sexual difference is both voiced and valued: Let women tacitly go on strike, avoid men long enough to learn to defend their desire notably by their speech, let them discover the love of other women protected from that imperious choice of men which puts them in a position of rival goods, let them forge a social status which demands recognition, let them earn their living in order to leave behind their condition of prostitute — these are certainly indispensable steps in their effort to escape their proletarianization on the trade market. But if their goal is to reverse the existing order - even if that were possible - history would simply repeat itself and return to phallocratism, where neither women's sex, their imaginary, nor their language can exist. (1994: 106; original 1989)

# 1NR

#### The advantage claims of the affirmative are part of a hyper-masculine conception of international relations as a collection of threats which can only be emasculated by extending our political and military domination. Their demand for hegemony over the world logically extends to “the elimination of all that is foreign”

Steans 98 [Jill: Senior Lecturer in International Relations Theory, Director of the Graduate School for the University of Birmingham, *Gender and International Relations, An Introduction*, page 108-109]

Critical approaches to International Relations criticize the state centrism of realism, not only because it is inherently reductionist, but also because it presents a view of the state as a concrete entity with interests and agency. Not only does the state act, but the state acts in the national interest. Those who adopt critical approaches view the state in dynamic rather than static terms, 15 as a ‘process’ rather than a ‘thing’. The ‘state’ does not exist in any concrete sense; rather it is ‘made’. The state is made by the processes and practices involved in constructing boundaries and identities, differentiating between the ‘inside’ and the ‘outside’. Andrew Linklater has recently argued that critical approaches to the study of International Relations centre around understanding the processes of ‘inclusion’ and ‘exclusion’, which have in a sense always been the central concerns of the discipline. However, as Linklater contends, critical theorists understand that these processes have also worked to ‘include’ and ‘exclude’ people on the basis of race, class and gender. In the ‘making’ of the state the construction of the hostile ‘other’ which is threatening and dangerous is central to the making of identities and the securing of boundaries. Indeed, David Campbell argues that the legitimation of state power demands the construction of danger ‘outside’. The state requires this ‘discourse of danger’ to secure its identity and for the legitimation of state power. The consequence of this is that threats to security in realist and neo-realist thinking are all seen to be in the external realm and citizenship becomes synonymous with loyalty to the nation-state and the elimination of all that is foreign. Jean Elshtain has argued that the problems of war and the difficulties of achieving security in the so-called ‘anarchy’ of the international realm, should not be seen as problems which are not rooted in the compulsion of interstate relations as such. Rather, they arise from ‘the ordering of modern, technological society’ in which political elites have sought to control the masses by the implementation of ‘the mechanism of the perfect army’. Elshtain argues that to see war as a continuation of politics by other means, is to see a continuation of the ‘military model’ as a means of preventing civil disorder. In critiquing dominant conceptions of security in International Relations, feminists have, to some extent, echoed the arguments of non-feminist critical thinkers, but have been concerned to show what is lost from our understanding of security when gender is omitted. As was noted in chapter 4, feminist political theorists have demonstrated that in much Western political thought the conception of politics and the public realm is a ‘barracks community’, a realm defined in opposition to the disorderly forces which threaten its existence.22 This same conception of politics is constructed out of masculine hostility towards the female ‘Other’. One sees in the development of this political discourse a deeply gendered subtext in which the citizen role is in all cases identified with the male.23 Hartsock believes that this sets a hostile and combative dualism at the heart of the community men construct and by which they come to understand their lives.24

#### Hegemonic secuirity is inherently masculine and makes violence inevitable

Tickner 92 [J. Ann, Professor of International Relations and Director of the Center for International Studies at the University of Southern California, 1992. *Gender in International Relations,* p. 41-44]

