### 1

#### OUR INTERPRETATION: The resolution asks a yes/no question as to the desirability of the United States Federal Government action. The role of the ballot should be to affirm or reject the actions and outcomes of the plan.

#### 1. THE TOPIC IS DEFINED BY THE PHRASE FOLLOWING THE COLON – THE UNITED STATES FEDERAL GOVERNMENT IS THE AGENT OF THE RESOLUTION, NOT THE INDIVIDUAL DEBATERS

Webster’s Guide to Grammar and Writing 2K

<http://ccc.commnet.edu/grammar/marks/colon.htm>

Use of a colon before a list or an explanation that is preceded by a clause that can stand by itself. Think of the colon as a gate, inviting one to go on… If the introductory phrase preceding the colon is very brief and the clause following the colon represents the real business of the sentence, begin the clause after the colon with a capital letter.

#### 2. “RESOLVED” EXPRESSES INTENT TO IMPLEMENT THE PLAN

American Heritage Dictionary 2K

[www.dictionary.com/cgi-bin/dict.pl?term=resolved](http://www.dictionary.com/cgi-bin/dict.pl?term=resolved)

To find a solution to; solve …

To bring to a usually successful conclusion

#### 3. “SHOULD” DENOTES AN EXPECTATION OF ENACTING A PLAN

American Heritage Dictionary – 2K

[www.dictionary.com]

3 Used to express probability or expectation

#### 4. THE U.S.F.G. is the three branches of government

Dictionary.com 2k6 [<http://dictionary.reference.com/browse/united+states+government>]

|  |
| --- |
| noun |
| the executive and legislative and judicial branches of the federal government of the United States |

#### Simulated national security law debates preserve agency and enhance decision-making---avoids cooption

Laura K. Donohue 13, Associate Professor of Law, Georgetown Law, 4/11, “National Security Law Pedagogy and the Role of Simulations”, http://jnslp.com/wp-content/uploads/2013/04/National-Security-Law-Pedagogy-and-the-Role-of-Simulations.pdf

