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### 1NC T

#### Restrictions on war powers create areas where the President can NOT act

Fisher 12—Louis, Scholar in Residence at The Constitution Project; served for four decades at the Library of Congress, as Senior Specialist, Congressional Research Service [“Basic Principles of the War Power,” 2012, Journal of National Security Law & Policy, 5 J. Nat'l Security L. & Pol'y 319]

Article II designates the President as Commander in Chief, but that title does not carry with it an independent authority to initiate war or act free of legislative control. Article II provides that the President "shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States." Congress, not the President, does the calling. Article I grants Congress the power to provide "for calling forth the Militia to execute the laws of the Union, suppress Insurrections, and repel invasions." Presidential use of the militia depends on policy enacted by Congress.

The Commander in Chief Clause is sometimes interpreted as an exclusive, plenary power of the President, free of statutory checks. It is not. Instead, it offers several protections for republican, constitutional government. Importantly, it preserves civilian supremacy over the military. The individual leading the armed forces is an elected civilian, not a general or admiral. Attorney General Edward Bates in 1861 concluded that the President is Commander in Chief not because he is "skilled in the art of war and qualified to marshal a host in the field of battle." He possesses that title for a different reason. Whatever military officer leads U.S. forces against an enemy, "he is subject to the orders of the civil magistrate, and he and his army are always "subordinate to the civil power.'" n23 Congress is an essential part of that civil power.

The Framers understood that the President may "repel sudden attacks," especially when Congress is out of session and unable to assemble quickly, but the power to take defensive actions does not permit the President to initiate wars and exercise the constitutional authority of Congress. President Washington took great care in instructing his military commanders that operations against Indians were to be limited to defensive actions. n24 Any offensive action required congressional authority. He wrote in 1793: "The Constitution vests the power of declaring war with Congress; therefore no offensive expedition of importance can be undertaken until after they have deliberated upon the subject, and authorized such a measure." n25

[\*324] In 1801, President Jefferson directed that a squadron be sent to the Mediterranean to safeguard American interests against the Barbary pirates. On December 8, he informed Congress of his actions, asking lawmakers for further guidance. He said he was "unauthorized by the Constitution, without the sanction of Congress, to go beyond the line of defense ... ." It was up to Congress to authorize "measures of offense also." n26 In 1805, after conflicts developed between the United States and Spain, Jefferson issued a public statement that articulates fundamental constitutional principles: "Congress alone is constitutionally invested with the power of changing our condition from peace to war." n27 In the Smith case of 1806, a federal circuit court acknowledged that if a foreign nation invades the United States, the President has an obligation to resist with force. But there was a "manifest distinction" between going to war with a nation at peace and responding to an actual invasion: "In the former case, it is the exclusive province of congress to change a state of peace into a state of war." n28

The second value that the Founders embraced in the Commander-in-Chief Clause is accountability. Hamilton in Federalist No. 74 wrote that the direction of war "most peculiarly demands those qualities which distinguish the exercise of power by a single hand." The power of directing war and emphasizing the common strength "forms a usual and essential part in the definition of the executive authority." n29 Presidential leadership is essential but it cannot operate outside legislative control. The President is subject to the rule of law, including statutory and judicial restrictions.

#### Their supervising terms OR conditions for acting don’t meet.

COURT OF APPEALS 12 [STATE OF WASHINGTON DEPARTMENT OF HEALTH, THE COURT OF APPEALS OF THE STATE OF WASHINGTON, DIVISION I, RANDALL KINCHELOE Appellant. vs. Respondent, BRIEF OF APPELLANT, http://www.courts.wa.gov/content/Briefs/a01/686429%20Appellant%20Randall%20Kincheloe's.pdf]

3. The ordinary definition of the term "restrictions" also does not include the reporting and monitoring or supervising terms and conditions that are included in the 2001 Stipulation. Black's Law Dictionary, 'fifth edition,(1979) defines "restriction" as; A limitation often imposed in a deed or lease respecting the use to which the property may be put.

The term "restrict' is also cross referenced with the term "restrain." Restrain is defined as;

To limit, confine, abridge, narrow down, restrict, obstruct, impede, hinder, stay, destroy. To prohibit from action; to put compulsion on; to restrict; to hold or press back. To keep in check; to hold back from acting, proceeding, or advancing, either by physical or moral force, or by interposing obstacle, to repress or suppress, to curb.

#### Vote Neg—Smaller predictable case list comes for Prohibitions only, and allowing modifications creates a bi-directional topic where they can IMPROVE war-fighting by the president.

### 1NC K

#### Using national security to justify restraints on the executive is self-defeating. Security discourse consolidates authoritarian politics.

Aziz RANA Law at Cornell 11 [“Who Decides on Security?” Cornell Law Faculty Working Papers, Paper 87, http://scholarship.law.cornell.edu/clsops\_papers/87 p. 1-7]

Today politicians and legal scholars routinely invoke fears that the balance between liberty and security has swung drastically in the direction of government’s coercive powers. In the post-September 11 era, such worries are so commonplace that in the words of one commentator, “it has become part of the drinking water of this country that there has been a trade-off of liberty for security.”1 According to civil libertarians, centralizing executive power and removing the legal constraints that inhibit state violence (all in the name of heightened security) mean the steady erosion of both popular deliberation and the rule of law. For Jeremy Waldron, current practices, from coercive interrogation to terrorism surveillance and diminished detainee rights, provide government the ability not only to intimidate external enemies but also internal dissidents and legitimate political opponents. As he writes, “We have to worry that the very means given to the government to combat our enemies will be used by the government against its enemies.”2 Especially disconcerting for many commentators, executive judgments—due to fears of infiltration and security leaks—are often cloaked in secrecy. This lack of transparency undermines a core value of democratic decisionmaking: popular scrutiny of government action. As U.S. Circuit Judge Damon Keith famously declared in a case involving secret deportations by the executive branch, “Democracies die behind closed doors. . . . When government begins closing doors, it selectively controls information rightfully belonging to the people. Selective information is misinformation.”3 In the view of no less an establishment figure than Neal Katyal, now the Principal Deputy Solicitor General, such security measures transform the current presidency into “the most dangerous branch,” one that “subsumes much of the tripartite structure of government.”4 Widespread concerns with the government’s security infrastructure are by no means a new phenomenon. In fact, such voices are part of a sixty-year history of reform aimed at limiting state (particularly presidential) discretion and preventing likely abuses. What is remarkable about these reform efforts is that, every generation, critics articulate the same basic anxieties and present virtually identical procedural solutions. These procedural solutions focus on enhancing the institutional strength of both Congress and the courts to rein in the unitary executive. They either promote new statutory schemes that codify legislative responsibilities or call for greater court activism. As early as the 1940s, Clinton Rossiter argued that only a clearly established legal framework in which Congress enjoyed the power to declare and terminate states of emergency would prevent executive tyranny and rights violations in times of crisis.5 After the Iran-Contra scandal, Harold Koh, now State Department Legal Adviser, once more raised this approach, calling for passage of a National Security Charter that explicitly enumerated the powers of both the executive and the legislature, promoting greater balance between the branches and explicit constraints on government action.6 More recently, Bruce Ackerman has defended the need for an “emergency constitution” premised on congressional oversight and procedurally specified practices.7 As for increased judicial vigilance, Arthur Schlesinger argued nearly forty years ago, in his seminal book The Imperial Presidency (1973), that the courts “had to reclaim their own dignity and meet their own responsibilities” by abandoning deference and by offering a meaningful check to the political branches.8 Today, Lawrence Tribe and Patrick Gudridge once more imagine that, by providing a powerful voice of dissent, the courts can play a critical role in balancing the branches. They write that adjudication can “generate[]—even if largely (or, at times, only) in eloquent and cogently reasoned dissent—an apt language for potent criticism.”9 The hope—returned to by constitutional scholars for decades—has been that by creating clear legal guidelines for security matters and by increasing the role of the legislative and judicial branches, government abuse can be stemmed. Yet despite this reformist belief, presidential and military prerogatives continue to expand even when the courts or Congress intervene. Indeed, the ultimate result has primarily been to entrench further the system of discretion and centralization. In the case of congressional legislation (from the 200 standby statutes on the books to the postSeptember 11 and Iraq War Authorizations for the Use of Military Force to the Detainee Treatment Act and the Military Commissions Acts), this has often entailed Congress self-consciously playing the role of junior partner—buttressing executive practices by providing its own constitutional imprimatur to them. Thus, rather than rolling back security practices, greater congressional involvement has tended to further strengthen and internalize emergency norms within the ordinary operation of politics.10 As just one example, the USA PATRIOT Act, while no doubt controversial, has been renewed by Congress a remarkable ten consecutive times without any meaningful curtailments.11 Such realities underscore the dominant drift of security arrangements, a drift unhindered by scholarly suggestions and reform initiatives. Indeed, if anything, today’s scholarship finds itself mired in an argumentative loop, re-presenting inadequate remedies and seemingly incapable of recognizing past failures. What explains both the persistent expansion of the federal government’s security framework as well as the inability of civil libertarian solutions to curb this expansion? In this article I argue that the current reform debate ignores the broader ideological context that shapes how the balance between liberty and security is struck. In particular, the very meaning of security has not remained static but rather has changed dramatically since World War II and the beginning of the Cold War. This shift has principally concerned the basic question of who decides on issues of war and emergency. And as the following pages explore, at the center of this shift has been a transformation in legal and political judgments about the capacity of citizens to make informed and knowledgeable decisions in security domains. Yet, while underlying assumptions about popular knowledge—its strengths and limitations—have played a key role in shaping security practices in each era of American constitutional history, this role has not been explored in any sustained way in the scholarly literature. As an initial effort to delineate the relationship between knowledge and security, I will argue that throughout most of the American experience, the dominant ideological perspective saw security as grounded in protecting citizens from threats to their property and physical well-being (especially those threats posed by external warfare and domestic insurrection). Drawing from a philosophical tradition extending back to John Locke, politicians and thinkers—ranging from Alexander Hamilton and James Madison at the founding to Abraham Lincoln and Roger Taney—maintained that most citizens understood the forms of danger that imperiled their physical safety. The average individual knew that securing collective life was in his or her own interest, and also knew the institutional arrangements and practices that would fulfill this paramount interest. A widespread knowledge of security needs was presumed to be embedded in social experience, indicating that citizens had the skill to take part in democratic discussion regarding how best to protect property or to respond to forms of external violence. Thus the question of who decides was answered decisively in favor of the general public and those institutions—especially majoritarian legislatures and juries—most closely bound to the public’s wishes. What marks the present moment as distinct is an increasing repudiation of these assumptions about shared and general social knowledge. Today the dominant approach to security presumes that conditions of modern complexity (marked by heightened bureaucracy, institutional specialization, global interdependence, and technological development) mean that while protection from external danger remains a paramount interest of ordinary citizens, these citizens rarely possess the capacity to pursue such objectives adequately. Rather than viewing security as a matter open to popular understanding and collective assessment, in ways both small and large the prevailing concept sees threat as sociologically complex and as requiring elite modes of expertise. Insulated decision-makers in the executive branch, armed with the specialized skills of the professional military, are assumed to be best equipped to make sense of complicated and often conflicting information about safety and self-defense.12 The result is that the other branches—let alone the public writ large—face a profound legitimacy deficit whenever they call for transparency or seek to challenge presidential discretion. Not surprisingly, the tendency of procedural reform efforts has been to place greater decision-making power in the other branches and then to watch those branches delegate such power back to the very same executive bodies. How did the governing, expertise-oriented concept of security gain such theoretical and institutional dominance and what alternative formulations exist to challenge its ideological supremacy? In offering an answer to these questions, I begin in Part II by examining the principal philosophical alternatives that existed prior to the emergence of today’s approach, one of which grounded early American thought on security issues. I refer to these alternatives in the Anglo-American tradition as broadly ‘Hobbesian’ and ‘Lockean’ and develop them through a close reading of the two thinkers’ accounts of security. For all their internal differences, what is noteworthy for my purposes is that each approach rejected the idea—pervasive at present—that there exists a basic divide between elite understanding and mass uncertainty. In other words, John Locke and even Thomas Hobbes (famous as the philosopher of absolutism) presented accounts of security and self-defense that I argue were normatively more democratic than the current framework. Part III will then explore how the Lockean perspective in particular took constitutional root in early American life, focusing especially on the views of the founders and on the intellectual and legal climate in the mid nineteenth century. In Part IV, I will continue by detailing the steady emergence beginning during the New Deal of our prevailing idea of security, with its emphasis on professional expertise and insulated decision-making. This discussion highlights the work of Pendleton Herring, a political scientist and policymaker in the 1930s and 1940s who co-wrote the National Security Act of 1947 and played a critical role in tying notions of elite specialization to a new language of ‘national security.’ Part V will then show how Herring’s ‘national security’ vision increasingly became internalized by judicial actors during and after World War II. I argue that the emblematic figure in this development was Supreme Court Justice Felix Frankfurter, who not only defended security expertise but actually sought to redefine the very meaning of democracy in terms of such expertise. For Frankfurter, the ideal of an ‘open society’ was one premised on meritocracy, or the belief that decisions should be made by those whose natural talents make them most capable of reaching the technically correct outcome. According to Frankfurter, the rise of security expertise meant the welcome spread of meritocratic commitments to a critical and complex arena of policymaking. In this discussion, I focus especially on a series of Frankfurter opinions, including in Ex parte Quirin (1942), Hirabayashi v. United States (1943), Korematsu v. United States (1944), and Youngstown Steel & Tube Co. v. Sawyer (1952), and connect these opinions to contemporary cases such as Holder v. Humanitarian Law Project (2010). Finally, by way of conclusion, I note how today’s security concept—normatively sustained by Frankfurter’s judgments about merit and elite authority—shapes current discussions over threat and foreign policy in ways that often inhibit rather than promote actual security. I then end with some reflections on what would be required to alter governing arrangements. As a final introductory note, a clarification of what I mean by the term ‘security’ is in order. Despite its continuous invocation in public life, the concept remains slippery and surprisingly under-theorized. As Jeremy Waldron writes, “Although we know that ‘security’ is a vague and ambiguous concept, and though we should suspect that its vagueness is a source of danger when talk of trade-offs is in the air, still there has been little or no attempt in the literature of legal and political theory to bring any sort of clarity to the concept.”13 As a general matter, security refers to protection from those threats that imperil survival—both of the individual and of a given society’s collective institutions or way of life. At its broadest, these threats are multidimensional and can result from phenomena as wide-ranging as environmental disasters or food shortages. Thus, political actors with divergent ideological commitments defend the often competing goals of social security, economic security, financial security, collective security, human security, food security, environmental security, and—the granddaddy of them all—national security. But for my purposes, when invoked without any modifier the word ‘security’ refers to more specific questions of common defense and physical safety. These questions, emphasizing issues of war and peace, are largely coterminous with what Franklin Delano Roosevelt famously referred to in his “Four Freedoms” State of the Union Adresss as “the freedom from fear”: namely ensuring that citizens are protected from external and internal acts of “physical aggression.”14 This definitional choice is meant to serve two connected theoretical objectives. First, as a conceptual matter it is important to keep the term security analytically separate from ‘national security’—a phrase ubiquitous in current legal and political debate. While on the face of it, both terms might appear synonymous, my claim in the following pages is that ‘national security’ is in fact a relatively novel concept, which emerged in the mid twentieth century as a particular vision of how to address issues of common defense and personal safety. Thus national security embodies only one of a number of competing theoretical and historical approaches to matters of external violence and warfare. Second, and relatedly, it has become a truism in political philosophy that the concept of liberty is plural and multifaceted.15 In other words, different ideals of liberty presuppose distinct visions of political life and possibility. Yet far less attention has been paid to the fact that security is similarly a plural concept, embodying divergent assumptions about social ordering. In fact, competing notions of security—by offering different answers to the question of “who decides?”—can be more or less compatible with democratic ideals. If anything, the problem of the contemporary moment is the dominance of a security concept that systematically challenges those sociological and normative assumptions required to sustain popular involvement in matters of threat and safety.