**Behind this reification of state practices hide social institutions that are made and remade by individual actions.** In reality, the **neorealist depiction of the state as a unitary actor is grounded in the historical practices of the Western state system**: neorealist characterizations of state behavior, in terms of self-help, autonomy, and power seeking, privilege characteristics associated with the Western construction of masculinity. Since the beginning of the state system, **the national security functions of states have been deeded to us through gendered images that privilege masculinity**. The Western state system began in seventeenth-century Europe. As described by Charles Tilly, the modern state was born through war; leaders of nascent states consolidated their power through the coercive extraction of resources and the conquest of ever-larger territories. **Success in war continued to be imperative for state survival and the building of state apparatus.**38 Throughout the period of state building in the West, nationalist movements have used gendered imagery that exhorts masculine heroes to fight for the establishment and defense of the mother country. The collective identity of citizens in most states depends heavily on telling stories about, and celebration of, wars of independence or national liberation and other great victories in battle. National anthems are frequently war songs, just as holidays are celebrated with military parades and uniforms that recall great feats in past conflicts. These collective historical memories are very important for the way in which individuals define themselves as citizens as well as for the way in which states command support for their policies, particularly foreign policy. Rarely, however, do they include experiences of women or female heroes. While the functions of twentieth-century states extend well beyond the provision of national security, national security issues, particularly in time of war, offer a sense of shared political purpose lacking in most other areas of public policy.39 **The state continues to derive** much of **its legitimacy from its security function; it is for national security that citizens are willing to make sacrifices**, often unquestioningly.40 Military budgets are the least likely area of public spending to be contested by politicians and the public, who are often manipulated into supporting military spending by linking it with patriotism. **When we think about the state acting in matters of national security, we are entering a policy world almost exclusively inhabited by men. Men make national security policy both inside and outside the military establishment.** Carol Cohn argues that **strategic discourse, with its emphasis on strength, stability, and rationality, bears an uncanny resemblance to the ideal image of masculinity**. Critics of U.S. nuclear strategy are branded as irrational and emotional. In the United States, these “defense intellectuals” are almost all white men; Cohn tells us that while their language is one of abstraction, it is loaded with sexual imagery.45 She claims that **the discourse employed** in professional and political debates **about U.S. security policy “would appear to have colonized our minds and to have subjugated other ways of understanding relations among states.”** Cohn suggests that this discourse has become the only legitimate response to questions of how best to achieve national security; it is a discourse far removed from politics and people, and its deliberations go on disconnected from the functions they are supposed to serve. Its powerful claim to legitimacy rests, in part, on the way national security specialists view the international system.

### Adventurism

#### The state uses the public and private spheres as promotions for masculine IR

Peterson 04 [V. Spike: associate professor in the Department of Political Science at the University of Arizona (Feminist Theories Within, Invisible To, and Beyond IR, Winter/Spring 2004) http://www.watsoninstitute.org/bjwa/archive/10.2/Feminist%20Theory/Peterson.pdf]

Given the assumption (since Aristotle) that public and private are internal to states, and the assumption that IR is about relations among, not within, states, what relevance does the dichotomy have to IR? On the one hand, as a foundational dichotomy in Western thought, public and private shape our discourse generally, and IR is no exception. And insofar as states are central to the discourse of IR, reference to them incorporates, implicitly and explicitly, constructions of public and private. On the other hand, I make two related points regarding the dichotomy as ideological. First, one powerful effect of foundational dichotomies is that they are typically deployed as abstractions (disembedded from context) even as they carry ideological force by valorizing one term at the expense of the other. Second, feminists argue that the dichotomy of public and private is historically and conceptually gendered; it privileges the public sphere as masculine. Abstract references to public and private then serve to privilege and legitimize that which is associated with the masculine over that which is associated with the feminine, and this has material effects. With these brief points in mind, I offer a reading of two variants of public and private in relation to conventional IR discourse. In both variants, the state/government constitutes the public and is associated with masculine characteristics of politics, reason, order, and autonomy. The first variant takes the territorial state as given and looks inward. This version resembles Aristotle’s dichotomy, with the state/politics as the public distinguished from private sphere activities and relationships, cast as domestic.