The concept of simulations as an aspect of higher education, or in the law school environment, is not new.164 Moot court, after all, is a form of simulation and one of the oldest teaching devices in the law. What is new, however, is the idea of designing a civilian national security course that takes advantage of the doctrinal and experiential components of law school education and integrates the experience through a multi-day simulation. In 2009, I taught the first module based on this design at Stanford Law, which I developed the following year into a full course at Georgetown Law. It has since gone through multiple iterations. The initial concept followed on the federal full-scale Top Official (“TopOff”) exercises, used to train government officials to respond to domestic crises.165 It adapted a Tabletop Exercise, designed with the help of exercise officials at DHS and FEMA, to the law school environment. The Tabletop used one storyline to push on specific legal questions, as students, assigned roles in the discussion, sat around a table and for six hours engaged with the material. The problem with the Tabletop Exercise was that it was too static, and the rigidity of the format left little room, or time, for student agency. Unlike the government’s TopOff exercises, which gave officials the opportunity to fully engage with the many different concerns that arise in the course of a national security crisis as well as the chance to deal with externalities, the Tabletop focused on specific legal issues, even as it controlled for external chaos. The opportunity to provide a more full experience for the students came with the creation of first a one-day, and then a multi-day simulation. The course design and simulation continues to evolve. It offers a model for achieving the pedagogical goals outlined above, in the process developing a rigorous training ground for the next generation of national security lawyers.166 A. Course Design The central idea in structuring the NSL Sim 2.0 course was to bridge the gap between theory and practice by conveying doctrinal material and creating an alternative reality in which students would be forced to act upon legal concerns.167 The exercise itself is a form of problem-based learning, wherein students are given both agency and responsibility for the results. Towards this end, the structure must be at once bounded (directed and focused on certain areas of the law and legal education) and flexible (responsive to student input and decisionmaking). Perhaps the most significant weakness in the use of any constructed universe is the problem of authenticity. Efforts to replicate reality will inevitably fall short. There is simply too much uncertainty, randomness, and complexity in the real world. One way to address this shortcoming, however, is through design and agency. The scenarios with which students grapple and the structural design of the simulation must reflect the national security realm, even as students themselves must make choices that carry consequences. Indeed, to some extent, student decisions themselves must drive the evolution of events within the simulation.168 Additionally, while authenticity matters, it is worth noting that at some level the fact that the incident does not take place in a real-world setting can be a great advantage. That is, the simulation creates an environment where students can make mistakes and learn from these mistakes – without what might otherwise be devastating consequences. It also allows instructors to develop multiple points of feedback to enrich student learning in a way that would be much more difficult to do in a regular practice setting. NSL Sim 2.0 takes as its starting point the national security pedagogical goals discussed above. It works backwards to then engineer a classroom, cyber, and physical/simulation experience to delve into each of these areas. As a substantive matter, the course focuses on the constitutional, statutory, and regulatory authorities in national security law, placing particular focus on the interstices between black letter law and areas where the field is either unsettled or in flux. A key aspect of the course design is that it retains both the doctrinal and experiential components of legal education. Divorcing simulations from the doctrinal environment risks falling short on the first and third national security pedagogical goals: (1) analytical skills and substantive knowledge, and (3) critical thought. A certain amount of both can be learned in the course of a simulation; however, the national security crisis environment is not well-suited to the more thoughtful and careful analytical discussion. What I am thus proposing is a course design in which doctrine is paired with the type of experiential learning more common in a clinical realm. The former precedes the latter, giving students the opportunity to develop depth and breadth prior to the exercise. In order to capture problems related to adaptation and evolution, addressing goal [1(d)], the simulation itself takes place over a multi-day period. Because of the intensity involved in national security matters (and conflicting demands on student time), the model makes use of a multi-user virtual environment. The use of such technology is critical to creating more powerful, immersive simulations.169 It also allows for continual interaction between the players. Multi-user virtual environments have the further advantage of helping to transform the traditional teaching culture, predominantly concerned with manipulating textual and symbolic knowledge, into a culture where students learn and can then be assessed on the basis of their participation in changing practices.170 I thus worked with the Information Technology group at Georgetown Law to build the cyber portal used for NSL Sim 2.0. The twin goals of adaptation and evolution require that students be given a significant amount of agency and responsibility for decisions taken in the course of the simulation. To further this aim, I constituted a Control Team, with six professors, four attorneys from practice, a media expert, six to eight former simulation students, and a number of technology experts. Four of the professors specialize in different areas of national security law and assume roles in the course of the exercise, with the aim of pushing students towards a deeper doctrinal understanding of shifting national security law authorities. One professor plays the role of President of the United States. The sixth professor focuses on questions of professional responsibility. The attorneys from practice help to build the simulation and then, along with all the professors, assume active roles during the simulation itself. Returning students assist in the execution of the play, further developing their understanding of national security law. Throughout the simulation, the Control Team is constantly reacting to student choices. When unexpected decisions are made, professors may choose to pursue the evolution of the story to accomplish the pedagogical aims, or they may choose to cut off play in that area (there are various devices for doing so, such as denying requests, sending materials to labs to be analyzed, drawing the players back into the main storylines, and leaking information to the media). A total immersion simulation involves a number of scenarios, as well as systemic noise, to give students experience in dealing with the second pedagogical goal: factual chaos and information overload. The driving aim here is to teach students how to manage information more effectively. Five to six storylines are thus developed, each with its own arc and evolution. To this are added multiple alterations of the situation, relating to background noise. Thus, unlike hypotheticals, doctrinal problems, single-experience exercises, or even Tabletop exercises, the goal is not to eliminate external conditions, but to embrace them as part of the challenge facing national security lawyers. The simulation itself is problem-based, giving players agency in driving the evolution of the experience – thus addressing goal [2(c)]. This requires a realtime response from the professor(s) overseeing the simulation, pairing bounded storylines with flexibility to emphasize different areas of the law and the students’ practical skills. Indeed, each storyline is based on a problem facing the government, to which players must then respond, generating in turn a set of new issues that must be addressed. The written and oral components of the simulation conform to the fourth pedagogical goal – the types of situations in which national security lawyers will find themselves. Particular emphasis is placed on nontraditional modes of communication, such as legal documents in advance of the crisis itself, meetings in the midst of breaking national security concerns, multiple informal interactions, media exchanges, telephone calls, Congressional testimony, and formal briefings to senior level officials in the course of the simulation as well as during the last class session. These oral components are paired with the preparation of formal legal instruments, such as applications to the Foreign Intelligence Surveillance Court, legal memos, applications for search warrants under Title III, and administrative subpoenas for NSLs. In addition, students are required to prepare a paper outlining their legal authorities prior to the simulation – and to deliver a 90 second oral briefing after the session. To replicate the high-stakes political environment at issue in goals (1) and (5), students are divided into political and legal roles and assigned to different (and competing) institutions: the White House, DoD, DHS, HHS, DOJ, DOS, Congress, state offices, nongovernmental organizations, and the media. This requires students to acknowledge and work within the broader Washington context, even as they are cognizant of the policy implications of their decisions. They must get used to working with policymakers and to representing one of many different considerations that decisionmakers take into account in the national security domain. Scenarios are selected with high consequence events in mind, to ensure that students recognize both the domestic and international dimensions of national security law. Further alterations to the simulation provide for the broader political context – for instance, whether it is an election year, which parties control different branches, and state and local issues in related but distinct areas. The media is given a particularly prominent role. One member of the Control Team runs an AP wire service, while two student players represent print and broadcast media, respectively. The Virtual News Network (“VNN”), which performs in the second capacity, runs continuously during the exercise, in the course of which players may at times be required to appear before the camera. This media component helps to emphasize the broader political context within which national security law is practiced. Both anticipated and unanticipated decisions give rise to ethical questions and matters related to the fifth goal: professional responsibility. The way in which such issues arise stems from simulation design as well as spontaneous interjections from both the Control Team and the participants in the simulation itself. As aforementioned, professors on the Control Team, and practicing attorneys who have previously gone through a simulation, focus on raising decision points that encourage students to consider ethical and professional considerations. Throughout the simulation good judgment and leadership play a key role, determining the players’ effectiveness, with the exercise itself hitting the aim of the integration of the various pedagogical goals. Finally, there are multiple layers of feedback that players receive prior to, during, and following the simulation to help them to gauge their effectiveness. The Socratic method in the course of doctrinal studies provides immediate assessment of the students’ grasp of the law. Written assignments focused on the contours of individual players’ authorities give professors an opportunity to assess students’ level of understanding prior to the simulation. And the simulation itself provides real-time feedback from both peers and professors. The Control Team provides data points for player reflection – for instance, the Control Team member playing President may make decisions based on player input, giving students an immediate impression of their level of persuasiveness, while another Control Team member may reject a FISC application as insufficient. The simulation goes beyond this, however, focusing on teaching students how to develop (6) opportunities for learning in the future. Student meetings with mentors in the field, which take place before the simulation, allow students to work out the institutional and political relationships and the manner in which law operates in practice, even as they learn how to develop mentoring relationships. (Prior to these meetings we have a class discussion about mentoring, professionalism, and feedback). Students, assigned to simulation teams about one quarter of the way through the course, receive peer feedback in the lead-up to the simulation and during the exercise itself. Following the simulation the Control Team and observers provide comments. Judges, who are senior members of the bar in the field of national security law, observe player interactions and provide additional debriefing. The simulation, moreover, is recorded through both the cyber portal and through VNN, allowing students to go back to assess their performance. Individual meetings with the professors teaching the course similarly follow the event. Finally, students end the course with a paper reflecting on their performance and the issues that arose in the course of the simulation, develop frameworks for analyzing uncertainty, tension with colleagues, mistakes, and successes in the future. B. Substantive Areas: Interstices and Threats As a substantive matter, NSL Sim 2.0 is designed to take account of areas of the law central to national security. It focuses on specific authorities that may be brought to bear in the course of a crisis. The decision of which areas to explore is made well in advance of the course. It is particularly helpful here to think about national security authorities on a continuum, as a way to impress upon students that there are shifting standards depending upon the type of threat faced. One course, for instance, might center on the interstices between crime, drugs, terrorism and war. Another might address the intersection of pandemic disease and biological weapons. A third could examine cybercrime and cyberterrorism. This is the most important determination, because the substance of the doctrinal portion of the course and the simulation follows from this decision. For a course focused on the interstices between pandemic disease and biological weapons, for instance, preliminary inquiry would lay out which authorities apply, where the courts have weighed in on the question, and what matters are unsettled. Relevant areas might include public health law, biological weapons provisions, federal quarantine and isolation authorities, habeas corpus and due process, military enforcement and posse comitatus, eminent domain and appropriation of land/property, takings, contact tracing, thermal imaging and surveillance, electronic tagging, vaccination, and intelligence-gathering. The critical areas can then be divided according to the dominant constitutional authority, statutory authorities, regulations, key cases, general rules, and constitutional questions. This, then, becomes a guide for the doctrinal part of the course, as well as the grounds on which the specific scenarios developed for the simulation are based. The authorities, simultaneously, are included in an electronic resource library and embedded in the cyber portal (the Digital Archives) to act as a closed universe of the legal authorities needed by the students in the course of the simulation. Professional responsibility in the national security realm and the institutional relationships of those tasked with responding to biological weapons and pandemic disease also come within the doctrinal part of the course. The simulation itself is based on five to six storylines reflecting the interstices between different areas of the law. The storylines are used to present a coherent, non-linear scenario that can adapt to student responses. Each scenario is mapped out in a three to seven page document, which is then checked with scientists, government officials, and area experts for consistency with how the scenario would likely unfold in real life. For the biological weapons and pandemic disease emphasis, for example, one narrative might relate to the presentation of a patient suspected of carrying yersinia pestis at a hospital in the United States. The document would map out a daily progression of the disease consistent with epidemiological patterns and the central actors in the story: perhaps a U.S. citizen, potential connections to an international terrorist organization, intelligence on the individual’s actions overseas, etc. The scenario would be designed specifically to stress the intersection of public health and counterterrorism/biological weapons threats, and the associated (shifting) authorities, thus requiring the disease initially to look like an innocent presentation (for example, by someone who has traveled from overseas), but then for the storyline to move into the second realm (awareness that this was in fact a concerted attack). A second storyline might relate to a different disease outbreak in another part of the country, with the aim of introducing the Stafford Act/Insurrection Act line and raising federalism concerns. The role of the military here and Title 10/Title 32 questions would similarly arise – with the storyline designed to raise these questions. A third storyline might simply be well developed noise in the system: reports of suspicious activity potentially linked to radioactive material, with the actors linked to nuclear material. A fourth storyline would focus perhaps on container security concerns overseas, progressing through newspaper reports, about containers showing up in local police precincts. State politics would constitute the fifth storyline, raising question of the political pressures on the state officials in the exercise. Here, ethnic concerns, student issues, economic conditions, and community policing concerns might become the focus. The sixth storyline could be further noise in the system – loosely based on current events at the time. In addition to the storylines, a certain amount of noise is injected into the system through press releases, weather updates, private communications, and the like. The five to six storylines, prepared by the Control Team in consultation with experts, become the basis for the preparation of scenario “injects:” i.e., newspaper articles, VNN broadcasts, reports from NGOs, private communications between officials, classified information, government leaks, etc., which, when put together, constitute a linear progression. These are all written and/or filmed prior to the exercise. The progression is then mapped in an hourly chart for the unfolding events over a multi-day period. All six scenarios are placed on the same chart, in six columns, giving the Control Team a birds-eye view of the progression. C. How It Works As for the nuts and bolts of the simulation itself, it traditionally begins outside of class, in the evening, on the grounds that national security crises often occur at inconvenient times and may well involve limited sleep and competing demands.171 Typically, a phone call from a Control Team member posing in a role integral to one of the main storylines, initiates play. Students at this point have been assigned dedicated simulation email addresses and provided access to the cyber portal. The portal itself gives each team the opportunity to converse in a “classified” domain with other team members, as well as access to a public AP wire and broadcast channel, carrying the latest news and on which press releases or (for the media roles) news stories can be posted. The complete universe of legal authorities required for the simulation is located on the cyber portal in the Digital Archives, as are forms required for some of the legal instruments (saving students the time of developing these from scratch in the course of play). Additional “classified” material – both general and SCI – has been provided to the relevant student teams. The Control Team has access to the complete site. For the next two (or three) days, outside of student initiatives (which, at their prompting, may include face-to-face meetings between the players), the entire simulation takes place through the cyber portal. The Control Team, immediately active, begins responding to player decisions as they become public (and occasionally, through monitoring the “classified” communications, before they are released). This time period provides a ramp-up to the third (or fourth) day of play, allowing for the adjustment of any substantive, student, or technology concerns, while setting the stage for the breaking crisis. The third (or fourth) day of play takes place entirely at Georgetown Law. A special room is constructed for meetings between the President and principals, in the form of either the National Security Council or the Homeland Security Council, with breakout rooms assigned to each of the agencies involved in the NSC process. Congress is provided with its own physical space, in which meetings, committee hearings and legislative drafting can take place. State government officials are allotted their own area, separate from the federal domain, with the Media placed between the three major interests. The Control Team is sequestered in a different area, to which students are not admitted. At each of the major areas, the cyber portal is publicly displayed on large flat panel screens, allowing for the streaming of video updates from the media, AP wire injects, articles from the students assigned to represent leading newspapers, and press releases. Students use their own laptop computers for team decisions and communication. As the storylines unfold, the Control Team takes on a variety of roles, such as that of the President, Vice President, President’s chief of staff, governor of a state, public health officials, and foreign dignitaries. Some of the roles are adopted on the fly, depending upon player responses and queries as the storylines progress. Judges, given full access to each player domain, determine how effectively the students accomplish the national security goals. The judges are themselves well-experienced in the practice of national security law, as well as in legal education. They thus can offer a unique perspective on the scenarios confronted by the students, the manner in which the simulation unfolded, and how the students performed in their various capacities. At the end of the day, the exercise terminates and an immediate hotwash is held, in which players are first debriefed on what occurred during the simulation. Because of the players’ divergent experiences and the different roles assigned to them, the students at this point are often unaware of the complete picture. The judges and formal observers then offer reflections on the simulation and determine which teams performed most effectively. Over the next few classes, more details about the simulation emerge, as students discuss it in more depth and consider limitations created by their knowledge or institutional position, questions that arose in regard to their grasp of the law, the types of decision-making processes that occurred, and the effectiveness of their – and other students’ – performances. Reflection papers, paired with oral briefings, focus on the substantive issues raised by the simulation and introduce the opportunity for students to reflect on how to create opportunities for learning in the future. The course then formally ends.172 Learning, however, continues beyond the temporal confines of the semester. Students who perform well and who would like to continue to participate in the simulations are invited back as members of the control team, giving them a chance to deepen their understanding of national security law. Following graduation, a few students who go in to the field are then invited to continue their affiliation as National Security Law fellows, becoming increasingly involved in the evolution of the exercise itself. This system of vertical integration helps to build a mentoring environment for the students while they are enrolled in law school and to create opportunities for learning and mentorship post-graduation. It helps to keep the exercise current and reflective of emerging national security concerns. And it builds a strong community of individuals with common interests. CONCLUSION The legal academy has, of late, been swept up in concern about the economic conditions that affect the placement of law school graduates. The image being conveyed, however, does not resonate in every legal field. It is particularly inapposite to the burgeoning opportunities presented to students in national security. That the conversation about legal education is taking place now should come as little surprise. Quite apart from economic concern is the traditional introspection that follows American military engagement. It makes sense: law overlaps substantially with political power, being at once both the expression of government authority and the effort to limit the same. The one-size fits all approach currently dominating the conversation in legal education, however, appears ill-suited to address the concerns raised in the current conversation. Instead of looking at law across the board, greater insight can be gleaned by looking at the specific demands of the different fields themselves. This does not mean that the goals identified will be exclusive to, for instance, national security law, but it does suggest there will be greater nuance in the discussion of the adequacy of the current pedagogical approach. With this approach in mind, I have here suggested six pedagogical goals for national security. For following graduation, students must be able to perform in each of the areas identified – (1) understanding the law as applied, (2) dealing with factual chaos and uncertainty, (3) obtaining critical distance, (4) developing nontraditional written and oral communication skills, (5) exhibiting leadership, integrity, and good judgment in a high-stakes, highly-charged environment, and (6) creating continued opportunities for self-learning. They also must learn how to integrate these different skills into one experience, to ensure that they will be most effective when they enter the field. The problem with the current structures in legal education is that they fall short, in important ways, from helping students to meet these goals. Doctrinal courses may incorporate a range of experiential learning components, such as hypotheticals, doctrinal problems, single exercises, extended or continuing exercises, and tabletop exercises. These are important classroom devices. The amount of time required for each varies, as does the object of the exercise itself. But where they fall short is in providing a more holistic approach to national security law which will allow for the maximum conveyance of required skills. Total immersion simulations, which have not yet been addressed in the secondary literature for civilian education in national security law, may provide an important way forward. Such simulations also cure shortcomings in other areas of experiential education, such as clinics and moot court. It is in an effort to address these concerns that I developed the simulation model above. NSL Sim 2.0 certainly is not the only solution, but it does provide a starting point for moving forward. The approach draws on the strengths of doctrinal courses and embeds a total immersion simulation within a course. It makes use of technology and physical space to engage students in a multi-day exercise, in which they are given agency and responsibility for their decision making, resulting in a steep learning curve. While further adaptation of this model is undoubtedly necessary, it suggests one potential direction for the years to come.

#### Switch side debate is good-direct engagement, not abstract relation, with identities we do not identify with is critical to us to overcome the existential resentment we feel towards those with whom we disagree. Lack of switch-side facilitates a refusal to accept that our position is within question

Glover 10

[Robert, Professor of Political Science at University of Connecticut, Philosophy and Social Criticism, “Games without Frontiers?: Democratic Engagement, Agonistic Pluralism, and the Question of Exclusion”, Vol. 36, p. asp uwyo//amp]

In this vein, Connolly sees the goal of political engagement as securing a positive ‘ethos of engagement’ in relation to popular movements which alter existing assumptions, that is, a positive attitude towards attempts at pluralization. Connolly suggests we do so through thecultivation of two essential virtues: agonistic respect and critical responsiveness. 88 Agonistic respect is defined as a situation whereby each political actor arrives at an appreciation for the fact that their own self-definition is bound with that of others, as well as recognition of the degree to which each of these projections is profoundly contestable. 89 While Connolly notes that agonistic respect is a ‘kissing cousin’ of liberal tolerance, he distinguishes it by saying that the latter typically carries ‘the onus of being at the mercy of a putative majority that often construes its own position to be beyond question.’ 90 Thus, agonistic respect is a reciprocal democratic virtue meant to operate across relations of difference, and Connolly deploys it as a regulative ideal for the creation agonistic democratic spaces. 91 In a somewhat related way, the virtue of ‘critical responsiveness’ also attempts to move beyond liberal tolerance. 92 Critical responsiveness entails ‘ careful listening and presumptive generosity to constituencies struggling to move from an obscure or degraded subsistence below the field of recognition, justice, obligation, rights, or legitimacy to a place on one or more of those registers.’ 93 Critical responsiveness is not pity, charity, or paternalism but implies an enhanced degree of concern for others, driven by the cultivation of reciprocal empathic concern 21 for that which you are not. 94 This attitude cannot be developed in an abstract relation to these new and existing forms of radical cultural, political, religious, and philosophical difference. Critical responsiveness above all requires that one ‘get[s] a whiff of experiences heretofore alien to [us]’, recognizing that while this may be unsettling or cause discomfort, direct engagement is the means by which you, ‘work tactically on yourself and others to overcome existential resentment of this persistent condition of human being.’