#### National security frame justifies extinction in the name of saving human life.

Dillon 96—Michael, University of Lancaster [October 4, 1996, “Politics of Security: Towards a Political Philosophy of Continental Thought”]

The way of sharpening and focusing this thought into a precise question is first provided, however, by referring back to Foucault; for whom Heidegger was the philosopher. Of all recent thinkers, Foucault was amongst the most committed to the task of writing the history of the present in the light of the history of philosophy as metaphysics. 4 That is why, when first thinking about the prominence of security in modern politics, I first found Foucault’s mode of questioning so stimulating. There was, it seemed to me, a parallel to be drawn between what he saw the technology of disciplinary power/knowledge doing to the body and what the principle of security does to politics.

What truths about the human condition, he therefore prompted me to ask, are thought to be secreted in security? What work does securing security do for and upon us? What power-effects issue out of the regimes of truth of security? If the truth of security compels us to secure security, why, how and where is that grounding compulsion grounded? How was it that seeking security became such an insistent and relentless (inter)national preoccupation for humankind? What sort of project is the pursuit of security, and how does it relate to other modern human concerns and enterprises, such as seeking freedom and knowledge through representative-calculative thought, technology and subjectification? Above all, how are we to account—amongst all the manifest contradictions of our current (inter)national systems of security: which incarcerate rather than liberate; radically endanger rather than make safe; and engender fear rather than create assurance—for that terminal paradox of our modern (inter)national politics of security which Foucault captured so well in the quotation that heads this chapter. 5 A terminal paradox which not only subverts its own predicate of security, most spectacularly by rendering the future of terrestrial existence conditional on the strategies and calculations of its hybrid regime of sovereignty and governmentality, but which also seems to furnish a new predicate of global life, a new experience in the context of which the political has to be recovered and to which it must then address itself: the globalisation of politics of security in the global extension of nihilism and technology, and the advent of the real prospect of human species extinction.

#### Alternative—Challenge to *conceptual* framework of national security. Only our alternative displaces the source of executive overreach. Legal restraint without conceptual change is futile.

Aziz RANA Law at Cornell 11 [“Who Decides on Security?” Cornell Law Faculty Working Papers, Paper 87, http://scholarship.law.cornell.edu/clsops\_papers/87 p. 45-51]

The prevalence of these continuities between Frankfurter’s vision and contemporary judicial arguments raise serious concerns with today’s conceptual framework. Certainly, Frankfurter’s role during World War II in defending and promoting a number of infamous judicial decisions highlights the potential abuses embedded in a legal discourse premised on the specially-situated knowledge of executive officials and military personnel. As the example of Japanese internment dramatizes, too strong an assumption of expert understanding can easily allow elite prejudices—and with it state violence—to run rampant and unconstrained. For the present, it hints at an obvious question: How skeptical should we be of current assertions of expertise and, indeed, of the dominant security framework itself? One claim, repeated especially in the wake of September 11, has been that regardless of normative legitimacy, the prevailing security concept—with its account of unique knowledge, insulation, and hierarchy—is simply an unavoidable consequence of existing global dangers. Even if Herring and Frankfurter may have been wrong in principle about their answer to the question “who decides in matters of security?” they nevertheless were right to believe that complexity and endemic threat make it impossible to defend the old Lockean sensibility. In the final pages of the article, I explore this basic question of the degree to which objective conditions justify the conceptual shifts and offer some initial reflections on what might be required to limit the government’s expansive security powers. VI. CONCLUSION: THE OPENNESS OF THREATS The ideological transformation in the meaning of security has helped to generate a massive and largely secret infrastructure of overlapping executive agencies, all tasked with gathering information and keeping the country safe from perceived threats. In 2010, The Washington Post produced a series of articles outlining the buildings, personnel, and companies that make up this hidden national security apparatus. According to journalists Dana Priest and William Arkin, there exist “some 1271 government organizations and 1931 private companies” across 10,000 locations in the United States, all working on “counterterrorism, homeland security, and intelligence.”180 This apparatus is especially concentrated in the Washington, D.C. area, which amounts to “the capital of an alternative geography of the United States.”181 Employed by these hidden agencies and bureaucratic entities are some 854,000 people (approximately 1.5 times as many people as live in Washington itself) who hold topsecret clearances.182 As Priest and Arkin make clear, the most elite of those with such clearance are highly trained experts, ranging from scientists and economists to regional specialists. “To do what it does, the NSA relies on the largest number of mathematicians in the world. It needs linguists and technology experts, as well as cryptologists, known as ‘crippies.’”183 These professionals cluster together in neighborhoods that are among the wealthiest in the country—six of the ten richest counties in the United States according to Census Bureau data.184 As the executive of Howard County, Virginia, one such community, declared, “These are some of the most brilliant people in the world. . . . They demand good schools and a high quality of life.”185 School excellence is particularly important, as education holds the key to sustaining elevated professional and financial status across generations. In fact, some schools are even “adopting a curriculum . . . that will teach students as young as 10 what kind of lifestyle it takes to get a security clearance and what kind of behavior would disqualify them.”186 The implicit aim of this curriculum is to ensure that the children of NSA mathematicians and Defense Department linguists can one day succeed their parents on the job. In effect, what Priest and Arkin detail is a striking illustration of how security has transformed from a matter of ordinary judgment into one of elite skill. They also underscore how this transformation is bound to a related set of developments regarding social privilege and status—developments that would have been welcome to Frankfurter but deeply disillusioning to Brownson, Lincoln, and Taney. Such changes highlight how one’s professional standing increasingly drives who has a right to make key institutional choices. Lost in the process, however, is the longstanding belief that issues of war and peace are fundamentally a domain of common care, marked by democratic intelligence and shared responsibility. Despite such democratic concerns, a large part of what makes today’s dominant security concept so compelling are two purportedly objective sociological claims about the nature of modern threat. As these claims undergird the current security concept, by way of a conclusion I would like to assess them more directly and, in the process, indicate what they suggest about the prospects for any future reform. The first claim is that global interdependence means that the U.S. faces near continuous threats from abroad. Just as Pearl Harbor presented a physical attack on the homeland justifying a revised framework, the American position in the world since has been one of permanent insecurity in the face of new, equally objective dangers. Although today these threats no longer come from menacing totalitarian regimes like Nazi Germany or the Soviet Union, they nonetheless create of world of chaos and instability in which American domestic peace is imperiled by decentralized terrorists and aggressive rogue states.187 Second, and relatedly, the objective complexity of modern threats makes it impossible for ordinary citizens to comprehend fully the causes and likely consequences of existing dangers. Thus, the best response is the further entrenchment of Herring’s national security state, with the U.S. permanently mobilized militarily to gather intelligence and to combat enemies wherever they strike—at home or abroad. Accordingly, modern legal and political institutions that privilege executive authority and insulated decisionmaking are simply the necessary consequence of these externally generated crises. Regardless of these trade-offs, the security benefits of an empowered presidency (one armed with countless secret and public agencies as well as with a truly global military footprint)188 greatly outweigh the costs. Yet, although these sociological views have become commonplace, the conclusions that Americans should draw about security requirements are not nearly as clear cut as the conventional wisdom assumes. In particular, a closer examination of contemporary arguments about endemic danger suggests that such claims are not objective empirical judgments but rather are socially complex and politically infused interpretations. Indeed, the openness of existing circumstances to multiple interpretations of threat implies that the presumptive need for secrecy and centralization is not self-evident. And as underscored by high profile failures in expert assessment, claims to security expertise are themselves riddled with ideological presuppositions and subjective biases. All this indicates that the gulf between elite knowledge and lay incomprehension in matters of security may be far less extensive than is ordinarily thought. It also means that the question of who decides—and with it the issue of how democratic or insular our institutions should be—remains open as well. Clearly technological changes, from airpower to biological and chemical weapons, have shifted the nature of America’s position in the world and its potential vulnerability. As has been widely remarked for nearly a century, the oceans alone cannot guarantee our permanent safety. Yet, in truth they never fully ensured domestic tranquility. The nineteenth century was one of near continuous violence, especially with indigenous communities fighting to protect their territory from expansionist settlers.189 But even if technological shifts make doomsday scenarios more chilling than those faced by Hamilton, Jefferson, or Taney, the mere existence of these scenarios tells us little about their likelihood or how best to address them. Indeed, these latter security judgments are inevitably permeated with subjective political assessments, assessments that carry with them preexisting ideological points of view—such as regarding how much risk constitutional societies should accept or how interventionist states should be in foreign policy. In fact, from its emergence in the 1930s and 1940s, supporters of the modern security concept have—at times unwittingly—reaffirmed the political rather than purely objective nature of interpreting external threats. In particular, commentators have repeatedly noted the link between the idea of insecurity and America’s post-World War II position of global primacy, one which today has only expanded following the Cold War. In 1961, none other than Senator James William Fulbright declared, in terms reminiscent of Herring and Frankfurter, that security imperatives meant that “our basic constitutional machinery, admirably suited to the needs of a remote agrarian republic in the 18th century,” was no longer “adequate” for the “20th- century nation.”190 For Fulbright, the driving impetus behind the need to jettison antiquated constitutional practices was the importance of sustaining the country’s “preeminen[ce] in political and military power.”191 Fulbright held that greater executive action and war-making capacities were essential precisely because the United States found itself “burdened with all the enormous responsibilities that accompany such power.”192 According to Fulbright, the United States had both a right and a duty to suppress those forms of chaos and disorder that existed at the edges of American authority. Thus, rather than being purely objective, the American condition of permanent danger was itself deeply tied to political calculations about the importance of global primacy. What generated the condition of continual crisis was not only technological change, but also the belief that the United States’ own ‘national security’ rested on the successful projection of power into the internal affairs of foreign states. The key point is that regardless of whether one agrees with such an underlying project, the value of this project is ultimately an open political question. This suggests that whether distant crises should be viewed as generating insecurity at home is similarly as much an interpretative judgment as an empirically verifiable conclusion.193 To appreciate the open nature of security determinations, one need only look at the presentation of terrorism as a principal and overriding danger facing the country. According to the State Department’s Annual Country Reports on Terrorism, in 2009 “[t]here were just 25 U.S. noncombatant fatalities from terrorism worldwide” (sixteen abroad and nine at home).194 While the fear of a terrorist attack is a legitimate concern, these numbers—which have been consistent in recent years—place the gravity of the threat in perspective. Rather than a condition of endemic danger—requiring everincreasing secrecy and centralization—such facts are perfectly consistent with a reading that Americans do not face an existential crisis (one presumably comparable to Pearl Harbor) and actually enjoy relative security. Indeed, the disconnect between numbers and resources expended, especially in a time of profound economic insecurity, highlights the political choice of policymakers and citizens to persist in interpreting foreign events through a World War II and early Cold War lens of permanent threat. In fact, the continuous alteration of basic constitutional values to fit ‘national security’ aims highlights just how entrenched Herring’s old vision of security as pre-political and foundational has become, regardless of whether other interpretations of the present moment may be equally compelling. It also underscores a telling and often ignored point about the nature of modern security expertise, particularly as reproduced by the United States’ massive intelligence infrastructure. To the extent that political assumptions—like the centrality of global primacy or the view that instability abroad necessarily implicates security at home—shape the interpretative approach of executive officials, what passes as objective security expertise is itself intertwined with contested claims about how to view external actors and their motivations. This means that while modern conditions may well be complex, the conclusions of the presumed experts may not be systematically less liable to subjective bias than judgments made by ordinary citizens based on publicly available information. It further underscores that the question of who decides cannot be foreclosed in advance by simply asserting deference to elite knowledge. If anything, one can argue that the presumptive gulf between elite awareness and suspect mass opinion has generated its own very dramatic political and legal pathologies. In recent years, the country has witnessed a variety of security crises built on the basic failure of ‘expertise.’195 At present, part of what obscures this fact is the very culture of secret information sustained by the modern security concept. Today, it is commonplace for government officials to leak security material about terrorism or external threat to newspapers as a method of shaping the public debate.196 These ‘open’ secrets allow greater public access to elite information and embody a central and routine instrument for incorporating mass voice into state decision-making. But this mode of popular involvement comes at a key cost. Secret information is generally treated as worthy of a higher status than information already present in the public realm—the shared collective information through which ordinary citizens reach conclusions about emergency and defense. Yet, oftentimes, as with the lead up to the Iraq War in 2003, although the actual content of this secret information is flawed,197 its status as secret masks these problems and allows policymakers to cloak their positions in added authority. This reality highlights the importance of approaching security information with far greater collective skepticism; it also means that security judgments may be more ‘Hobbesian’—marked fundamentally by epistemological uncertainty as opposed to verifiable fact—than policymakers admit. If both objective sociological claims at the center of the modern security concept are themselves profoundly contested, what does this mean for reform efforts that seek to recalibrate the relationship between liberty and security? Above all, it indicates that the central problem with the procedural solutions offered by constitutional scholars—emphasizing new statutory frameworks or greater judicial assertiveness—is that they mistake a question of politics for one of law. In other words, such scholars ignore the extent to which governing practices are the product of background political judgments about threat, democratic knowledge, professional expertise, and the necessity for insulated decision-making. To the extent that Americans are convinced that they face continuous danger from hidden and potentially limitless assailants—danger too complex for the average citizen to comprehend independently—it is inevitable that institutions (regardless of legal reform initiatives) will operate to centralize power in those hands presumed to enjoy military and security expertise. Thus, any systematic effort to challenge the current framing of the relationship between security and liberty must begin by challenging the underlying assumptions about knowledge and security upon which legal and political arrangements rest. Without a sustained and public debate about the validity of security expertise, its supporting institutions, and the broader legitimacy of secret information, there can be no substantive shift in our constitutional politics. The problem at present, however, is that no popular base exists to raise these questions. Unless such a base emerges, we can expect our prevailing security arrangements to become ever more entrenched.