### 2NC – Link – State

#### The state uses the public and private spheres as promotions for masculine IR

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#### Patriarchy runs deeper than legal reforms—the 1AC focus on legal practices serves to perpetuate the overarching system

Tickner 92[Ann, Professor @ the School of International Relations USC, B.A. in History, U London, M.A. in IR, Yale, PhD in pol science, “GENDER IN INTERNATIONAL RELATIONS—FEMINIST PERSPECTIVES ON ACHIEVING GLOBAL SECURITY”, pg. 12]

Most contemporary feminist perspectives define themselves in terms of reacting to traditional liberal feminism that, since its classic formulation in the works of Mary Wollstonecraft and John Stuart Mill, has sought to draw attention to and eliminate the legal restraints barring women's access to full participation in the public world. Most contemporary feminist scholars, other than liberals, claim that the sources of discrimination against women run much deeper than legal restraints: they are enmeshed in the economic, cultural, and social structures of society and thus do not end when legal restraints are removed. Almost all feminist perspectives have been motivated by the common goal of attempting to describe and explain the sources of gender inequality, and hence women's oppression, and to seek strategies to end them. Feminists claim that women are oppressed in a multiplicity of ways that depend on culture, class, and race as well as on gender. Rosemary Tong suggests that we can categorize various contemporary feminist theories according to the ways in which they view the causes of women's oppression. While Marxist feminists believe that capitalism is the source of women's oppression, radical feminists claim that women are oppressed by the system of patriarchy that has existed under almost all modes of production. Patriarchy is institutionalized through legal and economic, as well as social and cultural institutions. Some radical feminists argue that the low value assigned to the feminine characteristics described above also contributes to women's oppression. Feminists in the psychoanalytic tradition look for the source of women's oppression deep in the psyche, in gender relationships into which we are socialized from birth.

#### No Korean war- their assumption that Korea is irrational is the same effeminization that women are irrational and thus unstable- means their impacts are founded upon gender

(rational regime, empirics, military inferiority, and it’s all just domestic propaganda)

Fisher 13 Max, Foreign Policy Writer @ Washington Post & Former Editor at the Atlantic, “Why North Korea loves to threaten World War III (but probably won’t follow through)” http://www.washingtonpost.com/blogs/worldviews/wp/2013/03/12/why-north-korea-loves-to-threaten-world-war-iii-but-probably-wont-follow-through/

North Korea is indeed a dangerous rogue state that has, in the recent past, staged small-scale but deadly attacks on South Korea without provocation. In March 2010, a South Korean navy ship was attacked by a ship of unknown origin, killing 46 on board; though North Korea denied responsibility, an investigation concluded it was likely responsible. A few months later, North Korea fired over 100 artillery shells at Yeonpyeong Island, killing two civilians and wounding 19.

But is North Korea really an irrational nation on the brink of launching “all-out war,” a mad dog of East Asia? Is Pyongyang ready to sacrifice it all? Probably not. The North Korean regime, for all its cruelty, has also shown itself to be shrewd, calculating, and single-mindedly obsessed with its own self-preservation. The regime’s past behavior **suggests pretty strongly** that these **threats are empty**. But they still matter.

**For years**, North Korea has threatened the worst and, despite all of its apparent readiness, never gone through with it. So why does it keep going through these macabre performances? We can’t read Kim Jong Eun’s mind, but the most plausible explanation has to do with internal North Korean politics, with trying to set the tone for regional politics, and with forcing other countries (including the United States) to bear the costs of preventing its outbursts from sparking an unwanted war.

Starting World War III or a second Korean War would not serve any of Pyongyang’s interests. Whether or not it deploys its small but legitimately scary nuclear arsenal, North Korea could indeed cause substantial mayhem in the South, whose capital is mere miles from the border. But the North Korean military is antiquated and inferior; it wouldn’t last long against a U.S.-led counterattack. No matter how badly such a war would go for South Korea or the United States, it would almost **certainly end with the regime’s total destruction**.