### 2

#### Text: We advocate the entirety of the 1AC sans the usage of “Geronimo”

#### Western methods of thought are being used by the United States to garner support for anti-Indian policies, and the “Indians are enemies” narrative is currently being used by the Obama administration in regards to targeted killing practices- only the counterplan solves the “Geronimo was a Terrorist” mentality that is used to justify genocide against natives in the status squo

Newcomb ‘11

[Steven Newcomb (Shawnee/Lenape) is co-founder and co-director of the Indigenous Law Institute, author of Pagans in the Promised Land: Decoding the Doctrine of Christian Discovery (Fulcrum, 2008), and a columnist for Indian Country Today Media Network, “Geronimo Again? The Indian Wars Continue Ad Nauseam,” 05.03.2011. <<http://indiancountrytodaymedianetwork.com/opinion/geronimo-again%3F-the-indian-wars-continue-%3Cem%3Ead-nauseam%3C/em%3E-32091>>//wyo-hdm]

In my book Pagans in the Promised Land(Fulcrum, 2008) I use the theory of the human mind (cognitive theory) to explain the "cognitive unconscious" of the United States. Certain ingrained traditions of thought, both conscious and unconscious, have been used for generations by U.S. government officials. Such thinking has resulted in the development of predominantly anti-Indian U.S. federal Indian laws and policies. The result has been laws and policies that have proven detrimental to Indian nations and peoples.¶ George Washington, in 1784, used the analogy “the savage as the wolf” to refer to our Indian ancestors as less-than-human “beasts.” As Henry Wheaton said in his Elements of International Law, “The heathen nations of the other quarters of the globe were the lawful spoil and prey of their civilized conquerors.” Thus, one of the normative American metaphors throughout the history of the United States has been "Indians Are Enemies." We’re talking about a U.S. tradition of dehumanization and dominance used against our nations and peoples.¶ From the perspective of non-Indian colonizers, our indigenous ancestors were enemies to be uprooted from the vast extent of our traditional lands and territories and con fined to “reservations” in remote areas, under U.S. control. Thus, off the reservation is a common idiom used by television journalists and commentators to refer to someone being a "renegade," with the connotation being an enemy “who chooses to live outside laws or conventions.” However, it is important to keep in mind that U.S. laws and conventions have been imposed on our nations and peoples. Someone who has gone off the reservationis considered to be an "outlaw,” which in our case is outside the bounds of imposed laws and policies of the United States.¶ Geronimo's life story is a direct result of the invasion of the Apache territory and attempts to subdue the free and independent Apache. After his family was massacred by Mexicans in 1851, Geronimo became a Chiricahua Apache leader who fit perfectly into the non-Indian metaphorical frame “Indians Are Enemies.” He and a small group of fellow Apaches brilliantly eluded capture by 5,000 United States Army soldiers, 500 Indian scouts, and 3000 Mexican soldiers. The desert terrain was steep and formidable. The temperatures were extreme: intense cold and blistering heat. Geronimo and his band had very little food or water. What those Apaches accomplished is very likely one of the most amazing physical feats of stamina in the history of the human race. He finally surrendered in 1886.¶ In the reported stories of Osama Bin Laden being killed by U.S. military forces, bin Laden was code-named “Geronimo.” According to a CBS news report, those who came up with that “inappropriate code name” apparently “thought of bin Laden as a 21st-century equivalent” of Geronimo. In other words, the code name was based on an extension of the metaphor “Indians Are Enemies” to “Geronimo was a Terrorist,” thus perpetuating the U.S. tradition of treating Indian nations and peoples as enemies.¶ Geronimo was fighting against the invasion of his country and the oppression of his people. He did not invade the United States. Rather, Spain, Mexico, and then the United States invaded the Apache Territory and the territories of hundreds of other Indigenous nations. Horrific atrocities were committed against the Apache, and men such as Geronimo, whose family was massacred by Mexicans, did not hesitate to retaliate. Geronimo died a “prisoner of war” in 1909.

#### The approach by the affirmative reduces Natives to a constant state of near-death. The ability of the biopolitical to mandate the relevance of Native culture produces violent racism and rape

Smith 3 [Andrea, “Not an Indian Tradition: The Sexual Colonization of Native Peoples”, Hypatia, Volume 18, Number 2, Spring, pp. 70-85]

Ann Stoler argues that racism, far from being a reaction to crisis in which racial others are scapegoated for social ills, is a permanent part of the social fabric. “[R]acism is not an effect but a tactic in the internal fission of society into binary opposition, a means of creating ‘biologized’ internal enemies, against whom society must defend itself” (1997, 59). She notes that in the modern state, the constant purification and elimination of racialized enemies within that state ensures the growth of the national body. “Racism does not merely arise in moments of crisis, in sporadic cleansings. It is internal to the biopolitical state, woven into the web of the social body, threaded through its fabric” (1997, 59). Similarly, Kate Shanley notes that Native peoples are a permanent “present absence” in the U.S. colonial imagination, an “absence” that reinforces at every turn the conviction that Native peoples are indeed vanishing and that the conquest of Native lands is justified. Ella Shoat and Robert Stam describe this absence as “an ambivalently repressive mechanism [that] dispels the anxiety in the face of the Indian, whose very presence is a reminder of the initially precarious g rounding of the American nation-state itself . . . In a temporal paradox, living Indians were induced to ‘play dead,’ as it were, in order to perform a narrative of manifest destiny in which their role, ultimately, was to disappear” (1994, 118–19). This “absence” is effected through the metaphorical transformation of Native bodies into a pollution of which the colonial body must purify itself. As white Californians described in the 1860s, Native people were “the dirtiest lot of human beings on earth.” They wear filthy rags, with their persons unwashed, hair uncombed and swarming with vermin” (Rawls 1984, 195). The following 1885 Proctor & Gamble ad for Ivory Soap also illustrates this equation between Indian bodies and dirt: We were once factious, fierce and wild, In peaceful arts unreconciled Our blankets smeared with grease and stains From buffalo meat and settlers’ veins. Through summer’s dust and heat content From moon to moon unwashed we went, But IVORY SOAP came like a ray Of light across our darkened way And now we’re civil, kind and good And keep the laws as people should, We wear our linen, lawn and lace As well as folks with paler face And now I take, wherever we go This cake of IVORY SOAP to show What civilized my squaw and me And made us clean and fair to see. (Lopez n.d, 119) In the colonial imagination, Native bodies are also immanently polluted with sexual sin. Alexander Whitaker, a minister in Virginia, wrote in 1613: “They live naked in bodies, as if their shame of their sinne deserved no covering: Their names are as naked as their bodies: They esteem it a virtue to lie, deceive and steale as their master the divell teacheth them” (Berkhofer 1978, 19). Furthermore, according to Bernardino de Minaya: “Their [the Indians’] marriages are not a sacrament but a sacrilege. They are idolatrous, libidinous, and commit sodomy. Their chief desire is to eat, drink, worship heathen idols, and commit bestial obscenities” (cited in Stannard 1992, 211). Stoler’s analysis of racism in which Native peoples are likened to a pollution that threatens U. S. security is indicated in the comments of one doctor in his attempt to rationalize the mass sterilization of Native women in the 1970s: “People pollute, and too many people crowded too close together cause many of our social and economic problems. These in turn are aggravated by involuntary and irresponsible parenthood . . . We also have obligations to the society of which we are part. The welfare mess, as it has been called, cries out for solutions, one of which is fertility control” (Oklahoma 1989, 11). Herbert Aptheker describes the logical consequences of this sterilization movement: “The ultimate logic of this is crematoria; people are themselves constituting the pollution and inferior people in particular, then crematoria become really vast sewerage projects. Only so may one understand those who attend the ovens and concocted and conducted the entire enterprise; those “wasted”—to use U. S. army jargon reserved for colonial hostilities—are not really, not fully people” (1987, 144). Because Indian bodies are “dirty,” they are considered sexually violable and “rapable.” That is, in patriarchal thinking, only a body that is “pure” can be violated. The rape of bodies that are considered inherently impure or dirty simply does not count. For instance, prostitutes have almost an impossible time being believed if they are raped because the dominant society considers the prostitute’s body undeserving of integrity and violable at all times. Similarly, the history of mutilation of Indian bodies, both living and dead, makes it clear to Indian people that they are not entitled to bodily integrity, as these examples suggest: I saw the body of White Antelope with the privates cut off, and I heard a soldier say he was going to make a tobacco-pouch out of them. (cited in Wrone and Nelson 1982, 113) Each of the braves was shot down and scalped by the wild volunteers, who out with their knives and cutting two parallel gashes down their backs, would strip the skin from the quivering [ esh to make razor straps of. (cited in Wrone and Nelson 1982, 90) One more dexterous than the rest, proceeded to [ ay the chief’s [Tecumseh’s] body; then, cutting the skin in narrow strips . . . at once, a supply of razor-straps for the more “ferocious” of his brethren. (cited in Wrone and Nelson 1982, 82) Andrew Jackson . . . supervised the mutilation of 800 or so Creek Indian corpses—the bodies of men, women and children that he and his men massacred—cutting off their noses to count and preserve a record of the dead, slicing long strips of [ esh from their bodies to tan and turn into bridle reins. (Stannard 1992, 121) Echoing this mentality was Governor Thompson, who stated in 1990 that he would not close down an open Indian burial mound in Dickson, Illinois, because of his argument that he was as much Indian as are current Indians, and consequently, he had as much right as they to determine the fate of Indian remains.1 He felt free to appropriate the identity of “Native,” and thus felt justified in claiming ownership over both Native identity and Native bodies. The Chicago press similarly attempted to challenge the identity of the Indian people who protested Thompson’s decision by stating that these protestors were either only “part” Indian or were only claiming to be Indian (Hermann 1990).2 The message conveyed by the Illinois state government is that to be Indian in this society is to be on constant display for white consumers, in life or in death. And in fact, Indian identity itself is under the control of the colonizer, subject to eradication at any time. As Aime Cesaire puts it, “colonization = ‘thingi> cation’” (1972, 21). As Stoler explains this process of racialized colonization: “[T]he more ‘degenerates’ and ‘abnormals’ [in this case Native peoples] are eliminated, the lives of those who speak will be stronger, more vigorous, and improved. The enemies are not political adversaries, but those identified as external and internal threats to the population. Racism is the condition that makes it acceptable to put [certain people] to death in a society of normalization” (1997, 85). Tadiar’s description of colonial relationships as an enactment of the “prevailing mode of heterosexual relations” is useful because it underscores the extent to which U. S. colonizers view the subjugation of women of the Native nations as critical to the success of the economic, cultural, and political colonization (1993, 186). Stoler notes that the imperial discourses on sexuality “cast white women as the bearers of more racist imperial order” (1997, 35). By extension, Native women as bearers of a counter-imperial order pose a supreme threat to the imperial order. Symbolic and literal control over their bodies is important in the war against Native people, as these examples attest: When I was in the boat I captured a beautiful Carib women . . . I conceived desire to take pleasure . . . I took a rope and thrashed her well, for which she raised such unheard screams that you would not have believed your ears. Finally we came to an agreement in such a manner that I can tell you that she seemed to have been brought up in a school of harlots. (Sale 1990, 140) Two of the best looking of the squaws were lying in such a position, and from the appearance of the genital organs and of their wounds, there can be no doubt that they were first ravished and then shot dead. Nearly all of the dead were mutilated. (Wrone and Nelson 1982, 123) One woman, big with child, rushed into the church, clasping the alter and crying for mercy for herself and unborn babe. She was followed, and fell pierced with a dozen lances . . . the child was torn alive from the yet palpitating body of its mother, first plunged into the holy water to be baptized, and immediately its brains were dashed out against a wall. (Wrone and Nelson 1982, 97) The Christians attacked them with buffets and beatings . . . Then they behaved with such temerity and shamelessness that the most powerful ruler of the island had to see his own wife raped by a Christian officer. (Las Casas 1992, 33) I heard one man say that he had cut a woman’s private parts out, and had them for exhibition on a stick. I heard another man say that he had cut the fingers off of an Indian, to get the rings off his hand. I also heard of numerous instances in which men had cut out the private parts of females, and stretched them over their saddle-bows and some of them over their hats. (Sand Creek 1973, 129–30) American Horse said of the massacre at Wounded Knee: The fact of the killing of the women, and more especially the killing of the young boys and girls who are to go to make up the future strength of the Indian people is the saddest part of the whole affair and we feel it very sorely. (Stannard 1992, 127)