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#### Immigration will pass – ignore random quotes from pissed off tea-partiers

BUCKHOUT 10 – 23 – 13 NDN Staff Blogger [Emma Buckhout, Immigration Reform: Alive, Not Dead, in the House, <http://ndn.org/blog/2013/10/immigration-reform-alive-not-dead-house>]

A surprising number of recent media reports declare once again that immigration reform is dead- surprising because numerous House Republicans are signaling the exact opposite. It is true that responsibility for action lies with the House GOP after the Senate passed its bipartisan comprehensive immigration reform bill in June, House Democrats have introduced both CIR ASAP and H.R. 15 (now with 184 cosponsors), and President Obama has declared immigration reform a legislative priority. However, the House GOP passed five separate bills out of committee, and this week members have affirmed they are still working on more related to legalization of undocumented immigrants. As long as a contingent of the House majority is willing to keep moving on meaningful pieces of legislation, immigration reform is very much alive.

See these articles:

Speaker Hopeful of Immigration Reform This Year, Donna Cassata, Associated Press, October 23, 2013

“Reps. Mike Coffman, R-Colo., and David Valadao, R-Calif., joined immigrants brought illegally to the U.S. as children who want to join the military at a Capitol Hill news conference. Coffman and Valadao have been working with Majority Leader Eric Cantor, R-Va., and Judiciary Committee Chairman Robert Goodlatte, R-Va., on legislation that would offer citizenship to the children.”

Boehner Says He Might Bring Up Immigration Reform This Year, David Lawder and Caren Bohan, Reuters, October 23, 2013

House Speaker Boehner: "I still think that immigration reform is an important subject that needs to be addressed and I am hopeful."

Immigration Reform: Still Not Quite Dead, Greg Sargent, Washington Post, October 22, 2013

Rep. Mario Diaz-Balart (R, Fla.) says he is working with a number of representatives to figure out: “what to do with the millions of undocumented who are here in a way that completely conforms with the rule of law.”

House Republicans Drafting Immigration Measures, Kristina Peterson, Wall Street Journal, October 22, 2013

“Rep. Mario Diaz-Balart (R., Fla.) and a small group of other lawmakers are working on one proposal that includes elements of –but is expected to diverge from– a bipartisan plan Mr. Diaz-Balart had worked on earlier this year.”

“Rep. Darrell Issa (R., Calif.) is also working on a proposal that would offer temporary legal status to qualifying illegal immigrants, his spokesman said Tuesday.”

Is Immigration Really Dead in the House?, Fawn Johnson, National Journal, October 22, 2013

“Powerful House Republicans like Boehner, Majority Leader Eric Cantor, and Budget Committee Chairman Paul Ryan all want to see something happen on immigration.”

An Immigration Challenge for Boehner, William Galston, Wall Street Journal, October 22, 2013

“…a majority of rank-and-file Republicans, backed by evangelical leaders and business, favor immigration reform….”

Did Shutdown “Poison the Well” for Immigration Reform?, Carrie Dann, NBC News, October 20, 2013

"Another proposal being worked on by Majority Leader Eric Cantor, R-Va., and House Judiciary Chairman Bob Goodlatte, R-Va., would allow some children who were brought the United States illegally as children to obtain legal status.”

Written Off for Dead, Immigration Reform Could Still Live On, Byron York, Washington Examiner, October 17, 2013

"’There is still a window,’ says one House GOP aide involved in crafting a reform proposal. ‘The leadership has said keep working on it and see what you can do.’”

Time Running Out for Immigration Reform, Dan Nowicki, Arizona Republic, October 20, 2013

"’We're still committed to moving forward on step-by-step, common-sense reforms,’ Boehner spokesman Michael Steel told The Arizona Republic in an email. ‘The Judiciary Committee has already passed several bills that could see floor action.’"

#### Obama’s top priority – his pressure is key

STOKOLS 10 – 17 – 13 Fox31 Denver Staff Writer [Eli Stokols, ANALYSIS: Obama’s quick pivot to immigration reform, <http://kdvr.com/2013/10/17/analysis-obamas-quick-pivot-to-immigration-reform/>]

Just hours after signing the legislation ending the government shutdown and raising the debt ceiling, President Barack Obama told the country that “there are no winners” after the two-week stalemate that cost the country’s economy more than $20 billion.

But, in the political world, there is a clear winner — the president.

Republicans, by following a bone-headed strategy in pursuit of an unattainable goal, have put their own approval ratings in the toilet 13 months before the 2014 midterm election.

Further, they’ve put some wind back in the sails of an administration that had been rudderless and adrift almost from the start of the president’s second term.

On Thursday morning, Obama looked to press his advantage by urging Republicans in Congress to end the political brinksmanship and to start working together with Democrats on budget negotiations, immigration reform and the farm bill that has stalled in the House.

“To all my friends in Congress, understand that how business is done in this town has to change,” Obama said, implicitly chiding the Republicans who seemingly oppose his administration at every turn.

“You don’t like a particular policy, or a particular president, then argue for your position,” Mr. Obama said in the 15-minute statement. “Go out there and win an election. Push to change it. But don’t break it.”

While another stern lecture from the president isn’t likely to improve relations between the White House and Capitol Hill, Obama does have a stronger hand in the upcoming political fights; and by pivoting quickly to immigration reform, he’s taking advantage of a sudden window of opportunity.

During his remarks Thursday, Obama re-framed the debate over comprehensive immigration reform, reminding the country of the Senate proposal, passed with broad bipartisan support earlier this year, that’s lingering in the House.

“There’s already a broad coalition across America that’s behind this effort of comprehensive immigration reform — from business leaders to faith leaders to law enforcement,” the president said.

“In fact, the Senate has already passed a bill with strong bipartisan support that would make the biggest commitment to border security in our history; would modernize our legal immigration system; make sure everyone plays by the same rules, makes sure that folks who came here illegally have to pay a fine, pay back taxes, meet their responsibilities.”

The legislation, crafted by a bipartisan group of eight senators including Colorado Sen. Michael Bennet, a Democrat, would spend $46 billion to enhance security on the U.S. Mexico border and create a 13-year path to citizenship for undocumented immigrants.

“It will establish a sensible and rational system for the future flow of immigrants to this country, put in place a process to reunite families and provide a path to citizenship for millions of people who came to this country for a better but are living in the shadows of our society,” Bennet said. “I suggest the House take a hard look at the Senate bill. There is no reason we can’t work out a final bill to pass into law in the coming months.”

Obama noted that the legislation is likely to grow the nation’s economy over the next several decades.

“Our economy would be 5 percent larger two decades from now,” the president said. “That’s $1.4 trillion in new economic growth.

“The majority of Americans think this is the right thing to do. And it’s sitting there waiting for the House to pass it. Now, if the House has ideas on how to improve the Senate bill, let’s hear them. Let’s start the negotiations. But let’s not leave this problem to keep festering for another year, or two years, or three years. This can and should get done by the end of this year.”

The president is speaking to a House GOP caucus that is fractured into factions, the body’s growing dysfunction writ large by the debacle of the last two weeks.

While many of the conservative hard-liners who aimed to dismantle Obamacare by shutting down the government will never support comprehensive immigration reform, more moderate Republicans — those concerned with the GOP’s ability to win national elections, not just their own grip on their safe, gerrymandered, primary-ripe seats — have likely been chastened by recent polls showing their approval ratings in the 20s.

#### Plan kills Obama’s agenda

KRINER 10—Assistant professor of political science at Boston University [Douglas L. Kriner, “After the Rubicon: Congress, Presidents, and the Politics of Waging War”, pg. 276-77]

One of the mechanisms by which congressional opposition influences presidential cost-benefit calculations is by sending signals of American disunity to the target state. Measuring the effects of such congressional signals on the calculations of the target state is always difficult. In the case of Iraq it is exceedingly so, given the lack of data on the non-state insurgent actors who were the true “target” of the American occupation after the fall of the Hussein regime. Similarly, in the absence of archival documents, such as those from the Reagan Presidential Library presented in chapter 5, it is all but impossible to measure the effects of congressional signals on the administration’s perceptions of the military costs it would have to pay to achieve its objectives militarily.

By contrast. measuring the domestic political costs of congressional opposition, while still difficult, is at least a tractable endeavor. Chapter 2 posited two primary pathways through which congressional opposition could raise the political costs of staying the course militarily for the president. First, high-profile congressional challenges to a use of force can affect real or anticipated public opinion and bring popular pressures to bear on the president to change course. Second, congressional opposition to the president’s conduct of military affairs can compel him to spend considerable political capital in the military arena to the detriment of other major items on his programmatic agenda. On both of these dimensions, congressional opposition to the war in Iraq appears to have had the predicted effect.

#### Ag industry’s collapsing now---immigration’s key

Alfonso Serrano 12, Bitter Harvest: U.S. Farmers Blame Billion-Dollar Losses on Immigration Laws, Time, 9-21-12, http://business.time.com/2012/09/21/bitter-harvest-u-s-farmers-blame-billion-dollar-losses-on-immigration-laws/

The Broetjes and an increasing number of farmers across the country say that a complex web of local and state anti-immigration laws account for acute labor shortages. With the harvest season in full bloom, stringent immigration laws have forced waves of undocumented immigrants to flee certain states for more-hospitable areas. In their wake, thousands of acres of crops have been left to rot in the fields, as farmers have struggled to compensate for labor shortages with domestic help.¶ “The enforcement of immigration policy has devastated the skilled-labor source that we’ve depended on for 20 or 30 years,” said Ralph Broetje during a recent teleconference organized by the National Immigration Forum, adding that last year Washington farmers — part of an $8 billion agriculture industry — were forced to leave 10% of their crops rotting on vines and trees. “It’s getting worse each year,” says Broetje, “and it’s going to end up putting some growers out of business if Congress doesn’t step up and do immigration reform.”¶ (MORE: Why Undocumented Workers Are Good for the Economy)¶ Roughly 70% of the 1.2 million people employed by the agriculture industry are undocumented. No U.S. industry is more dependent on undocumented immigrants. But acute labor shortages brought on by anti-immigration measures threaten to heap record losses on an industry emerging from years of stiff foreign competition. Nationwide, labor shortages will result in losses of up to $9 billion, according to the American Farm Bureau Federation.

#### Extinction

Lugar 2k Chairman of the Senator Foreign Relations Committee and Member/Former Chair of the Senate Agriculture Committee (Richard, a US Senator from Indiana, is Chairman of the Senate Foreign Relations Committee, and a member and former chairman of the Senate Agriculture Committee. “calls for a new green revolution to combat global warming and reduce world instability,” pg online @ http://www.unep.org/OurPlanet/imgversn/143/lugar.html)

In a world confronted by global terrorism, turmoil in the Middle East, burgeoning nuclear threats and other crises, it is easy to lose sight of the long-range challenges. But we do so at our peril. One of the most daunting of them is meeting the world’s need for food and energy in this century. At stake is not only preventing starvation and saving the environment, but also world peace and security. History tells us that states may go to war over access to resources, and that poverty and famine have often bred fanaticism and terrorism. Working to feed the world will minimize factors that contribute to global instability and the proliferation of [WMDs] weapons of mass destruction. With the world population expected to grow from 6 billion people today to 9 billion by mid-century, the demand for affordable food will increase well beyond current international production levels. People in rapidly developing nations will have the means greatly to improve their standard of living and caloric intake. Inevitably, that means eating more meat. This will raise demand for feed grain at the same time that the growing world population will need vastly more basic food to eat. Complicating a solution to this problem is a dynamic that must be better understood in the West: developing countries often use limited arable land to expand cities to house their growing populations. As good land disappears, people destroy timber resources and even rainforests as they try to create more arable land to feed themselves. The long-term environmental consequences could be disastrous for the entire globe. Productivity revolution To meet the expected demand for food over the next 50 years, we in the United States will have to grow roughly three times more food on the land we have. That’s a tall order. My farm in Marion County, Indiana, for example, yields on average 8.3 to 8.6 tonnes of corn per hectare – typical for a farm in central Indiana. To triple our production by 2050, we will have to produce an annual average of 25 tonnes per hectare. Can we possibly boost output that much? Well, it’s been done before. Advances in the use of fertilizer and water, improved machinery and better tilling techniques combined to generate a threefold increase in yields since 1935 – on our farm back then, my dad produced 2.8 to 3 tonnes per hectare. Much US agriculture has seen similar increases. But of course there is no guarantee that we can achieve those results again. Given the urgency of expanding food production to meet world demand, we must invest much more in scientific research and target that money toward projects that promise to have significant national and global impact. For the United States, that will mean a major shift in the way we conduct and fund agricultural science. Fundamental research will generate the innovations that will be necessary to feed the world. The United States can take a leading position in a productivity revolution. And our success at increasing food production may play a decisive humanitarian role in the survival of billions of people and the health of our planet.

### 1NC CP

#### Text: The Office of Legal Counsel should determine that the Executive Branch lacks the legal authority to deploy armed forces against a nation-state in circumstances likely to lead to an armed attack without Congressional declaration of war that is consistent with jus ad bellum principles of self-defense under international law. The OLC should define “armed attack” as: The use of force of a magnitude that is likely to produce serious consequences, epitomized by territorial intrusions, human casualties, or considerable destruction of property. The OLC should allow an exception in the event of an armed attack against the United States, or its allies making prior approval impractical. Congress should require immediate notice of such a determination, and shall require approval within 14 days.

#### The President should require the Office of Legal Counsel to publish any legal opinions regarding policies adopted by the Executive Branch.

#### The CP is competitive and solves the case—OLC rulings do not actually remove authority but nevertheless hold binding precedential value on the executive.