Still, provocations and threats do serve Pyongyang’s interests, even if no one takes those threats very seriously. It helps to rally North Koreans, particularly the all-important military, behind the leader who has done so much to impoverish them. It also helps Pyongyang to control the regional politics that should otherwise be so hostile to its interests. Howard French, a former New York Times bureau chief for Northeast Asia whom I had the pleasure of editing at The Atlantic, explained on Kim Jong Il’s death that Kim had made up for North Korea’s weakness with canny belligerence:

The shtick of apparent madness flowed from his country’s fundamental weakness as he, like a master poker player, resolved to bluff and bluff big. Kim adopted a game of brinkmanship with the South, threatening repeatedly to turn Seoul into a “sea of flames.” And while this may have sharply raised the threat of war, for the North, it steadily won concessions: fuel oil deliveries, food aid, nuclear reactor construction, hard cash-earning tourist enclaves and investment zones.

At the risk of insulting Kim Jong Eun, it helps to think of North Korea’s provocations as somewhat akin to a child throwing a temper tantrum. He might do lots of shouting, make some over-the-top declarations (“I hate my sister,” “I’m never going back to school again”) and even throw a punch or two. Still, you give the child the attention he craves and maybe even a toy, **not because you think the threats are real** or because he deserves it, but because you want the tantrum to stop.

#### President will circumvent-

#### [1.] cites AUMF authority

Cohen 2012

[Michael A. Cohen, fellow at the Century Foundation., July 24th, 2012, The Imperial Presidency: Drone Power and Congressional Oversight, <http://www.worldpoliticsreview.com/articles/12194/the-imperial-presidency-drone-power-and-congressional-oversight>, uwyo//amp]

Ironically, however, the administration stands on firmer legal ground here than it did on Libya. It has used the Authorization of Military Force (AUMF) granted in 2001 by Congress to justify nearly every aspect of these operations, including targeted killing campaigns carried out by both the military and the CIA, and the continued detention of prisoners in Guantanamo Bay and Afghanistan. As Yale Law School professor Bruce Ackerman told me, “The AUMF was a response to a real problem, namely the attacks of Sept. 11. It is now being transformed into a tool for fighting a 100-year war against terrorists.”

#### [2.] Bush circumvented

Posner and Vermeule 2010 [Eric A. , Professor of Law at the University of Chicago Law School and Editor of The Journal of Legal Studies; Adrian , Harvard Law Professor, The Executive Unbound: After the Madisonian Republic, Oxford Press, p. 204//wyo-sc]

In general, judicial opposition to the Bush administration's counterterrorism policies took the form of incremental rulings handed down at a glacial pace, none of which actually stopped any of the major counterterrorism tactics of that administration, including the application of military power against Al Qaeda, the indefinite detention of members of Al Qaeda, targeted assassinations, the immigration sweeps, even coercive interrogation. The (limited) modifications of those tactics that have occurred resulted not from legal interventions but from policy adjustments driven by changed circumstances and public opinion, and by electoral victory of the Obama administration. However, the Obama administration has mostly confirmed and in some areas even expanded the counterterrorism policies of the Bush administration. Strong executive government is bipartisan.

#### [3.] takes every stop possible to avoid oversight and judicial review

Figura 2012

[Michael Figura is a BORDC 2012-2013 Legal Fellow, December 21st, 2012, Amicus briefs in Hedges v. Obama inform indefinite detention lawsuit, <http://www.constitutioncampaign.org/blog/?p=11370#.UizSdMbEPlY>, uwyo//amp]

The Bill of Rights Defense Committee recently coordinated the filing of three amicus (friend of the court) briefs in Hedges v. Obama, a lawsuit in the Second Circuit Court of Appeals challenging domestic military detention under the National Defense Authorization Act (NDAA) of 2012. The suit was brought by journalists and activists concerned about being subjected to indefinite military detention if they interview subjects hostile to the US, and secured a permanent injunction earlier this year from Judge Katherine Forrest of the US District Court for the Southern District of New York. The briefs coordinated by BORDC support the position of the plaintiffs and provide additional arguments to inform the court’s decision. One brief was filed on behalf of BORDC, arguing that when the government has previously used military domestic detention it has taken extreme steps to evade the oversight of the federal courts, and thus it is now especially important for the Second Circuit to decide the constitutionality of the NDAA, so that the government does not later avoid the courts’ oversight.