### 3

#### Their reading of Judith is founded upon a gendered representation that assumes womyn are biologically created to be irrational

#### AND, their reading of Judith continues the strategy of placing women as evil—just like eve took the apple—Judith committed assassination and started the Christian heritage of revenge—placing evil at the responsibility of women

Grayson 12

(Kyle, Security Dialogue, “The ambivalence of assassination: Biopolitics, culture and political violence,” February 2012, Sage Publications//wyo-mm)

In terms of resonance, the most powerful story of assassination in the Bible is found in the book of Judith, which is regarded as canonical by the Orthodox Church, deuterocanonical in Catholicism, and apocryphal in Judaism and Protestantism. While expressly recognized by leading theologians as a work of historical fiction, since its time of writing around 100 BCE, it has provided a primary means of problematizing assassination in Judeo-Christian societies (Stocker, 1998). The text itself outlines the tale of the widow Judith of Bethulia and her methodical slaying of Holofernes, a general under the command of King Nabuchodonosor of Assyria. Holofernes has been ordered to violently punish the people of Israel for their unwillingness to worship Nabuchodonosor as their god. In the midst of an Assyrian siege of Bethulia – strategically important as the last line of urban defence before the holy city of Jerusalem – town elders prepare to surrender in five days’ time unless given a sign that God will protect them. Judith, a widow recognized as one of Bethulia’s most beautiful, chaste and pious residents, admonishes the elders for having the audacity to hold God to a worldly schedule. Instead, she offers to solve the problem on her own. After ritualistically cleansing and dressing in her finest robes, Judith travels with her maid to the Assyrian camp, offering to reveal secrets about Bethulia’s wavering resolve if she can speak directly to Holofernes. While waiting for an audience, she establishes a pattern of preparing her own food and fastidiously bathing to a regular schedule. Upon seeing Judith, Holofernes is smitten. After keeping his company and playing coy for several days, Judith attends a feast hosted by Holofernes, who has now become hopelessly infatuated with her. Over the course of the meal, she encourages him to drink himself into a stupor. Once he is unconscious back in his tent, Judith strikes, decapitating him with his own sword. By working within her established routine of regular bathing, Judith is able to leave the Assyrian camp with her maid unchallenged. Upon returning to Bethulia, she displays Holofernes’ severed head, claiming that the killing and its circumstances – including the protection of her chastity against his licentious intentions – were directly facilitated by God to protect his chosen people. Her speech is described thus: Then she said to them with a loud voice, Praise, praise God, praise God, [I say,] for he hath not taken away his mercy from the house of Israel, but hath destroyed our enemies by mine hands this night. So she took the head out of the bag, and shewed it, and said unto them, behold the head of Holofernes, the chief captain of the army of Assur, and behold the canopy, wherein he did lie in his drunkenness; and the Lord hath smitten him by the hand of a woman. As the Lord liveth, who hath kept me in my way that I went, my countenance hath deceived him to his destruction, and yet hath he not committed sin with me, to defile and shame me. Then all the people were wonderfully astonished, and bowed themselves and worshipped God, and said with one accord, Blessed be thou, O our God, which hast this day brought to nought the enemies of thy people. (Judith 13: 14–17)4 The speech provides a justification for the slaying through Judith’s deployment of security and retributive rationales. Although committed through deception, Judith claims that Holofernes’ killing not only will save Israel from Assyrian domination but was also an instance of divine justice being served. Judith’s assassination of Holofernes is thus able to catalyse resistance to Assyrian rule. Upon learning that its leader is dead, the Assyrian army becomes ‘wonderfully troubled’, and cries of anguish reverberate throughout the camp (Judith 14: 19). The Assyrians’ will to fight crumbles, and they abandon the siege. In the ensuing chaos of the sudden retreat, the people of Israel counter-attack, slaughtering the Assyrian army and ending Nabuchodonosor’s brutal occupation. The (gendered) representations in the book of Judith and other biblical tales of assassination are important and were filtered and remixed through related social codes.5 Contemporary theologians and historical anthropologists have argued that, at the time of its first recounting, the story of Judith would have been primarily recognized as a parable about shame and honour (Esler, 2002; DeSilva, 2006). In this case, one could argue that God is attempting to preserve the honour of a chosen people, while Judith is attempting to preserve the honour of her god (DeSilva, 2006). As an ethnic, cultural and spiritual outsider, Holofernes is not to be accorded the respect of an honourable death on the battlefield at the hands of a man or men. From its first articulation, the book of Judith is constitutive of a cultural system of configuration, forms of explanation and a normative compass by which assassinations can be positioned as events. Although the rationale of the assassination it recounts is argued to fit within prevailing ethical codes of the time, and its facilitation by God makes it just by definition within these codes, there is also an acknowledgement by the perpetrator to the audience that the act has involved deception, treachery, seduction and devious premeditation. Furthermore, there is a sexual subtext at play, with passing references to flirtation, attraction and perhaps – as in later retellings – even illicit congress (see Ziolkowski, 2009: 316–21). However, the assassination is not just facilitated by God at arm’s length. Theologians over the centuries have shared an interpretation that divine intervention is central to this story, in particular that Judith herself was – to put it crudely – created for the purpose by the hands of God to serve as an instrument of those very same hands, including in her ability to push beyond traditional gender boundaries (Day, 2001: 71–2; Sawyer, 2001a: 30; 2001b: 15). This is what distinguishes her from other ‘deceitful’ women in the bible, such as Eve or Delilah. Judith is revered, not just by the residents of Bethulia until her death, but also very often by those who read or have her story recounted to them over the ensuing centuries. For example, she is a paragon of Christian virtues – Chastity, Temperance, Justice, Fortitude, Wisdom and Humility – in the Psychomachia written by Prudentius in 405 CE, and a model for linking public and personal integrity in De Regimine, a 15th-century English treatise on how to rule virtuously (Stocker, 1998: 24–5). During the Reformation and Counter-Reformation, Judith was an icon, an emblem and an inspiration for both Protestant and Catholic forces alike. Protestant portrayals in political treatises, dramatic productions, poetry, art and even everyday tableware emphasized that the story of Judith was one of righteous resistance and showed that one could be civically virtuous in committing tyrannicide (Stocker, 1998: 56–8). As Stocker (1998: 56) notes, ‘she was an emblem of lay godliness who also implied divinely sanctioned revolt’. Not wanting its political power to be monopolized by their rival denomination, Catholics also appropriated the story of Judith for their cause, going so far as to organize theatrical productions of the tale in the vernacular. She also became closely associated with the Jesuits and the political theories of Juan de Mariana, who advocated sedition and murder in defence of the Catholic faith (Stocker, 1998: 59–61). Judith was an icon for the French Revolution, and in its aftermath a symbol for those who opposed the Reign of Terror. She was eventually embodied in the figure of Charlotte de Corday, who self-identified with the heroine. After her notorious killing of Marat, De Corday’s self-perception was confirmed as she was depicted as an heir to the legacy of Judith on stage and on canvas (Stocker, 1998: 111–19). More recently, notes Stocker (1998: 198–203), Judith was revived as an important symbol for extreme forms of Zionism as an antecedent justification for ends–means calculations in the defence of the Israeli state and retribution against its enemies. Although Judith has been grafted onto assassination as a symbolic representation of its legitimacy in circumstances of existential danger in which the pursuit of revenge is acceptable, there is also an underlying unease with this characterization that can be found across a range of cultural artefacts. Stocker (1998: 173–97) argues that within the Anglo-German world, as the new sciences of eugenics, criminology and psychiatry became established in the 19th century, portrayals of Judith increasingly became associated with both anti-Semitism and new forms of misogyny enabled by these forms of power/knowledge. These understandings of Judith found their antecedents in Renaissance forms of erotic art, and by the later stages of the Victorian age there is a raw sexuality that exudes from Judith, with intimations that it may have been more than bloodlust that was satiated in Holofernes’ tent. She is not demure or an individual overcome by circumstances. Rather, in being both dangerous and very desirable, Judith is the femme fatale or, in Freudian-inspired psychoanalytic readings, a hysterical female consumed by penis envy. The problem, then, over the centuries has been how should Judith be read, represented and understood. In her comprehensive genealogy of Judith, Stocker (1998) is able to provide multiple examples of how the story of Judith in some contexts can be – and has been – understood very negatively. Thus, as much as Judith has been elevated as a paragon of virtue, she has always been subject to projects of reclamation, redemption and even removal. The views of Thomas Aquinas are quite instructive here. For Aquinas, the problem with Judith was how to weigh the righteousness of her deed and her own virtues with the deceitful means that she used to kill Holofernes (Carter, 2005: 1). For Day (2001: 89–90), Judith’s deployment of deceit is so widespread that it is either ‘intrinsic to her nature or . . . she cannot see the difference between misleading one’s enemy and misleading one’s friends and tribe’. Thus, Stocker (1998: 24) has argued that, over the centuries, Judith became read as the ‘Good Bad Woman’. But, there have also been counter-representations that reverse this portrayal in order to emphasize Judith as the ‘Bad Good Woman’, a move that positioned her as a taboo object of sexual desire.

#### The alternative is to reject their reading of the Judith narrative for criticism rooted in sexual difference—

#### Absent the question of the alternative solvency ASK yourself is reading the narrative of Judith necessary to criticize the Christian will to revenge—our argument as an apriori reason to vote negative

#### The alt solves

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.