Trevor W. Morrison, October 2010. Professor of Law, Columbia Law School. “STARE DECISIS IN THE OFFICE OF LEGAL COUNSEL,” Columbia Law Review, 110 Colum. L. Rev. 1448, Lexis.

On the other hand, an OLC that says "yes" too often is not in the client's long-run interest. n49 Virtually all of OLC's clients have their own legal staffs, including the White House Counsel's Office in the White House and the general counsel's offices in other departments and agencies. Those offices are capable of answering many of the day-to-day issues that arise in those components. They typically turn to OLC when the issue is sufficiently controversial or complex (especially on constitutional questions) that some external validation holds special value. n50 For example, when a department confronts a difficult or delicate constitutional question in the course of preparing to embark upon a new program or course of action that raises difficult or politically sensitive legal questions, it has an interest in being able to point to a credible source affirming the  [\*1462]  legality of its actions. n51 The in-house legal advice of the agency's general counsel is unlikely to carry the same weight. n52 Thus, even though those offices might possess the expertise necessary to answer at least many of the questions they currently send to OLC, in some contexts they will not take that course because a "yes" from the in-house legal staff is not as valuable as a "yes" from OLC. But that value depends on OLC maintaining its reputation for serious, evenhanded analysis, not mere advocacy. n53

The risk, however, is that OLC's clients will not internalize the long-run costs of taxing OLC's integrity. This is in part because the full measure of those costs will be spread across all of OLC's clients, not just the client agency now before it. The program whose legality the client wants OLC to review, in contrast, is likely to be something in which the client has an immediate and palpable stake. Moreover, the very fact that the agency has come to OLC for legal advice will often mean it thinks there is  [\*1463]  at least a plausible argument that the program is lawful. In that circumstance, the agency is unlikely to see any problem in a "yes" from OLC.

Still, it would be an overstatement to say that OLC risks losing its client base every time it contemplates saying "no." One reason is custom. In some areas, there is a longstanding tradition - rising to the level of an expectation - that certain executive actions or decisions will not be taken without seeking OLC's advice. One example is OLC's bill comment practice, in which it reviews legislation pending in Congress for potential constitutional concerns. If it finds any serious problems, it writes them up and forwards them to the Office of Management and Budget, which combines OLC's comments with other offices' policy reactions to the legislation and generates a coordinated administration position on the legislation. n54 That position is then typically communicated to Congress, either formally or informally. While no statute or regulation mandates OLC's part in this process, it is a deeply entrenched, broadly accepted practice. Thus, although some within the Executive Branch might find it frustrating when OLC raises constitutional concerns in bills the administration wants to support as a policy matter, and although the precise terms in which OLC's constitutional concerns are passed along to Congress are not entirely in OLC's control, there is no realistic prospect that OLC would ever be cut out of the bill comment process entirely. Entrenched practice, then, provides OLC with some measure of protection from the pressure to please its clients.

But there are limits to that protection. Most formal OLC opinions do not arise out of its bill comment practice, which means most are the product of a more truly voluntary choice by the client to seek OLC's advice. And as suggested above, although the Executive Branch at large has an interest in OLC's credibility and integrity, the preservation of those virtues generally falls to OLC itself. OLC's nonlitigating function makes this all the more true. Whereas, for example, the Solicitor General's aim of prevailing before the Supreme Court limits the extent to which she can profitably pursue an extreme agenda inconsistent with current doctrine, OLC faces no such immediate constraint. Whether OLC honors its oft-asserted commitment to legal advice based on its best view of the law depends largely on its own self-restraint.

2. Formal Requests, Binding Answers, and Lawful Alternatives. - Over time, OLC has developed practices and policies that help maintain its independence and credibility. First, before it provides a written opinion, n55 OLC typically requires that the request be in writing from the head or general counsel of the requesting agency, that the request be as specific and concrete as possible, and that the agency provide its own written  [\*1464]  views on the issue as part of its request. n56 These requirements help constrain the requesting agency. Asking a high-ranking member of the agency to commit the agency's views to writing, and to present legal arguments in favor of those views, makes it more difficult for the agency to press extreme positions.

Second, as noted in the Introduction, n57 OLC's legal advice is treated as binding within the Executive Branch until withdrawn or overruled. n58 As a formal matter, the bindingness of the Attorney General's (or, in the modern era, OLC's) legal advice has long been uncertain. n59 The issue has never required formal resolution, however, because by longstanding tradition the advice is treated as binding. n60 OLC protects that tradition today by generally refusing to provide advice if there is any doubt about whether the requesting entity will follow it. n61 This guards against "advice-shopping by entities willing to abide only by advice they like." n62 More broadly, it helps ensure that OLC's answers matter. An agency displeased with OLC's advice cannot simply ignore the advice. The agency might  [\*1465]  construe any ambiguity in OLC's advice to its liking, and in some cases might even ask OLC to reconsider its advice. n63 But the settled practice of treating OLC's advice as binding ensures it is not simply ignored.

In theory, the very bindingness of OLC's opinions creates a risk that agencies will avoid going to OLC in the first place, relying either on their general counsels or even other executive branch offices to the extent they are perceived as more likely to provide welcome answers. This is only a modest risk in practice, however. As noted above, legal advice obtained from an office other than OLC - especially an agency's own general counsel - is unlikely to command the same respect as OLC advice. n64 Indeed, because OLC is widely viewed as "the executive branch's chief legal advisor," n65 an agency's decision///

not to seek OLC's advice is likely to be viewed by outside observers with skepticism, especially if the in-house advice approves a program or initiative of doubtful legality.

OLC has also developed certain practices to soften the blow of legal advice not to a client's liking. Most significantly, after concluding that a client's proposed course of action is unlawful, OLC frequently works with the client to find a lawful way to pursue its desired ends. n66 As the OLC Guidelines put it, "when OLC concludes that an administration proposal is impermissible, it is appropriate for OLC to go on to suggest modifications that would cure the defect, and OLC should stand ready to work with the administration to craft lawful alternatives." n67 This is a critical component of OLC's work, and distinguishes it sharply from the courts. In addition to "providing a means by which the executive branch lawyer can contribute to the ability of the popularly-elected President and his administration to achieve important policy goals," n68 in more instrumental terms the practice can also reduce the risk of gaming by OLC's clients. And that, in turn, helps preserve the bindingness of OLC's opinions. n69

 [\*1466]  To be sure, OLC's opinions are treated as binding only to the extent they are not displaced by a higher authority. A subsequent judicial decision directly on point will generally be taken to supersede OLC's work, and always if it is from the Supreme Court. OLC's opinions are also subject to "reversal" by the President or the Attorney General. n70 Such reversals are rare, however. As a formal matter, Dawn Johnsen has argued that "the President or attorney general could lawfully override OLC only pursuant to a good faith determination that OLC erred in its legal analysis. The President would violate his constitutional obligation if he were to reject OLC's advice solely on policy grounds." n71 Solely is a key word here, especially for the President. Although his oath of office obliges him to uphold the Constitution, n72 it is not obvious he would violate that oath by pursuing policies that he thinks are plausibly constitutional even if he has not concluded they fit his best view of the law. It is not clear, in other words, that the President's oath commits him to seeking and adhering to a single best view of the law, as opposed to any reasonable or plausible view held in good faith. Yet even assuming the President has some space here, it is hard to see how his oath permits him to reject OLC's advice solely on policy grounds if he concludes that doing so is indefensible as a legal matter. n73 So the President needs at least a plausible legal basis for  [\*1467]  disagreeing with OLC's advice, which itself would likely require some other source of legal advice for him to rely upon.

The White House Counsel's Office might seem like an obvious candidate. But despite recent speculation that the size of that office during the Obama Administration might reflect an intention to use it in this fashion, n74 it continues to be virtually unheard of for the White House to reverse OLC's legal analysis. For one thing, even a deeply staffed White House Counsel's Office typically does not have the time to perform the kind of research and analysis necessary to produce a credible basis for reversing an OLC opinion. n75 For another, as with attempts to rely in the first place on in-house advice in lieu of OLC, any reversal of OLC by the White House Counsel is likely to be viewed with great skepticism by outside observers. If, for example, a congressional committee demands to know why the Executive Branch thinks a particular program is lawful, a response that relies on the conclusions of the White House Counsel is unlikely to suffice if the committee knows that OLC had earlier concluded otherwise. Rightly or wrongly, the White House Counsel's analysis is likely to be treated as an exercise of political will, not dispassionate legal analysis. Put another way, the same reasons that lead the White House to seek OLC's legal advice in the first place - its reputation for  [\*1468]  providing candid, independent legal advice based on its best view of the law - make an outright reversal highly unlikely. n76

Of course, the White House Counsel's Office may well be in frequent contact with OLC on an issue OLC has been asked to analyze, and in many cases is likely to make it abundantly clear what outcome the White House prefers. n77 But that is a matter of presenting arguments to OLC in support of a particular position, not discarding OLC's conclusion when it comes out the other way. n78The White House is not just any other client, and so the nature of - and risks posed by - communications between it and OLC on issues OLC is analyzing deserve special attention. I take that up in Part III. n79 My point at this stage is simply that the prospect of literal reversal by the White House is remote and does not meaningfully threaten the effective bindingness of OLC's decisions.

### 1NC Solvency

#### Their restriction is a smokescreen and will not be enforced

Nzelibe 7—Professor of Law @ Northwestern University [Jide Nzelibe, “Are Congressionally Authorized Wars Perverse?” Stanford Law Review, Vol. 59, 2007]

These assumptions are all questionable. As a preliminary matter, there is not much causal evidence that supports the institutional constraints logic. As various commentators have noted, Congress's bark with respect to war powers is often much greater than its bite. Significantly, skeptics like Barbara Hinckley suggest that any notion of an activist Congress in war powers is a myth and members of Congress will often use the smokescreen of "symbolic resolutions, increase in roll calls and lengthy hearings, [and] addition of reporting requirements" to create the illusion of congressional participation in foreign policy.' 0 Indeed, even those commentators who support a more aggressive role for Congress in initiating conflicts acknowledge this problem," but suggest that it could be fixed by having Congress enact more specific legislation about conflict objectives and implement new tools for monitoring executive behavior during wartime. 12

Yet, even if Congress were equipped with better institutional tools to constrain and monitor the President's military initiatives, it is not clear that it would significantly alter the current war powers landscape. As Horn and Shepsle have argued elsewhere: "[N]either specificity in enabling legislation ... nor participation by interested parties is necessarily optimal or self-fulfilling; therefore, they do not ensure agent compliance. Ultimately, there must be some enforcement feature-a credible commitment to punish ....Thus, no matter how much well-intentioned and specific legislation Congress passes to increase congressional oversight of the President's military initiatives, it will come to naught if members of Congress lack institutional incentives to monitor and constrain the President's behavior in an international crisis.

Various congressional observers have highlighted electoral disincentives that members of Congress might face in constraining the President's military initiatives. 14 Others have pointed to more institutional obstacles to congressional assertiveness in foreign relations, such as collective action problems. 15 Generally, lawmaking is a demanding and grueling exercise. If one assumes that members of Congress are often obsessed with the prospect of reelection, 16 then such members will tend to focus their scarce resources on district-level concerns and hesitate to second-guess the President's response in an international crisis. 17 Even if members of Congress could marshal the resources to challenge the President's agenda on national issues, the payoff in electoral terms might be trivial or non-existent. Indeed, in the case of the President's military initiatives where the median voter is likely to defer to the executive branch's judgment, the electoral payoff for members of Congress of constraining such initiatives might actually be negative. In other words, regardless of how explicit the grant of a constitutional role to Congress in foreign affairs might be, few members of Congress are willing to make the personal sacrifice for the greater institutional goal. Thus, unless a grand reformer is able to tweak the system and make congressional assertiveness an electorally palatable option in war powers, calls for greater congressional participation in war powers are likely to fall on deaf ears. Pg. 912-913

#### President will not abide. Congress will inevitably fall in line

Bell 4—Professor of Political Science @ Randolph-Macon College [Lauren Cohen Bell, “Following the Leaders or Leading the Followers? The US President's Relations with Congress,” Journal of Legislative Studies, Summer/Autumn, 2004, Vol. 10 Issue 2/3, pg. 193-205]

As noted ahove. Article I of the Constitution grants to the Congress the sole authority to make declarations of war. However, the president has the power to command US military personnel based on the provisions of Article II. Over the course of US history, the commander-in-chief power has been interpreted to permit presidents to commit troops to areas of conflict even in the absence of a formal declaration of war. Today, formal declarations of war are the exception rather than the rule; separation of powers expert Louis Fisher notes that through 1991 only five wars had ever been declared and that "in only one (the War of 1812) did members of Congress actually debate the merits of entering into hostilities'.'^ As Samuel Kemell and Gary Jacohson note: "[SJince 1989 U.S. armed forces have been almost continuously engaged somewhere in the world.''^

This was not always the case. Fisher points out that there is evidence of presidential restraint with regard to war-making by relating the story of President Grover Cleveland (1885-89; 1893-97), who refused to mobilise troops for a conflict with Cuba despite Congress' intention to declare war. In Fisher's account, Cleveland told the Congress: 'I will not mobilize the army ... I happen to know that we can buy the island of Cuba from Spain for $100,000,000, and a war will cost vastly more than that and will entail another long list of pensioners. It would be an outrage to declare war.''^ Yet, in the modem history of presidential-congressional relations, it is much more frequently the president who has mobilised American troops without consultation with the Congress and in the absence of a formal declaration of war. And it is clear that even when we consider Cleveland's actions, the president has been far more important to the conduct of American foreign policy than the Congress.

This circumstance led, in the aftermath of the war in Vietnam, to congressional passage of the War Powers Resolution in 1973. The War Powers Resolution (WPR) was an attempt to constrain presidential discretion with regard to committing troops oversees. Section 3 of the WPR requires that 'The president in every possible instance shall consult with Congress before introducing United States Armed Forces into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances".' Section 4 of the WPR gives the president 48 hours to provide a report to both Chambers of the Congress detailing the reason for committing troops, the authority under which he committed them and his prediction conceming the duration of the troops' engagement abroad.'^ Once the president has informed the Congress of the commitment of troops, and in the event that the Congress does not declare war, the WPR requires the president to end the engagement within 60 days, with the possibility of an additional 30 days' commitment in the event that the president certifies to the Congress that the additional time is necessary.^\*\* According to the Congressional Research Service (CRS), the research branch of the Library of Congress, since the War Powers Resolution was enacted over President Richard M. Nixon's 1973 veto, it has been invoked on 107 occasions (to 23 July 2003).^' Figure 2 illustrates both the absolute number of times as well as the rate of each president's exercise of war powers. As Figure 2 demonstrates, the rate of War Powers Resolution uses has continually increased since it took effect in 1974.

A reading of the WPR would seem to clarify the relationship between Congress and the president with regard to the exercise of national war powers. A close reading would also suggest that the president and Congress share war-making power. Yet no president has ever recognised the WPR as a constraint on his ability to move American armed forces around the globe or keep them in place as long as necessary. Moreover, presidents rarely abide by the provisions of the Resolution that require their consultation with the Congress. As CRS researcher Richard F. Grimmett notes, 'there has been very little consultation with Congress under the Resolution when consultation is defined to mean seeking advice prior to a decision to introduce troops'.^" And while the Congress has, from time to time, expressed its sense that troops should be withdrawn from conflicts or engagements abroad, in truth the Congress has relatively few options for dealing with a president that violates the WPR. Indeed, as the late presidency scholar Aaron Wildavsky notes, the Congress is much less likely to challenge presidents" foreign policy actions than it is willing to challenge presidents" domestic policy actions.'^'^ This is because presidents oversee an enormous national security apparatus and because the constituents represented by members of Congress rarely hold strong opinions on matters of foreign policy. As a result, congressional challenges to violations of the WPR consist mostly of holding oversight hearings and passing symbolic resolutions.''\* Moreover, once troops are committed abroad. Congress almost always falls in line with the president’s vision of the scope of the conflict and the need for a military presence. The members of Congress become reluctant to challenge a president who has troops on the ground and typically acquiesce to the president’s wishes when it comes to provisions for support. In this way, the president is able to exercise some leadership over the Congress, whose members generally find it politically expedient to follow the president on matters pertaining to the military or the conduct of America's relations with other countries. Pg. 200-202

### 1NC—Hege

#### US decline will not spark wars.

MacDonald & Parent 11—Professor of Political Science at Williams College & Professor of Political Science at University of Miami [Paul K. MacDonald & Joseph M. Parent, “Graceful Decline? The Surprising Success of Great Power Retrenchment,” International Security, Vol. 35, No. 4 (Spring 2011), pp. 7–44]

Our findings are directly relevant to what appears to be an impending great power transition between China and the United States. Estimates of economic performance vary, but most observers expect Chinese GDP to surpass U.S. GDP sometime in the next decade or two. 91 This prospect has generated considerable concern. Many scholars foresee major conflict during a Sino-U.S. ordinal transition. Echoing Gilpin and Copeland, John Mearsheimer sees the crux of the issue as irreconcilable goals: China wants to be America’s superior and the United States wants no peer competitors. In his words, “[N]o amount of goodwill can ameliorate the intense security competition that sets in when an aspiring hegemon appears in Eurasia.” 92

Contrary to these predictions, our analysis suggests some grounds for optimism. Based on the historical track record of great powers facing acute relative decline, the United States should be able to retrench in the coming decades. In the next few years, the United States is ripe to overhaul its military, shift burdens to its allies, and work to decrease costly international commitments. It is likely to initiate and become embroiled in fewer militarized disputes than the average great power and to settle these disputes more amicably. Some might view this prospect with apprehension, fearing the steady erosion of U.S. credibility. Yet our analysis suggests that retrenchment need not signal weakness. Holding on to exposed and expensive commitments simply for the sake of one’s reputation is a greater geopolitical gamble than withdrawing to cheaper, more defensible frontiers.

Some observers might dispute our conclusions, arguing that hegemonic transitions are more conflict prone than other moments of acute relative decline. We counter that there are deductive and empirical reasons to doubt this argument. Theoretically, hegemonic powers should actually find it easier to manage acute relative decline. Fallen hegemons still have formidable capability, which threatens grave harm to any state that tries to cross them. Further, they are no longer the top target for balancing coalitions, and recovering hegemons may be influential because they can play a pivotal role in alliance formation. In addition, hegemonic powers, almost by definition, possess more extensive overseas commitments; they should be able to more readily identify and eliminate extraneous burdens without exposing vulnerabilities or exciting domestic populations.

We believe the empirical record supports these conclusions. In particular, periods of hegemonic transition do not appear more conflict prone than those of acute decline. The last reversal at the pinnacle of power was the AngloAmerican transition, which took place around 1872 and was resolved without armed confrontation. The tenor of that transition may have been influenced by a number of factors: both states were democratic maritime empires, the United States was slowly emerging from the Civil War, and Great Britain could likely coast on a large lead in domestic capital stock. Although China and the United States differ in regime type, similar factors may work to cushion the impending Sino-American transition. Both are large, relatively secure continental great powers, a fact that mitigates potential geopolitical competition. 93 China faces a variety of domestic political challenges, including strains among rival regions, which may complicate its ability to sustain its economic performance or engage in foreign policy adventurism. 94

Most important, the United States is not in free fall. Extrapolating the data into the future, we anticipate the United States will experience a “moderate” decline, losing from 2 to 4 percent of its share of great power GDP in the five years after being surpassed by China sometime in the next decade or two. 95 Given the relatively gradual rate of U.S. decline relative to China, the incentives for either side to run risks by courting conflict are minimal. The United States would still possess upwards of a third of the share of great power GDP, and would have little to gain from provoking a crisis over a peripheral issue. Conversely, China has few incentives to exploit U.S. weakness. 96 Given the importance of the U.S. market to the Chinese economy, in addition to the critical role played by the dollar as a global reserve currency, it is unclear how Beijing could hope to consolidate or expand its increasingly advantageous position through direct confrontation. In short, the United States should be able to reduce its foreign policy commitments in East Asia in the coming decades without inviting Chinese expansionism. Indeed, there is evidence that a policy of retrenchment could reap potential benefits. The drawdown and repositioning of U.S. troops in South Korea, for example, rather than fostering instability, has resulted in an improvement in the occasionally strained relationship between Washington and Seoul. 97 U.S. moderation on Taiwan, rather than encouraging hard-liners in Beijing, resulted in an improvement in cross-strait relations and reassured U.S. allies that Washington would not inadvertently drag them into a Sino-U.S. conflict. 98 Moreover, Washington’s support for the development of multilateral security institutions, rather than harming bilateral alliances, could work to enhance U.S. prestige while embedding China within a more transparent regional order. 99 A policy of gradual retrenchment need not undermine the credibility of U.S. alliance commitments or unleash destabilizing regional security dilemmas. Indeed, even if Beijing harbored revisionist intent, it is unclear that China will have the force projection capabilities necessary to take and hold additional territory. 100 By incrementally shifting burdens to regional allies and multilateral institutions, the United States can strengthen the credibility of its core commitments while accommodating the interests of a rising China. Not least among the benefits of retrenchment is that it helps alleviate an unsustainable financial position. Immense forward deployments will only exacerbate U.S. grand strategic problems and risk unnecessary clashes. 101

#### The only comprehensive study proves no transition impact.

MacDonald & Parent 11—Professor of Political Science at Williams College & Professor of Political Science at University of Miami [Paul K. MacDonald & Joseph M. Parent, “Graceful Decline? The Surprising Success of Great Power Retrenchment,” International Security, Vol. 35, No. 4 (Spring 2011), pp. 7–44]

In this article, we question the logic and evidence of the retrenchment pessimists. To date there has been neither a comprehensive study of great power retrenchment nor a study that lays out the case for retrenchment as a practical or probable policy. This article fills these gaps by systematically examining the relationship between acute relative decline and the responses of great powers. We examine eighteen cases of acute relative decline since 1870 and advance three main arguments.

First, we challenge the retrenchment pessimists’ claim that domestic or international constraints inhibit the ability of declining great powers to retrench. In fact, when states fall in the hierarchy of great powers, peaceful retrenchment is the most common response, even over short time spans. Based on the empirical record, we find that great powers retrenched in no less than eleven and no more than fifteen of the eighteen cases, a range of 61–83 percent. When international conditions demand it, states renounce risky ties, increase reliance on allies or adversaries, draw down their military obligations, and impose adjustments on domestic populations.

Second, we find that the magnitude of relative decline helps explain the extent of great power retrenchment. Following the dictates of neorealist theory, great powers retrench for the same reason they expand: the rigors of great power politics compel them to do so.12 Retrenchment is by no means easy, but necessity is the mother of invention, and declining great powers face powerful incentives to contract their interests in a prompt and proportionate manner. Knowing only a state’s rate of relative economic decline explains its corresponding degree of retrenchment in as much as 61 percent of the cases we examined.

Third, we argue that the rate of decline helps explain what forms great power retrenchment will take. How fast great powers fall contributes to whether these retrenching states will internally reform, seek new allies or rely more heavily on old ones, and make diplomatic overtures to enemies. Further, our analysis suggests that great powers facing acute decline are less likely to initiate or escalate militarized interstate disputes. Faced with diminishing resources, great powers moderate their foreign policy ambitions and offer concessions in areas of lesser strategic value. Contrary to the pessimistic conclusions of critics, retrenchment neither requires aggression nor invites predation. Great powers are able to rebalance their commitments through compromise, rather than conflict. In these ways, states respond to penury the same way they do to plenty: they seek to adopt policies that maximize security given available means. Far from being a hazardous policy, retrenchment can be successful. States that retrench often regain their position in the hierarchy of great powers. Of the fifteen great powers that adopted retrenchment in response to acute relative decline, 40 percent managed to recover their ordinal rank. In contrast, none of the declining powers that failed to retrench recovered their relative position. Pg. 9-10

### AT: Cred

#### Credibility theory is wrong

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

If nothing else, Barack Obama's Syria policy has succeeded in exposing the widening fissures in America's foreign policy community. Even with what looks to be a brokered deal that, if implemented, would remove Syria's chemical weapons stockpile, the administration's gyrations over Syria have generated significant consternation in the foreign policy community. The most intriguing divide, however, is over the question of whether President Obama must respond forcefully to Syria's use of chemical weapons because of concerns about credibility. Administration officials have repeatedly argued that if the president fails to follow through on his "red line" comment about chemical weapons by keeping military options at the ready, other actors in the world like Iran and Russia will view the United States as a paper tiger. Earlier this month, Secretary of State John Kerry pleaded with Congress to authorize the use of force in order to preserve the "core to American credibility in foreign policy." Secretary of Defense Chuck Hagel explicitly argued that acting on Syria was necessary to ensure U.S. credibility vis-à-vis Iran. And both Kerry and Hagel suggested in congressional testimony that a failure to act would embolden North Korea to use its chemical weapons stockpile. After rhetoric like this, it's not shocking that GOP Sen. Bob Corker took to CNN to blast the president for not caring more about U.S. credibility in the region after Obama reversed course.

Influential pundits have made similar points. The Council on Foreign Relations's Richard Haass tweeted the importance of making the military option a credible one. Ross Douthat at the New York Times warned that there would be, "unknowable consequences for the credibility of American foreign policy" if Obama failed to rally congressional support for military action, while Roger Cohen reported that, "In Berlin ... the change has been noted. It has also been noted in Tehran, Moscow, Beijing and Jerusalem." Here at Foreign Policy, David Rothkopf argued that action in Syria was essential: "we must also consider what the 'too little, too late' message sends to others in the region who might consider violating the most important norms of international behavior." It is not hard to find other former policymakers or even straight news stories that articulate this thesis.

The odd thing about all of this emphasis on "credibility" is that the trend in international relations scholarship has moved in the opposite direction. The notion that a country or its leader has a single reputation for resolve or credibility has been pretty much dismissed. As one recent literature review by University of Alabama political scientist Douglas Gibler noted, "empirical support for the effects of reputation has been lacking." Dartmouth professor Daryl Press's Calculating Credibility argues that the balance of forces on the ground matter far more in how leaders assess each other's intentions than past reputation. To be sure, reputation and credibility do matter in some well-defined circumstances. Countries that perpetually default on their foreign debts face higher interest rates because of bad prior reputation. Nevertheless, credibility doesn't matter nearly as much as policymakers claim.

#### The assumption that the U.S.’s credibility is its own possession and that it spills over across issues and to other countries is demonstrably false.

Shiping Tang, Associate Research Fellow and Deputy Director of the Center for Regional Security Studies at the Chinese Academy of Social Sciences in Beijing, Co-director of the Sino-American Security Dialogue, 2005 (“Reputation, Cult of Reputation, and International Conflict,” Security Studies, Volume 14, Number 1, January-March, p. 46)

Two implicitly related notions underpin this belief system. The first notion is that one’s reputation is one’s own possession, hence “something worth fighting for.”27 In reality, and as explained above, one’s reputation is not one’s own possession but that of somebody else. The cult thus “puts the problem the wrong way around.”28 The second notion is that reputation is fungible, that reputation gained in one round or place can be transplanted to other rounds or places.29 That is, a cult believer hopes (having previously stood firm) or fears (having previously backed down) that others will perceive his current resolve based on his previous actions. This belief arises from a confusion of behavioral reputation with bargaining reputation, or a belief that behavioral reputation can be easily converted into bargaining reputation. By believing in the fungibility of reputation, the cult puts far too much value on an illusory entity.

Furthermore, as a belief system, the cult dictates an “operational code” for state behavior. Consequently, state behavior and rhetoric exhibit a predictable pattern based on the code.30 Two types of behavior and rhetoric follow from the cult’s logic. Type I behaviors and rhetoric justify and take action in the name of defending reputation; type II behaviors and rhetoric justify backing down and limiting the presumed damage to reputation, and to a lesser extent, try to regain reputation after an episode of backing down. (Table 1 details the specific expressions of these two types of behavior and rhetoric.) As demonstrated by recent scholarship, both types of behavior and rhetoric have been rampant, indicating the cult’s prevalence.31 [end page 41]

There is, however, a fatal flaw in the cult’s logic, for states rarely act according to the cult’s logic even when the logic should most clearly apply: a state rarely underestimates its adversary’s reputation even if the adversary has backed down in previous standoffs. In other words, although a state constantly fears that others may assign reputation to it based on its past behavior, the state never assigns reputation to other states based on their past behavior.