### 4

#### Executive war power primacy now—the plan flips that

Posner 13

[Eric Posner, 9/3/13, Obama Is Only Making His War Powers Mightier, www.slate.com/articles/news\_and\_politics/view\_from\_chicago/2013/09/obama\_going\_to\_congress\_on\_syria\_he\_s\_actually\_strengthening\_the\_war\_powers.html]

President Obama’s surprise announcement that he will ask Congress for approval of a military attack on Syria is being hailed as a vindication of the rule of law and a revival of the central role of Congress in war-making, even by critics. But all of this is wrong. Far from breaking new legal ground, President **Obama has reaffirmed the primacy of the executive** in matters of war and peace. **The war powers of the presidency remain as mighty as ever**.

It would have been different if the president had announced that **only Congress can authorize** the use of military force, as dictated by the Constitution, which gives Congress alone the power to declare war. **That would have been** worthy of notice, **a reversal of the ascendance of executive power over Congress**. **But the president said no such thing**. He said: “I believe I have the authority to carry out this military action without specific congressional authorization.” Secretary of State John Kerry confirmed that the president “has the right to do that”—launch a military strike—“no matter what Congress does.”

Thus, the president believes that the law gives him the option to seek a congressional yes or to act on his own. He does not believe that he is bound to do the first. He has merely stated the law as countless other presidents and their lawyers have described it before him.

The president’s announcement should be understood as a political move, not a legal one. His motive is both self-serving and easy to understand, and it has been all but acknowledged by the administration. If Congress now approves the war, it must share blame with the president if what happens next in Syria goes badly. If Congress rejects the war, it must share blame with the president if Bashar al-Assad gases more Syrian children. The big problem for Obama arises if Congress says no and he decides he must go ahead anyway, and then the war goes badly. He won’t have broken the law as he understands it, but he will look bad. He would be the first president ever to ask Congress for the power to make war and then to go to war after Congress said no. (In the past, presidents who expected dissent did not ask Congress for permission.)

People who celebrate the president for humbly begging Congress for approval also apparently don’t realize that his understanding of the law—that it gives him the option to go to Congress—maximizes executive power vis-à-vis Congress. If the president were required to act alone, without Congress, then he would have to take the blame for failing to use force when he should and using force when he shouldn’t. If he were required to obtain congressional authorization, then Congress would be able to block him. But if he can have it either way, he can force Congress to share responsibility when he wants to and avoid it when he knows that it will stand in his way.

#### Congressional restraints spill over to destabilize all presidential war powers.

Heder ’10

(Adam, J.D., magna cum laude , J. Reuben Clark Law School, Brigham Young University, “THE POWER TO END WAR: THE EXTENT AND LIMITS OF CONGRESSIONAL POWER,” St. Mary’s Law Journal Vol. 41 No. 3, <http://www.stmaryslawjournal.org/pdfs/Hederreadytogo.pdf>)

This constitutional silence invokes Justice Rehnquist’s oftquoted language from the landmark “political question” case, Goldwater v. Carter . 121 In Goldwater , a group of senators challenged President Carter’s termination, without Senate approval, of the United States ’ Mutual Defense Treaty with Taiwan. 122 A plurality of the Court held, 123 in an opinion authored by Justice Rehnquist, that this was a nonjusticiable political question. 124 He wrote: “In light of the absence of any constitutional provision governing the termination of a treaty, . . . the instant case in my view also ‘must surely be controlled by political standards.’” 125 Notably, Justice Rehnquist relied on the fact that there was no constitutional provision on point. Likewise, there is **no constitutional provision** on whether Congress has the legislative power to **limit, end, or otherwise redefine the scope of a war**. Though Justice Powell argues in Goldwater that the Treaty Clause and Article VI of the Constitution “add support to the view that the text of the Constitution does not unquestionably commit the power to terminate treaties to the President alone,” 126 **the same cannot be said about Congress’s legislative authority** to terminate or **limit a war** in a way that goes beyond its explicitly enumerated powers. There are no such similar provisions that would suggest Congress may decline to exercise its appropriation power but nonetheless legally order the President to cease all military operations. Thus, the case for deference to the political branches on this issue is even greater than it was in the Goldwater context. Finally, the Constitution does not imply any additional powers for Congress to end, limit, or redefine a war. The textual and historical evidence suggests the Framers purposefully **declined to grant Congress such powers**. And as this Article argues, granting Congress this power would be **inconsistent with the general war powers structure of the Constitution.** Such a reading of the Constitution would **unnecessarily empower Congress** and **tilt the scales heavily in its favor**. More over, it **would strip the President of his Commander in Chief authority** to direct the movement of troops at a time **when the Executive’s expertise is needed.** 127 And fears that the President will grow too powerful are unfounded, given the reasons noted above. 128 In short, the Constitution does not impliedly afford Congress any authority to prematurely terminate a war above what it explicitly grants. 129 Declaring these issues nonjusticiable political questions would be the most practical means of balancing the textual and historical demands, the structural demands, and the practical demands that complex modern warfare brings . Adjudicating these matters would only lead the courts to engage in impermissible line drawing — lines that would both confus e the issue and add layers to the text of the Constitution in an area where the Framers themselves declined to give such guidance.

#### That goes nuclear

Li ‘9

[Zheyao, J.D. candidate, Georgetown University Law Center, 2009; B.A., political science and history, Yale University, 2006. This paper is the culmination of work begun in the "Constitutional Interpretation in the Legislative and Executive Branches" seminar, led by Judge Brett Kavanaugh, “War Powers for the Fourth Generation: Constitutional Interpretation in the Age of Asymmetric Warfare,” 7 Geo. J.L. & Pub. Pol'y 373 2009 WAR POWERS IN THE FOURTH GENERATION OF WARFARE

1. The Emergence of Non-State Actors]

Even as the quantity of nation-states in the world has increased dramatically since the end of World War II, the **institution** of the nation-state has been in decline over the past few decades. Much of this decline is the direct result of the waning of major interstate war, which primarily resulted from the introduction of nuclear weapons.122 The proliferation of nuclear weapons, and their immense capacity for absolute destruction, has ensured that **conventional wars** remain limited in scope and duration. Hence, "both the size of the armed forces and the quantity of weapons at their disposal has declined quite sharply" since 1945.123 At the same time, concurrent with the decline of the nation-state in the second half of the twentieth century, non-state actors have increasingly been willing and able to use force to advance their causes. In contrast to nation-states, who adhere to the Clausewitzian distinction between the ends of policy and the means of war to achieve those ends, non-state actors do not necessarily fight as a mere means of advancing any coherent policy. Rather, they see their fight **as a life-and-death struggle**, wherein the ordinary terminology of war as an instrument of policy breaks down because of this blending of means and ends.124 It is the existential nature of this struggle and the disappearance of the Clausewitzian distinction between war and policy that has given rise to a new generation of warfare. The concept of fourth-generational warfare was first articulated in an influential article in the Marine Corps Gazette in 1989, which has proven highly prescient. In describing what they saw as the modem trend toward a new phase of warfighting, the authors argued that: In broad terms, fourth generation warfare seems likely to be widely dispersed and largely undefined; the distinction between war and peace will be blurred to the vanishing point. It will be nonlinear, possibly to the point of having no definable battlefields or fronts. The distinction between "civilian" and "military" may disappear. Actions will occur concurrently throughout all participants' depth, including their society as a cultural, not just a physical, entity. Major military facilities, such as airfields, fixed communications sites, and large headquarters will become rarities because of their vulnerability; the same may be true of civilian equivalents, such as seats of government, power plants, and industrial sites (including knowledge as well as manufacturing industries). 125 It is precisely this blurring of peace and war and the demise of traditionally definable battlefields that provides the impetus for the formulation of a new theory of war powers. As evidenced by Part M, supra, the constitutional allocation of war powers, and the Framers' commitment of the war power to two co-equal branches, **was not designed** to cope with the current international system, one that is characterized by the persistent machinations of international terrorist organizations, the rise of multilateral alliances, the emergence of **rogue states**, and the potentially wide proliferation of easily deployable **w**eapons of **m**ass **d**estruction, **nuclear and otherwise.** B. The Framers' World vs. Today's World The Framers crafted the Constitution, and the people ratified it, in a time when everyone understood that the state controlled both the raising of armies and their use. Today, however, the threat of terrorism is bringing an end to the era of the nation-state's legal monopoly on violence, and the kind of war that existed before-based on a clear division between government, armed forces, and the people-is on the decline. 126 As states are caught between their decreasing ability to fight each other due to the existence of nuclear weapons and the increasing threat from non-state actors, it is clear that the Westphalian system of nation-states that informed the Framers' allocation of war powers is no longer the order of the day. 127 As seen in Part III, supra, the rise of the modem nation-state occurred as a result of its military effectiveness and ability to defend its citizens. If nation-states such as the United States are unable to adapt to the changing circumstances of fourth-generational warfare-that is, if they are unable to adequately defend against low-intensity conflict conducted by non-state actors-"**then clearly [the modem state] does not have a future in front of it**.' 128 The challenge in formulating a new theory of war powers for fourthgenerational warfare that remains legally justifiable lies in the difficulty of adapting to changed circumstances while remaining faithful to the constitutional text and the original meaning. 29 To that end, it is crucial to remember that the Framers crafted the Constitution in the context of the Westphalian system of nation-states. The three centuries following the Peace of Westphalia of 1648 witnessed an international system characterized by wars, which, "through the efforts of governments, assumed a more regular, interconnected character."' 130 That period saw the rise of an independent military class and the stabilization of military institutions. Consequently, "warfare became more regular, better organized, and more attuned to the purpose of war-that is, to its political objective."' 1 3' **That era is now over**. Today, the stability of the long-existing Westphalian international order has been greatly eroded in recent years with the advent of international terrorist organizations, which care nothing for the traditional norms of the laws of war. This new global environment exposes the limitations inherent in the interpretational methods of originalism and textualism and necessitates the adoption of a new method of constitutional interpretation. While one must always be aware of the text of the Constitution and the original understanding of that text, that very awareness identifies the extent to which fourth-generational warfare epitomizes a phenomenon unforeseen by the Framers, a problem the constitutional resolution of which must rely on the good judgment of the present generation. 13 Now, to adapt the constitutional warmarking scheme to the new international order characterized by fourth-generational warfare, one must understand the threat it is being adapted to confront. C. The Jihadist Threat The erosion of the Westphalian and Clausewitzian model of warfare and the blurring of the distinction between the means of warfare and the ends of policy, which is one characteristic of fourth-generational warfare, apply to al-Qaeda and other adherents of jihadist ideology who view the United States as an enemy. An excellent analysis of jihadist ideology and its implications for the rest of the world are presented by Professor Mary Habeck. 133 Professor Habeck identifies the centrality of the Qur'an, specifically a particular reading of the Qur'an and hadith (traditions about the life of Muhammad), to the jihadist terrorists. 134 The jihadis believe that the scope of the Qur'an is universal, and "that their interpretation of Islam is also intended for the entire world, which must be brought to recognize this fact peacefully if possible and through violence if not."' 135 Along these lines, the jihadis view the United States and her allies as among the greatest enemies of Islam: they believe "that every element of modern Western liberalism is flawed, wrong, and evil" because the basis of liberalism is secularism. 136 The jihadis emphasize the superiority of Islam to all other religions, and they believe that "God does not want differing belief systems to coexist."' 37 For this reason, jihadist groups such as al-Qaeda "recognize that the West will not submit without a fight and believe in fact that the Christians, Jews, and liberals have united against Islam in a war that will end in the complete destruction of the unbelievers.' 138 Thus, the adherents of this jihadist ideology, be it al-Qaeda or other groups, will continue to target the United States until she is destroyed. Their ideology demands it. 139 To effectively combat terrorist groups such as al-Qaeda, it is necessary to understand not only how they think, but also how they operate. Al-Qaeda is a transnational organization capable of simultaneously managing multiple operations all over the world."14 It is both centralized and decentralized: al-Qaeda is centralized in the sense that Osama bin Laden is the unquestioned leader, but it is decentralized in that its operations are carried out locally, by distinct cells."4 AI-Qaeda benefits immensely from this arrangement because it can exercise direct control over high-probability operations, while maintaining a distance from low-probability attacks, only taking the credit for those that succeed. The local terrorist cells benefit by gaining access to al-Qaeda's "worldwide network of assets, people, and expertise."' 42 Post-September 11 events have highlighted al-Qaeda's resilience. Even as the United States and her allies fought back, inflicting heavy casualties on al-Qaeda in Afghanistan and destroying dozens of cells worldwide, "al-Qaeda's networked nature allowed it to absorb the damage and remain a threat." 14 3 This is a far cry from earlier generations of warfare, where the decimation of the enemy's military forces would generally bring an end to the conflict. D. The Need for Rapid Reaction and Expanded Presidential War Power By now it should be clear just how different this conflict against the extremist terrorists is from the type of warfare that occupied the minds of the Framers at the time of the Founding. Rather than maintaining the geographical and political isolation desired by the Framers for the new country, today's United States is an international power targeted by individuals and groups that will not rest until seeing her demise. The Global War on Terrorism is not truly a war within the Framers' eighteenth-century conception of the term, and the normal constitutional provisions regulating the division of war powers between Congress and the President do not apply. Instead, this "war" **is a struggle for survival** and dominance against forces that threaten to destroy the United States and her allies, and the fourth-generational nature of the conflict, highlighted by an indiscernible distinction between wartime and peacetime, necessitates an evolution of America's traditional constitutional warmaking scheme. As first illustrated by the military strategist Colonel John Boyd, constitutional decision-making in the realm of war powers in the fourth generation should consider the implications of the OODA Loop: Observe, Orient, Decide, and Act. 44 In the era of fourth-generational warfare, **quick reactions**, proceeding through the OODA Loop rapidly, and disrupting the enemy's OODA loop are the keys to victory. "In order to win," Colonel Boyd suggested, "we should operate at a **faster tempo** or rhythm than our adversaries." 145 In the words of Professor Creveld, "[b]oth organizationally and in terms of the equipment at their disposal, the armed forces of the world will have to adjust themselves to this situation by changing their doctrine, doing away with much of their heavy equipment and becoming more like police."1 46 Unfortunately, the existing constitutional understanding, which diffuses war power between two branches of government, necessarily (by the Framers' design) slows down decision- making. In circumstances where war is undesirable (which is, admittedly, most of the time, especially against other nation-states), the deliberativeness of the existing decision-making process is a positive attribute. In America's current situation, however, in the midst of the conflict with al-Qaeda and other international terrorist organizations, the existing process of constitutional decision-making in warfare may prove a **fatal hindrance** to achieving the initiative **necessary** for victory. As a **slow-acting**, deliberative **body**, Congress does not have the ability to adequately deal with **fast-emerging situations** in fourth-generational warfare. Thus, in order to combat transnational threats such as al-Qaeda, the executive branch **must** have the ability to operate by taking offensive military action even without congressional authorization, because **only the executive branch** is capable of the swift decision-making and action necessary to prevail in fourth-generational conflicts against fourthgenerational opponents.