Rivalry has long been recognized as the most intensive type of international conflict and the most likely scenario for reputation to matter.32 The U.S.-Soviet rivalry was the first and perhaps the last true global rivalry in history, and both sides had global commitments. If reputation matters at all, one would expect it to have been paramount in the crisis-bargaining process between these two rivals.33

Both Ted Hopf and Daryl Press have examined the role of reputation in the Soviet-U.S. rivalry in great detail, and what they find contradicts the cult’s beliefs.34 In this regard, Press’s examination of the Cuban missile crisis is especially illuminating. As Press noted, if one accepts the logic of the cult of reputation (or the “past action theory”), then by the time of the Cuban missile crisis, the Soviet Union should have lost a great deal of its reputation because Nikita Khrushchev had backed down from three previous ultimatums on Berlin.35 Moreover, the Cuban crisis involved the same two leaders [end page 42; page 43 omitted because it is a graph] (Khrushchev and John F. Kennedy) and thus should have been an ideal case in which to prove the narrower version of the cult.36 The United States should have acted according to the logic of the cult—that is, it should have underestimated the Soviets’ resolve and acted accordingly (for example, by taking an extremely hardline approach).

The evidence that Press uncovered deals a devastating blow to the logic of the cult: “the Executive Committee (Ex Comm) was virtually unanimous on a key point: Soviet credibility to resist any of these U.S. approaches was very high.” Perhaps even more extraordinary, there was not even one statement during the entire crisis indicating that U.S. decisionmakers were using Soviet past behavior to predict Soviet actions.37 During the entire cold war, in fact, the Soviets consistently backed down when confronted by the United States. The best it managed was a rough draw at the Berlin Wall. Yet the United States consistently acted as if it did not expect the Soviets to continue to back down. As Robert Jervis put it, “Contrary to American expectations about the inferences others would draw from the American defeat in Vietnam, they themselves did not see further retreats as likely to follow the Soviet withdrawal from Afghanistan.”38 [end page 44]

Likewise, the Soviet Union was reluctant to underestimate U.S. resolve even after repeated U.S. retreats from the Third World.39

In a different setting, Jonathan Mercer also uncovered convincing evidence against the logic of the cult. For instance, while Germany backed down in the first Morocco crisis, neither France nor the United Kingdom nor Russia assigned a reputation of irresoluteness to Germany in the next crisis that arose (that in Bosnia-Herzegovina). Likewise, despite the fact that Russia backed down in the Bosnia-Herzegovina crisis, neither Germany nor Austria believed Russia to be irresolute.40

Therefore, the only plausible conclusion that we can draw is that although the cult of reputation is prevalent among decisionmakers,41 the cult is just a cult. Although decisionmakers fear that backing down will damage their reputation, they rarely underestimate their adversary’s resolve even if an adversary has (sometimes repeatedly) backed down before. To put it differently, these cult believers rarely act according to the cult’s logic even when the logic should clearly apply; their own actions negate the logic of their belief.

#### The U.S. can’t control the perceptions of others—the underlying assumptions of the cult of reputation are logically and empirically bankrupt.

Christopher J. Fettweis, Assistant Professor of National Security Affairs in the National Security Decision Making Department at the U.S. Naval War College, holds a Ph.D. in International Relations and Comparative Politics from the University of Maryland-College Park, 2007-2008 (“Credibility and the War on Terror,” *Political Science Quarterly*, Volume 122, Number 4, Winter, Available Online to Subscribing Institutions via IngentaConnect, p. 633)

Both logic and a preponderance of the evidence suggest that the current U.S. obsession with credibility is as insecure, misplaced, and malinformed as all that have preceded it. Whether it will result in the kind of counterproductive policies that accompanied the Cold War credibility imperative remains to be seen. What is more assured is that there is no clear way to control the perceptions of others, whether they are superpowers, small states, or loosely connected non-state groups. The impression that their thoughts can be controlled by our actions may be comforting, springing perhaps from basic human psychological needs, but in reality, their perception of us is largely outside of our influence. The messages we hope to send through our actions are unlikely to be successfully received. Washington would be well-advised to avoid the understandable and natural temptation to look beyond the current crisis when making decisions. As unsettling as it may be, the future is largely outside our control; the tangible interests of the present, therefore, must outweigh the intangible interests of the future.

The behavior of the United States is not driven by only tangible, material measures of power; however, perhaps it should be. When the credibility imperative drives policy, due to the inherently uncontrollable nature of this most intangible of assets, states march toward folly. ‘‘Many of the tenets underlying American security policy are held with strong but unwarranted conviction,’’ Nancy Kanwisher sagaciously observed as the Cold War drew to a conclusion. ‘‘Further, these dubious beliefs often persist even after their flaws have been widely exposed.’’85 Few dubious beliefs match the credibility imperative for both the extent of its acceptance and the depth of its flaws.

#### Obama avoids groupthink

Kennedy 12—JD from the University of Southern California Gould School of Law [Brandon Kennedy (MA in Regional Studies (Middle East) from Harvard Graduate School of Arts and Sciences), “NOTE: THE HIJACKING OF FOREIGN POLICY DECISION MAKING: GROUPTHINK AND PRESIDENTIAL POWER IN THE POST-9/11 WORLD,” Southern California Interdisciplinary Law Journal, 21 S. Cal. Interdis. L.J. 633, Spring 2012]

A. Anti-Groupthink Decision-Making Practices  
The Obama team adopted several decision-making practices that helped counter the groupthink that had plagued the Bush team. These practices produced a moderate level of cohesiveness, greatly limited structural organizational faults, and reduced threats that could give rise to a provocative situational context.

1. Building Moderate Cohesiveness  
"Hillary and I were friends before this started ... . We had this very vituperative campaign, but, you know, she is smart and we ought to be able to do something with her." n225 After his election, Obama sought out people to fill the Cabinet and White House staff positions based on each member's experience and the different contributions they could bring to the table. While political ideology was one factor to consider, it was not elevated above other qualities. Above all, Obama seemed to want to succeed by considering all possible options, and the only way to do that was by including people who thought differently from him and who would challenge his thinking. n226

Obama thus set about to build a team that would work well together, but whose members would also engage in critical thinking and evaluate all possible options when making decisions. Obama sought to strike this balance by including both friends and political allies, such as David Axelrod and Rahm Emanuel, and also outsiders and even former rivals. n227 For example, in a somewhat controversial move, Obama chose to keep Bush's Secretary of Defense, Robert Gates, citing the importance of continuity and expertise. n228 Obama also wished to heal the wounds inflicted  [\*671]  during a bitter nomination campaign and appoint a strong Secretary of State, so he offered Hillary Clinton the post. n229 For the position of CIA Director, Obama chose Leon Panetta, who, as an outsider, would help improve the Agency's image, which had been severely tarnished due to controversial pre-Iraq War intelligence, interrogation techniques, and its domestic spying program. n230 Thus, the manner in which Obama built his decision-making group laid the foundation for avoiding groupthink.

#### Congress is uninterested in participating in the debate

Turner 94—Professor of International Law @ U.S. Naval War College [Turner, Robert F. (Co-founder of the University of Virginia's Center for National Security Law & Former President of the US Institute of Peace), “War and the Forgotten Executive Power Clause of the Constitution: A Review Essay of John Hart Ely's War and Responsibility,” Virginia Journal of International Law, 34 Va. J. Int'l L. 903, Summer, 1994]

A major contention of this book is that Congress has refused to accept "responsibility" for its constitutional role, preferring instead to avoid political accountability at almost all costs. Presidents in the Cold War era have exercised greater control over military affairs, he suggests, not so much because of executive usurpation, but because "Congress (and the courts) ceded the ground without a fight." Ely argues "the legislative surrender was a self-interested one: Accountability is pretty frightening stuff. ' '23 7

Looking ahead to the possibility of future use of force crises, he speculates:

The likely congressional reaction thus seems not the simple-minded one of rushing to approve whatever war the president comes up with next, but rather a return to the tradition of evasion, a resolve of still greater doggedness in resisting suggestions-even, in the unlikely event it again comes to it, a suggestion by the President-that casting a vote on whether Americans are to die might be part of their job. The next war might be another Desert Storm or it might not: better to keep your options open and claim vindication either way.

... Decisions on war and peace are tough, and more to the point they are politically risky. Since 1950 Congress has seen little advantage in making them.3 s

While hardly original,239 this is a critically important observation. Having a scholar of Professor Ely's distinguished reputation make the point may prove helpful. Less helpful, however, are his subsequent conclusion that the solution to the problem is to drag the courts into the dispute to force Congress "to do its job ' 240 and his proposal in an appendix of a "new" war powers statute to replace the 1973 War Powers Resolution. His legislative approach ranges from the benign to the disastrous. Pg. 967-968

## \*\*\* 2NC

### AT: Case Outweighs (Hegemony)

#### We should try to see the consequences of hegemony from the outside in—incredible destruction, further instability, and tyranny. Their impacts are constructed by our refusal to see beyond insular American IR.

Von Eschen 5—Penny Von Eschen, History @ Michigan [“Enduring Public Diplomacy,” *American Quarterly* 57.2 MUSE]

An account of U.S. public diplomacy and empire in Iraq can be constructed only through engaging fields outside the sphere of American studies. Political scientist Mahmood Mamdani locates the roots of the current global crisis in [End Page 339] U.S. cold war policies. Focusing on the proxy wars of the later cold war that led to CIA support of Osama Bin Laden and drew Iraq and Saddam Hussein into the U.S. orbit as allies against the Iranians, Mamdani also reminds us of disrupted democratic projects and of the arming and destabilization of Africa and the Middle East by the superpowers, reaching back to the 1953 CIA-backed coup ousting Mussadeq in Iran and the tyrannical rule of Idi Amin in Uganda. For Mamdani, the roots of contemporary terrorism must be located in politics, not the "culture" of Islam. Along with the work of Tariq Ali and Rashid Khalidi, Mamdani's account of the post–1945 world takes us through those places where U.S. policy has supported and armed military dictatorships, as in Pakistan and Iraq, or intervened clandestinely, from Iraq and throughout the Middle East to Afghanistan and the Congo. For these scholars, these events belong at the center of twentieth-century history, rather than on the periphery, with interventions and coups portrayed as unfortunate anomalies. These scholars provide a critical history for what otherwise is posed as an "Islamic threat," placing the current prominence of Pakistan in the context of its longtime support from the United States as a countervailing force against India.8

Stretching across multiple regions, but just as crucial for reading U.S. military practices in Iraq, Yoko Fukumura and Martha Matsuoka's "Redefining Security: Okinawa Women's Resistance to U.S. Militarism" reveals the human and environmental destruction wrought by U.S. military bases in Asia through the living archive of activists who are demanding redress of the toxic contamination and violence against women endemic to base communities.9 Attention to the development of exploitative and violent sex industries allows us to place such recent horrors as the abuse, torture, and debasement at Abu Ghraib prison in Iraq in a history of military practices.10 Taken together, these works are exemplary, inviting us to revisit the imposition of U.S. power in East and South Asia, the Middle East, and Africa, regions where the instrumental role of U.S. power in the creation of undemocratic military regimes has often been overlooked. That none of these works has been produced by scholars who were trained in American studies is perhaps not accidental, but rather symptomatic of a field still shaped by insularity despite increasing and trenchant critiques of this insularity by such American studies scholars as Amy Kaplan and John Carlos Rowe.11 In recommending that American studies scholars collaborate with those in other fields and areas of study and by articulating warnings about how easily attempts to "internationalize" can hurtle down the slippery slope of neoliberal expansion, Kennedy and Lucas join such scholars in furthering the project of viewing U.S. hegemony from the outside in. They [End Page 340] expose the insularity that has been an abiding feature of U.S. politics and public discourse.

### 2NC—K Prior

#### Framing war powers restrictions as a *means* to achieve greater national security quashes political alternatives to unilateral militarism.

Francisco J. CONTRERAS Prf. Philosophy of Law @ Seville AND Ignacio de la RASILLA Ph.D. candidate in international law, Graduate Institute of International Studies, Geneva 8 “On War as Law and Law as War” Leiden Journal of International Law Vol. 21 Issue 3 p. 779-780 [**Gender paraphrased]**

War’s ubiquity, its discontinuity, and the blurring of its outline are not without psychological and moral consequences in the military: ‘Experts have long observed that when warfare itself seems to have no clear beginning or end, no clear battlefield, no clear enemy, military discipline, as well as morale, breaks down’ (p. 119). This dispiriting confusion that affects soldiers also concerns the international lawyer, who sees the old rules of jus belli evaporate and be replaced by much vaguer ‘standards’. The last pages of Of War and Law convey, in fact, a clear feeling of defeat or loss, showing the demoralization of the international lawyer who still tries to take the law of war seriously: ‘How can ethical absolutes and instrumental calculations be made to lie down peacefully together? How can one know what to do, how to judge, whom to denounce?’ (p. 117). The former categorical imperatives (‘thou shalt not bomb cities’, ‘thou shalt not execute prisoners’, etc.) give way to an elastic and blurred logic of more and less, within which instrumental might triumphs definitively over the ethical (p. 132).89 As the new flexible ‘standards’ seem more susceptible to strategic exploitation and modulation than do the old strict rules, the various actors will play with the labels of jus belli—now definitively versatile—according to their strategic needs: Ending conflict, calling it occupation, calling it sovereignty—then opening hostilities, calling it a police action, suspending the judicial requirements of policing, declaring a state of emergency, a zone of insurgency—all these are also tactics in the conflict. . . . All these assertions take the form of factual or legal assessments, but we should also understand them as arguments, at once messages and weapons. (p. 122)90 Kennedy reiterates a new aspect of the ‘weaponization of the law’: the legal qualification of facts appears as a means of conveying messages to the enemy and to public opinion alike, because in the age of immediate media coverage, wars are fought as much in the press and opinion polls as they are on the battlefield. The skilled handling of jus belli categories will benefit one side and prejudice the other (p. 127);91 as the coinage of the very term ‘lawfare’ seems to reflect, the legal battle has already become an extension of the military one (p. 126).92 In cataloguing some of the dark sides of the law of war, Kennedy also stresses how the legal debate tends to smother and displace discussions which would probably be more appropriate and necessary. Thus the controversy about the impending intervention in Iraq, which developed basically within the discursive domain of the law of war, largely deprived lawyers of participating in an in-depth discussion on the neo-conservative project of a ‘great Middle East’—more democratic and Western-friendly and less prone to tyranny and terrorism—the feasibility of ‘regime change’, an adequate means of fostering democracy in the region, and so on: We never needed to ask, how should regimes in the Middle East . . . be changed? Is Iraq the place to start? Is military intervention the way to do it? . . .Had our debates not been framed by the laws of war, we might well have found other solutions, escaped the limited choices of UN sanctions, humanitarian aid, and war, thought outside the box. (p. 163) 6. CONCLUSIONS Those familiar with the author’s previous works93 will certainly have already identified the Derridean streak in Kennedy’s thought in the underlying claim that every discourse generates dark zones and silences or represses certain aspects, renders the formulation of certain questions impossible (a Foucauldian streak in the author could be suspected as well: every discourse—be it administrative, legal, medical, or psychiatric—implies simultaneously ‘knowledge’ and ‘power’; each discourse amounts somehow to a system of domination, insofar as it defines ‘conditions of admission’ into the realm of the legally valid, the ‘sane society’, etc.).94 In the picture resulting from the application of this analytical framework to the domain of the use of force, international lawyers and humanitarian professionals appear gagged, restricted by the language they try to utter effectively to themselves and others. As if the legal language had imposed on them its own logic, it now speaks through their voices and what is, evidently, once again, the Marxian-structuralist idea of cultural products gaining a life of their own and turning against their own creators. Kennedy, however, does not stop at noting that jurists have become ‘spoken’ by their language amidst a dramatically changing war scenario. More disquietingly, he stresses the evident corollary of the previous proposition: the evaporation of a sense of individual moral responsibility: [A]ll these formulations, encouraged by the language of law, displace human responsibility for the death and suffering of war onto others . . . . In all these ways, we step back from the terrible responsibility and freedom that comes with the discretion to kill. . . .Violence and injury have lost their author and their judge as soldiers, humanitarians, and statesmen [statespeople] have come to assess the legitimacy of violence in a common legal and bureaucratic vernacular. (pp. 168–9) While depersonalization and a lack of sense of personal responsibility are evidently also favoured by external structural factors, among which is the bureaucratic political complexity of modern states themselves (p. 17),96 Kennedy stresses that the language of international law would thus trivialize and conceal the gravity of decisions: In all these ways, we step back from the terrible responsibility and freedom that comes with the discretion to kill. . . . The problem is loss of the human experience of responsible freedom and free decision—of discretion to kill and let live. (p. 170)

#### Debating the rhetorical *frame* for war-fighting decisions is the only way to address the source of war-fighting abuses.