# 2NC

#### AND the Phallogocentrism of the aff inflects irreparable loss on all female subjectivity

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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Irigaray is one of the few thinkers who places full emphasis on radical heterosexuality and the need to reconstruct a heterosexual social-symbolic contract that does not rest on feminophobia, hence not on a patriarchal social unconscious. A fully trained psychoanalyst, Irigaray denounces the delusional nature of identities postulated on the phallogocentric signifier and digs deeper than the sociological expressions of everyday sexism and culturally enforced discrimination. Her critique touches upon the in-depth roots of misogyny in a subject whose foundations rest on the rejection of the feminine from the material maternal body that constitutes our site of origin and inflicts a wound on each and every subject. At the beginning of the self, there is a separation from the totality one enjoyed as part of the mater or matrix. This causes an irreparable loss and hence an inexpressible grief. This structure of “unrepresentability” is a crucial part of psychoanalytic theories of subject formation. It rests on two key ideas: first, that the original loss of (the illusion of) totality, which translates into a wound, becomes a constitutive element of our subjectivity. One incorporates the loss, so to speak, and folds over it by deploying all possible cognitive and emotional forms of compensation. The pain of it never goes away— it just gets formatted into mourning and melancholia (Freud) or gratitude and reciprocity (Melanie Klein). Irigaray argues that the sense of originary loss has to be replaced by self-love and love for the Woman one could become.

#### turns the aff- Drone operators feminize their targets- proves that fear of the hysterical feminine is replicated in the strike process- means we solve all of the aff

Allinson 12. (Jamie, Faculty of Social Sciences and Humanities, University of Westminster, International Relations PhD, University of Edinburgh, “Necropolitics of the Cyborg Empire: Rethinking the Drone War,” Millennium Conference, http://millenniumjournal.files.wordpress.

com/2012/10/allinsonmillenium2012necropoliticscyborg-empire.docx)

The particular interlude prompted by the demand for weapons to be seen at 5:18 leads to a highly revealing exchange between the Predator team and the screeners, which is worth quoting at length: ¶ At 0529D the Predator pilot states to the crew ‘does it look like he is ho'n something across his chest. It's what they've been doing here lately, they wrap their \*expletive\* in their man dresses so you can't PID it.’ Then on the radio to [redacted] he says "looks like the dismounted pax on the hilux pickup on the east side is carrying something, but we cannot PID what it is at this time but he is carrying something’. After the Predator crew prompted the twice in mIRC, the screeners call out a possible weapon and then ask the crew to go white hot to get a better look. The response from the sensor operator is ‘white hot is not going to give us anything better, that truck would make a beautiful target’. The Predator pilot then at 0534D made this radio call "All players, all Players from [redacted] from our DGS, the MAM that just mounted the back of the hilux had a possible weapon, read back possible rifle.' During their post strike review, the screeners determined that this was not a weapon. At 0624D the screeners called out a weapon, this the only time that the Screeners called out a weapon without being prompted by the Predator crew. At 0655D, the Predator pilot called [redacted] and told him that the Screeners called out two weapons. The Screeners had not made any call outs of weapons. At 0741 the Predator pilot calls [redacted] and says ‘there's about 6 guys riding in the back of the highlux, so they don't have a lot of room. Potentially could carry a personal weapon on themselves.’¶ A great deal is to be understood about the necropolitical logic at work in the occupation of Afghanistan through this passage. As an indicator of the role of Orientalist fantasy in the tendency of Western militaries to ‘effeminise the men of the [occupied] population through both symbolic and practical emasculation’ the Predator pilot’s characterization of the Afghan man’s clothing is quite stark: ‘their mandresses’. Nor does this phrase refer solely to the Predator pilot’s notion of what men ought to wear (presumably trousers), and the implied denigration of those whose clothing does not meet this norm. It also reveals the drawing of a caesura, a mental and political cordon around those whose actions inherently render them part of the population it is acceptable to put to death.¶ We can consider this act of delineation at the basic level of pronouns. The Predator pilot describes how ‘what *they’ve* [my emphasis] been doing round here lately’ is to ‘wrap their \*expletive\* in their man dresses so you can't PID it’. Before this he asks for confirmation that the man on the screen does indeed look like he is holding something across his chest. Now, it may be objected that ‘they’ is simply a pronoun here⎯which it is, but this usage is in no sense simple. The pilot could have said ‘that’s what the Taliban have been doing round here lately’, or ‘the enemy’ or ‘the insurgents’ or a similar noun. By using ‘they’ the pilot shows that he already considers the man he is looking at to be one of ‘them’, and this ‘they’ have very definite characteristics, culled from the imaginary of what Patrick Porter calls ‘military orientalism’. ‘They’ are effete, exotic, and treacherous in transgression of the gender boundaries by, for example, their wearing ‘mandresses’. Nor is the mandress, however comfortable or stylish it may sound by comparison to US military uniform, a simple piece of clothing. It is itself weaponized, a tool of the MAM’s underhand concealment of the arms he is assumed to bear, and which the action of carrying something across the chest inadvertently reveals.¶ The unspoken frustration behind the Predator pilot’s ascription of a motive to the Afghan man’s concealment of a (non-existent) weapon is doubly instructive. Why do MAMs hold things across their chests and inside their clothes? They do so ‘so you can’t PID it.’ This implies that the pilot believes that the Taliban are manipulating US rules of engagement to the degree that they know what constitutes a positive identification of a weapon for a drone pilot and that they are deliberately preventing this identification, and therefore hampering the use of lethal force against them. The pilot therefore inverts the rules of engagement by evoking the tactical wrapping-up of objects in the ‘mandress’: an Afghan male without a visible weapon thereby becomes grounds for threat.

#### Women never achieve the status of divinity, they are relegated to the sidelines

Irigaray 85

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

What is sometimes difficult for women is to provide themselves with a periphery, a circumference, a world, a home. According to a cycle that overwhelms systems of takingdiscarding, or taking-leaving, but which is able to operate and be operated on the periphery. At a distance, should one say? Energy that might be saved, used in self-engendering, in creating one's own horizon, in its imaginary, artistic, and cultural dimensions. Its divine dimensions also. In many traditions, the god is engendered by means of a woman, means that are not simply the practical ones of procreation. Women take part in the divine becoming, in the engendering of "God. " But that mediation is often forgotten. Women serve the apparition of the god but do not appear themselves as divine. As mothers of God, as servants of the Lord, yes. As consorts of the god, as incarnations of the divinity, no.

#### Analyzing Judith through the lens of sex difference solves

Sawyer 01

(Deborah F., Theology & Sexuality, “Dressing Up/Dressing Down: Power, Performance and Identity in the Book of Judith,” 2001, Academic Search Premiere//wyo-mm)

The ideas of contemporary theorists Irigaray and Butler allow us to interrogate the figure of Judith in fluid terms, liberating us from defining the character at the polarities of the given binary gender con struct. Informed by the insights of Irigaray’s understanding of a new essentialism we can see Judith as a figure who, as encountered and perceived by Holof emes, enacts what woman might be expected to be, but it is as a ini niesis of that category, she parodies and subverts the given boundaries. Judith ‘becomes’ woman on her own terms with her own agenda. A new and unique concept of ‘woman’ emerges from and through Judith’s own experience. Alternatively, working with Butler’s model of deconstruction, we might understand Judith as an individual figure who performs gender across a spectrum of possibil ities, defying clear identification within any single given constructed role. Whatever the author’s theological intention might have been, the elusive figure of Judith offers us a subversive, even anarchic, para digm of gender play evident within the patriarchal metanarrative of biblical tradition.

## Method

#### First, the role of the ballot is to vote for the team who best creates an ethics of sexual difference-it 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

Irigaray 85

[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.