Jeremy ENGELS Communications @ Penn St. AND William SAAS PhD Candidate Comm. @ Penn ST. 13 [“On Acquiescence and Ends-Less War: An Inquiry into the New War Rhetoric” *Quarterly Journal of Speech* 99 (2) p. 230-231]

The **framing** of public discussion facilitates acquiescence in contemporary wartime: thus, both the grounds on which war has been **justified** and the ends toward which war is **adjusted** are **bracketed** and hence made infandous. The rhetorics of acquiescence bury the grounds for war under nearly impermeable layers of political presentism and keep the ends of war in a state of **perpetual flux** so that they cannot be **challenged**. Specific details of the war effort are excised from the public realm through the rhetorical maneuver of ‘‘occultatio,’’ and the authors of such violence\*the president, his administration, and the broader national security establishment\*use a wide range of techniques to displace their own responsibility in the orchestration of war.28 Freed from the need to cultivate assent, acquiescent rhetorics take the form of a status update: hence, President Obama’s March 28, 2011 speech on Libya, framed as an ‘‘update’’ to Americans ten days after the bombs of ‘‘Operation Odyssey Dawn’’ had begun to fall. Such post facto discourse is a new norm: Americans are called to acquiesce to decisions already made and actions already taken. The Obama Administration has obscured the very definition of ‘‘war’’ with euphemisms like ‘‘limited kinetic action.’’ The original obfuscation, the ‘‘war on terror,’’ is a perpetually shifting, ends-less conflict that denies the very status of war. How do you dissent from something that seems so overwhelming, so inexorable? It’s hard to hit a perpetually shifting target. Moreover, as the government has become increasingly secretive about the details of war, crucial information is kept from citizens\*or its revelation is branded ‘‘treason,’’ as in the WikiLeaks case\*making it much more challenging to dissent. Furthermore, government surveillance of citizens cows citizens into quietism. So what’s the point of dissent? After all, this, too, will pass. Thus even the most critical citizens come to rest in peace with war. The confidence game of the new war rhetoric is one of perpetually shifting ends. In this ‘‘post-9/11’’ paradigm of war rhetoric, citizens are rarely asked to harness their civic energy to support the war effort, but instead are called to passively cede their wills to a greater Logos, the machinery of ends-less war. President Obama has embodied the dramatic role of wartime caretaker more adeptly than his predecessor, repeatedly exhorting citizens to ‘‘look forward’’ rather than to examine the historical grounds upon which the present state of ends-less war was founded and institutionalized.29 All the while, that forward horizon is constantly being reshaped\*from retribution, to prevention, to disarmament, to democratization, to intervention, and so on, as needed. What Max Weber called ‘‘charisma of office’’\*the phenomenon whereby extraordinary political power is passed on between charismatically inflected leaders\*is here cast in bold relief: until and unless the grounds of the new war rhetoric are meaningfully represented and unapologetically challenged, ends-less war can only continue unabated.30 War rhetoric is a mode of display that aims to dispose audiences to certain ways and states of being in the world. This, in turn, is the essence of the new war rhetoric: authorities tell us, don’t worry, we’ve got this, just go about your everyday business, go to the mall, and take a vacation. What we are calling acquiescent rhetorics aim to disempower citizens by cultivating passivity and numbness. Acquiescent rhetorics facilitate war by shutting down inquiry and deliberation and, as such, are anathema to rhetoric’s nobler, democratic ends. Rhetorical scholars thus have an important job to do.We must bring the objective violence of war out into the open so that all affected by war can meaningfully question the grounds, means, and ends of battle.We can do this by describing, and demobilizing, the rhetorics used to promote acquiescence. In sum, we believe that by making the seemingly uncontestable contestable, rhetorical critics can and should begin to invent a pedagogy that would reactivate an acquiescent public by creating space for talk where we have previously been content to remain silent.

### AT: Perm

#### Perm guarantees legal norms serve national security. Their framing treats law as an *instrument*. That undermines restraint.

Susanne KRASMANN Institute for Criminological Research, University of Hamburg 12 [“Law’s knowledge: On the susceptibility and resistance of legal practices to security matters” *Theoretical Criminology* 16 (4) p. 380-382]

In the face of these developments, a new debate on how to contain governmental interference in the name of security has emerged. What is remarkable about this debate is that, on the one hand, it aims at establishing more civil and human rights and attendant procedural safeguards that allow for systematically calling into question the derogation of laws and the implementation of new laws in the name of security. On the other hand, it recognizes the existence of a new dimension of threats, particularly in the aftermath of the terror attacks of 11 September 2001. As John Ferejohn and Pasquale Pasquino (2004: 228), for instance, contend: We are faced, nowadays, with serious threats to the public safety that can occur anywhere and that cannot terminate definitively. … If we think that the capacity to deal effectively with emergencies is a precondition for republican government, then it is necessary to ask how emergency powers can be controlled in modern circumstances. Adequate legal frameworks and institutional designs are required that would enable us to ‘reconcile’ security with (human) rights, as Goold and Lazarus (2007b: 15) propose, and enduring emergency situations with the rule of law. Traditional problems in the relationship between law and security government within this debate form a point of departure of critical considerations:2 emergency government today, rather than facing the problem of gross abuses of power, has to deal with the persistent danger of the exceptional becoming normal (see Poole, 2008: 8). Law gradually adjusts to what is regarded as ‘necessary’.3 Hence, law not only constrains, but at the same time also authorizes governmental interference. Furthermore, mainstream approaches that try to balance security and liberty are rarely able, or willing, to expose fully the trade-offs of their normative presuppositions: ‘[T]he metaphor of balance is used as often to justify and defend changes as to challenge them’ (Zedner, 2005: 510). Finally, political responses to threats never overcome the uncertainty that necessarily accompanies any decision addressing future events. To ignore this uncertainty, in other words, is to ignore the political moment any such decision entails, thus exempting it from the possibility of dissent. Institutional arrangements that enforce legislative control and enable citizens to claim their rights are certainly the appropriate responses to the concern in question, namely that security gradually seizes political space and transforms the rule of law in an inconspicuous manner. They establish political spaces of dispute and provide sticking points against all too rapidly launched security legislation, and thus may foster a ‘culture of justification’, as David Dyzenhaus (2007) has it: political decisions and the exercise of state power are to be ‘justified by law’, in a fundamental sense of a commitment to ‘the principles of legality and respect for human rights’ (2007: 137). Nonetheless, most of these accounts, in a way, simply add more of the same legal principles and institutional arrangements that are well known to us. To frame security as a public good and ensure that it is a subject of democratic debate, as Ian Loader and Neil Walker (2007) for example demand, is a promising alternative to denying its social relevance. The call for security to be ‘civilized’, though, once again echoes the truly modern project of dealing with its inherent discontents. The limits of such a commitment to legality and a political ‘culture of justification’ (so termed for brevity) will be illustrated in the following section. Those normative endeavours will be challenged subsequently by a Foucauldian account of law as practice. Contrary to the idea that law can be addressed as an isolated, ideal body and thus treated like an instrument according to normative aspirations, the present account renders law’s reliance on forms of knowledge more discernable. Law is susceptible, in particular to security matters. As a practice, it constantly transforms itself and, notably, articulates its normative claims depending upon the forms of knowledge brought into play. Contrary to the prevailing debate on emergency government, this perspective enables us, on the one hand, to capture how certain forms of knowledge become inscribed into the law in a way that goes largely unnoticed. This point will be discussed on the example of automated surveillance technologies, which facilitate a particular rationality of pre-emptive action. The conception of law as a practice, on the other hand, may also be understood as a tool of critique and dissent. The recent torture debate is an extreme example of this, whereby torture can be regarded as a touchstone of law’s resistance to its own abrogation. Law and reasoning The idea that a political and juridical ‘culture of justification’ would be able to bring about the desired results should be treated with caution—for one thing, with regard to the particular logic of legal reasoning and justification and, for another thing, because of at least two empirical observations that shed light on law’s limitations vis-a-vis the governance of security. First of all, the establishment of a ‘culture of justification’ itself presupposes what has yet to arise, namely a common concern about governmental encroachment in the name of security and a willingness of all parties to join in that discourse, if not share in its related arguments. This presupposition, to be sure, is indispensable for inspiring communication and facilitating the exchange of arguments. Moreover, in order to take effect the tried and true liberal legal principles, like that of proportionality and necessity, clearly need to be concretized by reasoning about actual cases. Yet, the assumption of a common concern goes hand in hand with a general trust in a form of communicative reason that will allow for transparency eventually on the matters at stake. Reason and to reason within ‘a transparent, structured process of analysis to determine what degree of erosion is justifiable, by what measure, in what circumstances, and for how long’ (Zedner, 2005: 522), is considered basic to the solution. However, just as legal norms and principles are open to interpretation, they do not determine any normative orientations underlying the interpretative process. As Benjamin Goold and Liorna Lazarus (2007b: 11; see also Poole, 2008: 16) observe: ‘[P]re-emptive measures designed to increase security can never be truly objective or divorced from our political concerns and values.’ Typical for the acknowledgement of competing claims still to be weighed (Zedner, 2005: 508), therefore, is that they end up being couched in a rather appealing rhetoric (‘we should’, ‘judges should’). In a liberal vein, this requires a resorting to the least intrusive measures. Competing claims are thus relegated to the normative framework of balance (see Waldron, 2003; Zedner, 2005: 528). As regards the empirical observations, there is, first, a move in security legislation that is noticeable in western countries in which the threshold of governmental intervention has been gradually disposed in order to forestall actual offences, concrete suspicion and danger. 9/11 may be regarded as a catalyst here, as well as the fight against terrorism in general. But rather than being recent phenomena, these transformations in fact represent a continuity over decades in the identification of ever new dimensions of threats, from sexual offenders and organized crime right up to transnational terrorism.4 Although a tendency can be discerned, this is not to suggest that there have not been any disruptions to it. Civil and human rights organizations have time and again countered these developments, and so have higher-court rulings. Even new basic rights have been established.5 Though successful, these processes were unable to thwart the general trend of making private space accessible to surveillance in a way that would have been unimaginable decades ago. In this sense, paradoxically, new basic rights are rather indicators of new spaces of vulnerability. A closer look at higher courts’ decisions on security legislation and additional recommendations by human rights bodies suggests that these lead to the amendment of the laws in question but not necessarily to a change in practice. ‘For, as law becomes ever more closely intertwined with a proliferating assemblage of expertise, risk consulting, administration, and discretion, it inhabits an inescapable paradox’, as Louise Amoore (2008: 849) neatly put it. Law for civil and human rights activists and lawyers is the very medium for challenging governmental encroachment, and, notably, the ‘rule of law’ represents the very principle to be defended. Under review, however, law encounters its own legislation—the modes of risk management it once itself authorized, and that will now have to be amended in accordance not only with the principles of the rule of law but also with the identified necessities of security government.

### ALT

#### We should frame the question of executive power in terms of racialized harm and otherization. Refusing accommodation with values of the security state is a *precondition* for preventing racialized hierarchy.

Gil GOTT Int’l Studies @ DePaul 5 “The Devil We Know: Racial Subordination and National Security Law” Villanova Law Review, Vol. 50, Iss. 4, p. 1075-1076

Anti-subordinationist principles require taking more complete account of how enemy groups are racialized, and how they come to be constructed as outsiders and the kinds of harms that may befall them as such. Group-based status harms include those that have been inscribed in law and effectuated through state action, and those that arise within civil society, through social structures, institutions, culture and habitus. Familiarity with the processes of racialization is a necessary precondition for appreciating and remedying such injuries. Applying anti-subordinationist thinking to national security law and policy does not require arguing that only race-based effects matter, but does require affording significant analytical and normative weight to the problems of such status harms. Racial injuries require racial remedies. Foregrounding anti-subordinationist principles in national security law and policy analysis departs significantly from traditional approaches in the field. Nonetheless, arguments based in history, political theory and pragmatism suggest that such a fundamental departure is warranted. Historically, emergency-induced "states of exception" 6 that have suspended legal protections against governmental abuses have tended to be identitybased in conception and implementation. 7 Viewed from the perspective of critical political theory, the constellation of current "security threats" rests on the epochal co-production of identity-based and market-driven global political antagonisms, referred to somewhat obliquely as civilization clashes or perhaps more forthrightly as American imperialism. Pragmatically, it makes no sense to fight terrorism by alienating millions of Muslim, Arab and South Asian residents in the United States and hundreds of millions more abroad through abusive treatment and double standards operative in identity-based repression at home and in selective, preemptive U.S. militarism abroad. Such double standards undermine the democratic legitimacy of the United States both in its internal affairs and in its assertions of global leadership. Indeed, there seems to be no shortage of perspectives from which liberal legal institutions would be enjoined from embracing a philosophy of political decisionism precisely at the interface of law and security, an anomic frontier along which are likely to arise identity-based regimes of exception and evolving race-based forms of subordination. Part I analyzes accommodationist approaches that variously incorporate security-inflected logic in truncating the regulative role law plays in national security contexts. I will seek to understand the accommodationist thrust of these interventions in light of the authors' operative assumptions regarding the proper array of interests and exigencies to be balanced. I will argue that the interests of demonized "enemy groups" facing racebased status harm-Muslims, Arabs and South Asians in the United States-are ineffectively engaged through accommodationist frameworks. The decisionist impulse of these analyses, that is, the tendency to acquiesce in the outcomes of non-substantively constrained statist and/or majoritarian political process, results from an incomplete grasp of the racialization processes. In short, more race consciousness is needed in national security law and policy in order to cement substantive commitments and procedural safeguards against historical and ongoing racebased subordination through the racialization of "security threats."