#### Their reading of Judith ignores the inherent misogyny and rape towards womyn embedded in the story-

Horner 94

(Shari, Chicago Journals, “Spiritual Truth and Sexual Violence: The Old English "Juliana", Anglo-Saxon Nuns, and the Discourse of Female Monastic Enclosure,” 1994, Jstor//wyo-mm

The rape metaphors used by the devil must have had direct implications for the poem's female readers. In a study of the Old English Judith, Al- exandra Hennessey Olsen has shown that the scene in which Judith de- capitates Holofernes functions as an inverted rape scene: Judith is, she believes, "a woman realistically worried about what might happen to her" in Holofernes' tent, and thus the scene "presents an ironic inversion of that realistic situation in which men reduce women to objects to be abused" (Olsen 1982, 291). As Olsen suggests, because rape was part of the cultural consciousness of Anglo-Saxon readers, the subject emerges in literary rep- resentations: the poem "seems designed to shock its audience and keep the subject of rape in their conscious minds" (292). Like Judith's, Juliana's physical battle with and eventual victory over the devil inverts traditional gender roles; because Juliana is a poem concerned especially with textu- ality and interpretation, the battle between the saint and the devil also redefines the roles of masculinized reader and feminized text. Like Judith, Juliana keeps the subject of rape, of female vulnerability and the need to resist, in the conscious minds of the poem's readers. Olsen suggests that "Judith, which emphasizes the physical danger which the handmaiden of God fears from a pagan, would surely have held great interest for the Englishwomen liable to receive the kind of treatment from the Danes which Holofernes plans for Judith" (292). The histories of Anglo-Saxon convents offer a grim confirmation of this sug- gestion: convents at Sheppey, Barking, Shaftesbury, Thanet, and else- where were frequent landing sites for Danish invaders. The abbey at Minster-in-Thanet was first raided in the mid-eighth century; in the early ninth century, the abbess "worked hard at restoration, but was eventually burnt with all her nuns in the monastery by the Danes" (VCH 18:2, 151). The convent was destroyed yet again in 980, and in 1011 the abbess was taken captive by the Danes (Whitelock 1955, 222; VCH 18:2, 151). A ninth-century charter grants the nearby convent of Lyminge "a small piece of land in the city of Canterbury as a refuge in necessity" (White- lock 1955, 474), apparently in recognition of the geographical vulner- ability of this coastal convent. Significantly, the houses most frequently destroyed were important centers of literary activity; Aldhelm addresses his De virginitate, a work well known for its urgent emphasis on both spiritual and bodily integritas, to the nuns at Barking. When we consider the high levels of literacy among Anglo-Saxon nuns, it is not hard to imagine these convents as places where literature exploring the threats of violence and rape may indeed have been produced or received with pro- found interest.

Empirically, readings of Judith create depictions of women as being irrational about their virginity

Ziolkowski 09

(Theodore, scholar in the fields of German studies and comparative literature, A.B. from Duke Universityan A.M. from Duke in 1952 and Ph.D from Yale University, since 2001 he has been Professor Emeritus, The Modern Language Review, “Re-visions, Fictionalizations, and Postfigurations: The Myth of Judith in the Twentieth Century,” 2009, Jstor//wyo-mm)

Weininge’s theoretical framework causes him to misunderstand the motivation of Hebbel’s Judith. To be sure, it is through Holofernes that Judith reluctantly discovers her own sexuality, which she has hitherto resisted out of a fear of its destructive power; but rather than submitting to servitude to any human master, she kills him out of offended morality. Sigmund Freud also turned to Hebbel’s Judith in his study of ‘Das Tabu der Virginität’ (‘The Taboo of Virginity’, 1924).hI From recent anthropologi cal investigations Freud had learnt that among many primitive peoples the defloration of the virgin is the object of a taboo, which he explains through the primitive fear of blood coupled with anxieties and neuroses connected with first-time events. Accordingly the defloration is carried out before the marriage: often in a two-stage process involving a medical defloration followed by sexual intercourse with a man other than the intended husband (who will thus not be burdened by first-time anxieties). While the man is governed by the taboo, the woman responds by hating the man who violates the taboo and desiring vengeance for her defloration. (From his own practice Freud cites examples of women who remain frigid in their first marriages, only to become sexually satisfied with a second husband.) This is the pattern he detects in Hebbel’s play (and not, of course, in the biblical version). ‘Judith ¡st eme jener Frauen, deren Virginität durch em Tabu geschützt ¡st’ (p. 178: ‘Judith is one of those women whose virginity is protected by a taboo’). Since her virginity was maintained in her first marriage by her husband’s impotence, ‘nach der Defloration durch den gewaltigen, sich semer Stärke und Rücksichtslosigkeit rühmenden Mann findet sie in ihrer Empörung die Kraft, ihm den Kopfabzuschlagen. und wird so zur Befreierin ihres Volkes’ (‘after the defloration by the mighty man who prides himself on his strength and ruthlessness, she finds in her outrage the strength to strike off his head and thus becomes the liberator of her people’). In keeping with Freud’s view that beheading is a symbolic substitution for castra tion, Judith is ‘das Weib, das den Mann kastriert, von dem sie defloriert wurde’ (:the woman who castrates the man by whom she was deflowered’). After the dramatist had settled on the virginity of his heroine, Freud concludes, ‘ver weilte seine nachfühlende Phantasie bel der feindseligen Reaktion, die durch die Verletzung der Virginität ausgelöst wird’ (p. 179: ‘his empathetic imagina tion dwelt upon the hostile reaction produced by the violation of her virginity’). Defloration ‘entfesselt auch cine archaische Reaktion von Feindseligkeit gegen den Mann’ (‘unleashes an archaic reaction of hostility against the man’). The continuing influence of Freud’s reading can be seen in Sarah Kofman’s recent analysis of Hebbel’s play, which amounts to a detailed Freudian interpretation in the light of i)as Tabu der Virginität’.21

#### Need to re-evaluate the biblical narrative of Judith-

Ziolkowski 09

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These tendencies—Weininge’s reading of Judith’s joyous submission, Freud’s view of Judith as the virgin enraged by her deflowering, and Sacher Masoch’s self-identification with Holofernes coupled with the desire to be humiliated by strong women—have shaped many of the literary treatments of Judith in the twentieth century and added another set of questions to those initially intended by the myth. Is Judith driven by religious faith or by a long ing for vengeance for her violation? Does Holofernes have a secret desire to be dominated? Yet another tendency that emerged powerfully in the second half of the century, finally, can be seen in the feminist re-visions of Judith, which have argued, among other things, that the Book of Judith was written by a woman,25 that the role of women in the Old Testament needs to be re.evaluated,26 that Judith is the appropriate model for women as avengers and terrorists in contem porary fiction and film (Stocker), that Judith is an androgyne,17 or that Judith is an appropriate object for lesbian desire (Patti Smith’s poem ‘Judith 2).18 Other aspects have been suggested by the aforementioned ‘Gallery of Strong Women’ and by the contributors to the volumes of the Feminist Companion to the Bible.19 That the appeal of Judith has remained culturally strong during the last half-century is evidenced by such literary examples as Dieter Schrage’s 1993 poem ‘Solidarität mit Holofernes’,3° where he calls Hebbel’s reading a ‘Lite raten Komplott’ (‘a writers’ conspiracy’), and the other poems in English and German cited in Kobelt-Groch’s anthology, by such musical works as Siegfried Matthus’s opera Judith (i 984), whose libretto is based on Hebbel’s play, and by Judy Chicago’s controversial installation The Dinner Party (1979), which con tains among its thirty-nine place-settings based on vulvar and butterfly forms a striking one for Judith, with a painted porcelain plate and an embroidered runner displaying Judith’s name and Jewish motifs.3’ Even the popularity of the name ‘Judith’ is cited by Stocker as a ‘cliché of the “sexy, independent woman” (p. 131).

#### Judith’s myth is embodied in a religious narrative that fails to accurately depict bodies of womyn

Ziolkowski 09

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In a representative group of modern Judiths we have seen how readily mythic themes can be adapted through theoretical re-vision, fictionalization, and postfiguration to modern circumstances and issues or, to put it differently, how timeless mythic themes remain through the ages. The specnific case of Judith raises questions of various sorts—moral, political, and psychological. On one level: What is the relationship between ideology and power? Does the defeat of Holofernes’ might symbolize the superiority of faith and virtue? Can we ex trapolate from the ancient myths to present reality? Can the biblical Judith be cited to justify assassination or even terrorism today? On another level: What is the role of seduction and violence in the affairs of men and women? Is Judith justified in her use of guile and deceit to achieve her goal? Does Holofernes have a secret desire to be dominated? Is Judith driven not so much by religious faith as by a longing for vengeance for her violation? The early biblical and Christian treatments of the myth implied clear and certain answers to these questions: her very purity entitled their Judith to se duce and kill Holofernes! Indeed, the myth was created precisely to exemplify that teaching. But the issues have become increasingly problematic since the re-visions of Hebbel, Weininger, Freud, and Sacher-Masoch, all of whom pro posed shocking possibilities regarding the motivation of both principal figures. The finest modern literary treatments have not typically sought to provide an swers but, rather, to force their readers and audiences to come to grips with the questions on their own. Stella Wilchek used her fictionalization to suggest alternatives to the extreme re-visions and, in the process, to provide insight into the creation of myth from history. In his postfiguration Hochhuth opened up the question concerning the justification of assassination but explicitly left ft unanswered, offering as he does a variety of viewpoints. It is perhaps the most precise definition of myth, in the primary sense cited at the outset, that the figure’s actions embody eternal issues, political and emotional as well as ethi cal, without providing fixed responses, thus ensuring its recurring fascination throughout the ages.

#### The perm is severance and demands the rejection of Roger- 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

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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”?

# 1NR

#### And Pres can self-bind

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. 138-139//wyo-sc]

Many of our mechanisms are unproblematic from a legal perspective, as they involve presidential actions that are clearly lawful. But a few raise legal questions; in particular, those that involve self-binding.59 Can a president bind himself to respect particular first-order policies? With qualifications, the answer is "yes, at least to the same extent that a legislature can." Formally, a duly promulgated executive rule or order binds even the executive unless and until it is validly abrogated, thereby establishing a new legal status quo.60 The legal authority to establish a new status quo allows a president to create inertia or political constraints that will affect his own future choices. In a practical sense, presidents, like legislatures, have great de facto power to adopt policies that shape the legal landscape for the future. A president might commit himself to a long-term project of defense procurement or infrastructure or foreign policy, narrowing his own future choices and generating new political coalitions that will act to defend the new rules or policies. More schematically, we may speak of formal and informal means of selfbinding: 1. The president might use formal means to bind himself. This is possible in the sense that an executive order, if otherwise valid, legally binds the president while it is in effect and may be enforced by the courts. It is not possible in the sense that the president can always repeal the executive order if he can bear the political and reputational costs of doing so. 2. The president might use informal means to bind himself. This is not only possible but frequent and important. Issuing an executive rule providing for the appointment of special prosecutors, as Nixon did, is not a formal self-binding.61 However, there may be political costs to repealing the order. This effect does not depend on the courts' willingness to enforce the order, even against Nixon himself. Court enforcement makes the order legally binding while it is in place, but only political and reputational enforcement can protect it from repeal. Just as a dessert addict might announce to his friends that he is going on a no-dessert diet in order to raise the reputational costs of backsliding and thus commit himself, so too the repeal of an executive order may be seen as a breach of faith even if no other institution ever enforces it. In what follows, we will invoke both formal and informal mechanisms. For our purposes, the distinction between the authority to engage in de jure self-binding (legally limited and well-defined) and the power to engage in de facto self-binding (broad and amorphous) is secondary. So long as policies are deliberately chosen with a view to generating credibility, and do so by constraining the president’s own future choices in ways that impose greater costs on ill-motivated presidents than on well-motivated ones, it does not matter whether the constraint is formal or informal.

You say PDB 1- severance- still requires use of congress- not plan, makes moving target voter to rejc team-

#### Doesn’t solve prez powers - congressional silence is key

Bellia 2

[Patricia, Professor of Law @ Notre Dame, “Executive Power in Youngstown’s Shadows” Constitutional Commentary, , 19 Const. Commentary 87, Spring, Lexis]

To see the problems in giving dispositive weight to inferences from congressional action (or inaction), we need only examine the similarities between courts' approach to executive power questions and courts' approach to federal-state preemption questions. If a state law conflicts with a specific federal enactment, n287 or if Congress displaces the state law by occupying the field, n288 a court cannot give the state law effect. Similarly, if executive action conflicts with a specific congressional policy (reflected in a statute or, as Youngstown suggests, legislative history), or if Congress passes related measures not authorizing the presidential conduct, courts cannot give the executive action effect. n289 When Congress is silent, however, the state law will stand; when Congress is silent, the executive action will stand. This analysis makes much sense with respect to state governments with reserved powers, but it makes little sense with respect to an Executive Branch lacking such powers. **The combination of** congressional silence **and judicial inaction** has the **practical** effect of creating power. Courts' reluctance to face questions about the scope of the President's constitutional powers - express and implied - creates three other problems. First, **the implied** presidential power given **effect** by virtue ofcongressional silence **and judicial inaction** can solidify into a broader claim**. When the Executive exercises an "initiating"** or "concurrent" **power, it will tie that power to a textual provision or to a claim about the structure of the Constitution.** Congress's silence **as a practical matter** tends to validate theexecutive rationale, and the Executive **Branch** maythen claim a power not only to exercise the **disputed** authority in the face of congressional silence, but also **to exercise the disputed authority** inthe face of congressional opposition. In other words, a power that the Executive Branch claims is "implied" in the Constitution may soon become an "implied" and "plenary" one. Questions about presidential power to terminate treaties provide a  [\*151]  ready example. The Executive's claim that the President has the power to terminate a treaty - the power in controversy in Goldwater v. Carter, where Congress was silent - now takes a stronger form: that congressional efforts to curb the power are themselves unconstitutional. n290

#### Won’t be rolled-back- President can show credibility by self-binding, and it puts heavy costs on future presidents for not representing public interests

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. 101-103//wyo-sc]

Where the executive is indeed ill-motivated in any of these ways, constraining his discretion (more than the voters would otherwise choose) may be sensible. But the executive may not be ill-motivated at all. Where the executive would in fact be a faithful agent, using his increased discretion to promote the public good according to whatever conception of the public good voters hold, then constraints on executive discretion are all cost and no benefit. Voters, legislators, and judges know that different executive officials have different motivations. Not all presidents are power maximizers or empire-builders.20 Of course, the executive need not be pure of heart; his devotion to the public interest may in turn be based on concern for the judgment of history. But so long as that motivation makes him a faithful agent of the principal(s), he counts as well-motivated. The problem, however, is that the public has no simple way to know which type of executive it is dealing with. An ill-motivated executive will just mimic the statements of a well-motivated one, saying the right things and offering plausible rationales for policies that outsiders, lacking crucial information, find difficult to evaluate—policies that turn out not to be in the public interest. The ability of the ill-motivated executive to mimic the public-spirited executive's statements gives rise to the executive's dilemma of credibility: the well-motivated executive has no simple way to identify himself as such. Distrust causes voters (and the legislators they elect) to withhold discretion that they would like to grant and that the well-motivated executive would like to receive. Of course the ill-motivated executive might also want discretion; the problem is that voters who would want to give discretion (only) to the well-motivated executive may choose not to do so, because they are not sure what type he actually is. The risk that the public and legislators will fail to trust a well-motivated president is just as serious as the risk that they will trust an ill-motivated president, yet legal scholars have felled forests on the second topic while largely neglecting the first.21 Indeed, legal scholars assume (without evidence) that the executive's interests lead it to keep too many secrets, and thus endlessly debate how it should be compelled to disclose information that should be made public. It has not occurred to them that their premise might be wrong22—that excessive secrecy undermines the executive by ruining its credibility and thus does not serve its interest. Scholars of presidentialism have addressed credibility problems in general and anecdotal terms,23 but without providing social-scientific microfoundations for their analysis. Our basic claim is that the credibility dilemma is best explored from the perspective of executive signaling*.* Without any new constitutional amendments, statutes, or legislative action, law and executive practice already contain resources to allow a well-motivated executive to send a credible signal of his motivations, committing to use increased discretion in public spirited ways. By tying policies to institutional mechanisms that impose heavier costs on ill-motivated actors than on well-motivated ones, the well-motivated executive can credibly signal his good intentions and thus persuade voters that his policies are those that voters would want if fully informed. We focus particularly on mechanisms of executive self-binding that send a signal of credibility by committing presidents to actions or policies that only a well-motivated president would adopt

Turns case

Goldstein 01

[Professor of International Relations at American University, 2001 (Joshua S., War and Gender: How Gender Shapes the War System and Vice Versa, pp.411-412) ]

First, peace activists face a dilemma in thinking about causes of war and working for peace. Many peace scholars and activists support the approach, “if you want peace, work for justice”. Then if one believes that sexism contributes to war, one can work for gender justice specifically (perhaps among others) in order to pursue peace. This approach brings strategic allies to the peace movement (women, labor, minorities), but rests on the assumption that injustices cause war. The evidence in this book suggests that causality runs at least as strongly the other way. War is not a product of capitalism, imperialism, gender, innate aggression, or any other single cause, although all of these influences wars’ outbreaks and outcomes. Rather, war has in part fueled and sustained these and other injustices.  So, “if you want peace, work for peace.” Indeed, if you want justice (gener and others), work for peace. Causality does not run just upward through the levels of analysis from types of individuals, societies, and governments up to war. It runs downward too. Enloe suggests that changes in attitudes toward war and the military may be the most important way to “reverse women’s oppression/” The dilemma is that peace work focused on justice brings to the peace movement energy, allies and moral grounding, yet, in light of this book’s evidence, the emphasis on injustice as the main cause of war seems to be empirically inadequate.

#### Zero risk of their impact---instrumental knowledge production doesn’t cause violence and discursive criticism could never solve it anyway

Ken Hirschkop 7, Professor of English and Rhetoric at the University of Waterloo, July 25, 2007, “On Being Difficult,” Electronic Book Review, online: http://www.electronicbookreview.com/thread/criticalecologies/transitive

This defect - not being art - is one that theory should prolong and celebrate, not remedy. For the most egregious error Chow makes is to imagine that obstructing instrumentalism is somehow a desirable and effective route for left-wing politics. The case against instrumentalism is made in depth in the opening chapter, which argues with reference to Hiroshima and Nagasaki that "[t]he dropping of the atomic bombs effected what Michel Foucault would call a major shift in epistemes, a fundamental change in the organization, production and circulation of knowledge" (33). It initiates the "age of the world target" in which war becomes virtualized and knowledge militarized, particularly under the aegis of so-called "area studies". It's hard not to see this as a Pacific version of the notorious argument that the Gulag and/or the Holocaust reveal the exhaustion of modernity. And the first thing one has to say is that this interpretation of war as no longer "the physical, mechanical struggles between combative oppositional groups" (33), as now transformed into a matter technology and vision, puts Chow in some uncomfortable intellectual company: like that of Donald Rumsfeld, whose recent humiliation is a timely reminder that wars continue to depend on the deployment of young men and women in fairly traditional forms of battle. Pace Chow, war can indeed be fought, and fought successfully, "without the skills of playing video games" (35) and this is proved, with grim results, every day. But it's the title of this new epoch - the title of the book as well - that truly gives the game away. Heidegger's "Age of the World Picture" claimed that the distinguishing phenomena of what we like to call modernity - science, machine technology, secularization, the autonomy of art and culture - depended, in the last instance, on a particular metaphysics, that of the "world conceived of and grasped as a picture", as something prepared, if you like, for the manipulations of the subject. Against this vision of "sweeping global instrumentalism" Heidegger set not Mallarmé, but Hölderlin, and not just Hölderlin, but also "reflection", i.e., Heidegger's own philosophy. It's a philosophical reprise of what Francis Mulhern has dubbed "metaculture", the discourse in which culture is invoked as a principle of social organization superior to the degraded machinations of "politics", degraded machinations which, at the time he was composing this essay, had led Heidegger to lower his expectations of what National Socialism might achieve. In the fog of metaphysics, every actually existing nation - America, the Soviet Union, Germany - looks just as grey, as does every conceivable form of politics. For the antithesis of the "world picture" is not a more just democratic politics, but no politics at all, and it is hard to see how this stance can serve as the starting point for a political critique. If Chow decides to pursue this unpromising path anyhow, it is probably because turning exploitation, military conquest and prejudice into so many epiphenomena of a metaphysical "instrumentalism" grants philosophy and poetry a force and a role in revolutionising the world that would otherwise seem extravagant. Or it would do, if "instrumentalism" was, as Chow claims a "demotion of language", if language was somehow more at home exulting in its own plenitude than merely referring to things. Poor old language. Apparently ignored for centuries, it only receives its due when poststructuralists force us to acknowledge it. In their hands, "language flexes its muscles and breaks the chains of its hitherto subordination to thought" and, as a consequence, "those who pursue poststructuralist theory in the critical writings find themselves permanently at war with those who expect, and insist on, the transparency - that is, the invisibility - of language as a tool of communication" (48). We have been down this road before and will no doubt go down it again. In fact, it's fair to say this particular journey has become more or less the daily commute of critical theory, though few have thought it ought to be described in such openly military terms. There is good reason, however, to think Chow's chosen route will lead not to the promised land of resistance and emancipation, but to more Sisyphean frustration. In fact, there are several good reasons.

#### Instrumental thought and language don’t cause militarism and resisting them can’t break it down

Ken Hirschkop 7, Professor of English and Rhetoric at the University of Waterloo, July 25, 2007, “On Being Difficult,” Electronic Book Review, online: http://www.electronicbookreview.com/thread/criticalecologies/transitive

First, by transparency Chow seems to mean a kind of spontaneous empiricism we adopt whenever we use language "referentially". But it is perfectly possible to use language transitively without assuming that our concepts are mere abstractions from sense experience. Physicists routinely refer to a range of particles that they know are theoretical constructs or metaphors. In everyday language we regularly refer to things ("his increasing uneasiness", "the bottom line") without for a moment assuming they are things. Chow confuses a doctrine about the nature of our concepts or signifieds with the act of referring, which can coexist with a variety of epistemologies.

Second, and perhaps more serious, is the confusion of "instrumentalism", a mode of action, with referring. It's hard to conceive of instrumental relationships without acts of reference, but you can't conceive of non-instrumental relationships without them, either ("I love you", after all, requires reference). In and of itself, referring in language doesn't incline us towards any particular mode of social existence, or any particular politics: it's just something we do in language, and do naturally.

Put another way, to imagine that language is only acknowledged in philosophy and poetry - as if asking it to behave transitively were degrading, unseemly and servile - is to assign it a singular telos and function, to identify it far too closely with forms of discourse that belong to particular societies and particular circumstances. It overloads language, asking it to do too much (resist the tide of US militarism) by insisting that when it is true to itself it does very little (produce self-referring works). This linguistic romanticism has a long and broad history, and you can find traces of it in everyone from Herder to Habermas.

For sure, human cooperation is inconceivable without the activities gathered under the title of "language". But if cooperation is inconceivable without language, so is much of what we find brutal in our shared social life. You cannot explain the ruthless pursuit of extraordinary wealth, the murder of millions of European Jews or the persistence of ethnic violence and torture by thinking of it as a betrayal of language. H