### Deterrence

#### Institutionalizing fearful politics creates destructive spirals. Security based on fear instead of trust creates insecurity spirals, confirmation bias, and path dependency.

Neta CRAWFORD Poli Sci @ Boston University 11 [*Realism and World Politics* Ed. Ken Booth p. 165-169]

Fear, homo politicus and the structures of world politics I make three arguments about fear. First, fear is not only a private experience. Fear can be institutionalized within organizations and in patterns of action and reaction between groups, including states. Second, institutionalized fear may become a perceptual filter and analogical trigger. Third, fear may become a self-sustaining climate, almost independent of its initial trigger, and difficult to dislodge even in the face of evidence that the threat has diminished. These arguments suggest that the deliberate attempt to use fear as a precise tool of foreign policy is likely to be counterproductive and dangerous in the short and long term. Conversely, as Ken Booth and Nicholas Wheeler argue, trust can mitigate security dilemma spirals.36 To the extent that the anarchical structure of world politics, the lack of a hegemonic power to enforce law and order among nations, creates the conditions for insecurity, such insecurity also waxes and wanes. In other words, the structural condition of anarchy is relatively constant, but fear and the level of felt insecurity among nations is not constant. Foreign policy is, to a large degree, about managing threats and fear—we threaten others or make treaties with them so they will not become a threat to us.37 How we think and feel about ourselves and others is as important as the brute facts of anarchy or military technology. Announced preventive war doctrines may initiate a spiral of anticipation. Although neurobiologists and psychologists understand a great deal about the effects of fear on individuals, we know relatively less about the effects of fear on political communities and organizations. Yet in the same way that traumatic fear is written on the bodies of individual victims of violence—literally seared into the brain—traumatic fear can be institutionalized in foreign policies and military doctrine. This institutionalization of fear, in turn, writes itself on the bodies of individuals. Thus, I am using biology, on one level, as both metaphor/analogy and on another level, to show how biology and institutional dynamics interact. The nature/nurture dichotomy is erased as we see biological and social processes interacting to produce a particular political reality. While fear is a private experience, it is also socially (intersubjectively) moulded and understood. The things that individuals fear, what a group finds dangerous, and how they react to threats, is as much culturally and politically defined, as it is idiosyncratic to individuals.38 The remarkable diversity in human cultures, long documented by anthropologists, extends to a diversity in responses to scarcity and threat.39 Emotions can be heightened or soothed in particular cultural and institutional contexts. Emotions can also be mirrored in organizations, political climates, and the international system. These social mirrors can in turn affect individual emotions in an escalatory feedback loop of potentially spiralling fear. In sum, fear is not only written on our individual bodies, but through institutionalization, fear may also be written in the body politic, with political consequences. Fear can be institutionalized. Institutionalization occurs when a group incorporates a belief, practice, or feeling into its repertoire of taken-for-granted knowledge of the world and its behavioural routines. During institutionalization, there is room for disagreement about how to deal with a novel problem. The organization then invents procedures for assessing and organizing knowledge about the problem (intelligence gathering and threat assessment in the case of terrorism). The organization then develops standard operating procedures and routines for handling challenges. While the response to a situation might have once involved a very conscious move to use new knowledge or been motivated by a fresh emotion or understanding, once institutionalized, the organization no longer makes an ad hoc response to a situation. The organization sees the world through the newly institutionalized beliefs and feelings, recognizes a situation as something that it should address and uses guidelines for data gathering and information processing that are appropriate for the newly institutionalized beliefs or feelings. Once the response is institutionalized, the problem and its solution are normalized and become, in many ways, taken for granted. The routinized information sorting, categorization, and response becomes a schema that actors tend not to reflect upon. Schemas are ‘higher order knowledge structures . . . that embody expectations guiding lower order processing of the stimulus concept.’40 Like grammar, schemas provide a framework for understanding incoming information and quickly articulating a response. ‘In particular, information that fits into existing schemata . . . is noticed earlier, considered more valid, and processed much faster than information that contradicts or does not fit into any particular schema.’41 Schemas tend to persist, even in the face of disconfirming evidence. Individuals will often ignore information that disconfirms the schema, or in some cases, struggle to make the evidence fit the existing schema. Schemas may change if the incoming evidence is undeniably, unambiguously not in keeping with the existing schema. Thus, schema research supports what we know intuitively about individual decision-makers: humans classify evidence on the basis of abstract, pre-existing notions, and they are loath to change their pre-existing beliefs, even when confronted with strong counter-evidence.42 Attention to threat and fear management can become an institutionalized schema within states as a pattern of organizing intelligence gathering, perceptions, and plans guiding action and reaction between individuals and groups. Fear is institutionalized, for example, in ethnic and racial conflicts when groups who are presumed to be dangerous to each other are physically separated. In colonial Africa, the colonizers’ fear was institutionalized in pass books that the colonized had to carry so that the colonizers knew who someone was and whether they had good reason to be where they were at any given time. Fear is both acknowledged and institutionalized in the fence Israel built between Palestinians and Israelis in 2002 and 2003 and in the process of establishing and maintaining checkpoints along that border. In each case, an individual’s fear may be both partly resolved and normalized through the practices of the organizations charged with meeting a particular threat. The fence allows some actual physical control of a perceived threat and the illusion of greater control. On the other hand, the passbook or the fence separating others may also remind, rehearse, reinforce and heighten the fear and animosity between groups. Institutionalized fear may increase individual fear. Like pass books and fences, military strategies are the conscious and unconscious institutionalization of a fear schema. Defensive doctrines are certainly rooted in fear and uncertainty. Yet even ostensibly aggressive strategies may have fear at their root if the aggressive aim is rooted in a larger insecurity about the long-term intentions of the other. For example, fear of certain and imminent war led to the development of pre-emptive strategies in Europe prior to the First World War. In the late 1800s, Germany feared that war with Britain, France and Russia was likely, indeed inevitable. It was also common at the beginning of the last century to believe that the best defence is a good offence.43 The German Chief of Staff, Alfred Von Schlieffen developed the Schlieffen Plan: Germany would pre-emptively strike France, and then after France was defeated in six weeks, Germany would strike Russia. The French also had an offensive strategy—Plan 17—to avenge their losses in the Franco-Prussian war. So did Russia, which thought pre-emption could succeed quickly against both Austria and Germany. Assuming war was inevitable, all sides built up their military forces. When a crisis occurred (the assassination of Archduke Franz Ferdinand of Austria in June 1914) reciprocal fear of surprise attack and mobilization escalated. Each side—Germany, France, and Russia—believed war was inevitable and thought they were doomed if their country did not go first. All mobilized in an action-reaction sequence. And when they went to war in August 1914, nearly all leaders thought pre-emption would work and that the war would be over in a few weeks or months. Fear is institutionalized not only when it drives a state to adopt a particular military doctrine, but when actors assume that fear ‘works’—that the deliberate production of fear in an adversary can coerce the target. Indeed, when not based on simple denial or destruction, military strategy rests on fear—the promise of more punishment withheld in exchange for capitulation or compliance. For example, the German and Allied Second World War strategies of terror bombing depended on and institutionalized the production of fear in the belief that fear makes others capitulate. Fear did not work as the planners hoped in this case. More recently, the US Pentagon’s 2003 ‘shock and awe’ strategy for Operation Iraqi Freedom was as much about creating fear and paralysis among the Iraqi military as it was about using the US military’s advantages in information, speed, and manoeuvre to destroy Iraqi military forces or kill their soldiers. Fear was institutionalized in US deterrence doctrine during the Cold War—the US sought to prevent attack by threatening adversaries with a devastating response. Only the threat of ‘mutual assured destruction’, in this view, could assure US survival. Similarly, when Waltz argues that nuclear proliferation should not be feared, but rather ‘welcomed’ because it would help to ‘maintain peace’, he was assuming that the deliberate production of fear works and that fear ought to be institutionalized: ‘Where nuclear weapons threaten to make the costs of wars immense, who will dare to start them? Nuclear weapons make it possible to approach the deterrent ideal.’44 Second, fear and other emotions may become perceptual filters and analogical triggers. Fear may be taken by institutional actors as information and become a filter by which organizations develop information about self and other. Just as individuals who are frightened tend to search for confirmation of their view of the threat and discount disconfirming evidence, organizations operating in a climate of fear may do so. Standard operating procedures may in fact put threatening information on the fast track. The biological and psychological tendency to recall previous fearful situations, and reason analogously, may magnify the effect of fear. Emotions may be translated into attributions of the other’s hostile intentions. Fear thus affects the development and organization of institutional knowledge. Emotional relationships between groups and the emotional climate may be concretized in expectations and ways of creating knowledge. United States threat-assessment practices during the post-9/11 era illustrate the institutionalization of fear in both perception and planning. The US shifted from basing military planning on a potential adversary’s intentions and likely threats to the ‘capabilities-based approach’ where the US attempts to, ‘anticipate the capabilities that an adversary might employ’ and ‘focuses more on how an adversary might fight than who the adversary might be and where war might occur’.45 The 2001 United States Quadrennial Defense Review (QDR) suggests that the rationale for capabilities-based planning is uncertainty or ‘unpredictability’.46 The ‘concept reflects the fact that the United States cannot know with confidence what nation, combination of nations, or non-state actor will pose threats to vital U.S. interests or those of allies and friends decades from now’.47 Indeed, if one focuses on what might happen, the scenarios for threats proliferate. As General Ralph Eberhart, who was in charge of the military’s role in homeland security in 2002 said of the possible threats: ‘the list goes on and on. We can all envision the terrible things that might happen.’48 Thus, according to the QDR, ‘the United States will not be able to develop its military forces and plans solely to confront a specific adversary in a specific geographic area. Instead the United States could be forced to intervene in unexpected crises against opponents with a wide range of capabilities.’49 Third, fear may become a self-sustaining climate, almost independent of its initial trigger, and difficult to dislodge even in the face of evidence that the threat has diminished. Emotions and charged emotional relationships may permeate the international system and long outlast initial cause for emotions. There may, in other words, be an international climate of fear and distrust that is beyond any structural or material reasons that states may have to fear other states. Narratives of historical enmity, harm and aggression will rehearse and reinforce the fearful relationship. On the other hand, the development of a positive emotional relationship may help diminish or render irrelevant the structural reasons that states leaders might have to distrust and fear each other. In this way, emotions can create their own dynamics or spirals of action and reaction. All these effects of fear are potentially self-reinforcing. Initial fear may be institutionalized in the adoption of an emotional attitude about the other and the world (that it is threatening), which affects the intelligence gathering and assessment functions of organizations. Fear may be institutionalized in the adoption of technologies (for example, fences, and x-rays of baggage at airports), rules of procedure and military doctrines that are intended to reduce the subjective sense of threat and fear, but which may simultaneously and inadvertently heighten fear. Fear determines perceptions and the responses to perceived threats (whether actual or anticipated). The deliberate production of fear in others is thus very risky, and likely does not operate in the way that deterrence theory predicts. But the deliberate production of fear is at the root of deterrence and compellence strategies—the rational actor will respond to credible threats of unacceptable damage by backing down. In Arms and Influence, Thomas Schelling suggests that, ‘it is the threat of damage, or of more damage to come, that can make someone yield or comply. It is latent violence that can influence someone’s choice . . . It is the expectation of more violence that gets the wanted behaviour, if the power to hurt can get it at all.’50 Sometimes. The traditional rational actor view of foreign policy decision-makers deemphasizes the effects of fear on perception, cognition and memory on the assumption that humans are rational calculators. Yet threats may only increase the adversary’s intransigence precisely because the target is actually frightened and angry, triggering a cascade of both individual and institutional responses.51

#### Building empathy and trust helps overcome fear and security dilemma spirals—turns their group think arguments

Neta CRAWFORD Poli Sci @ Boston University 11 [*Realism and World Politics* Ed. Ken Booth p. 170-171]

At the level of foreign policy decision-making, fear may not only increase the tendency to misunderstand or dismiss the adversary’s point of view, but it may also cause decision-makers to ignore divergent interpretations or even stifle internal disagreement and dissent. Those who are afraid tend to look for more threats. The fearful tend to rally around the flag, and attempt to bolster their sense that they are right. Tom Pyszczynski, Sheldon Solomon, and Jeff Greenberg suggest that the fear of death can decrease tolerance for disconfirming information and views: ‘when thoughts of death are salient, people generally become less tolerant and more hostile toward those with diverging views. In dozens of experiments, mortality salience has been shown to lead to more negative evaluations of those with different political orientations and attitudes toward a diverse array of subjects.’52 ‘Groupthink’, a tendency to value consensus over critical thinking and an unquestioning adherence to the beliefs and decisions of the group—rises when actors are gripped by fear. When groupthink occurs, group members’ ‘striving for unanimity override[s] their motivation to realistically appraise alternative courses of action’ and leads to a ‘deterioration in mental efficiency, reality testing, and moral judgment’.53 To the extent that groups are already ethnocentric, nationalist and militarist, fear will likely magnify the salience of those beliefs and their policy impact.54 Those who question the worldview dominant in strongly identified groups will be viewed negatively.55 Focusing on fear (and anger) may suggest why some regions seem to have long periods of war and crisis. Each crisis feeds the spiral of fear and distrust, and generations may grow up primed to fear their neighbours. Protracted, intergenerational conflicts are probably those where the baseline of underlying biology has shifted toward hyper-arousal among elite decision-makers on both sides, at the same time that fear becomes institutionalized in a positive feedback loop that is difficult to break or mitigate. Individual and group perceptions of repeated insults lead to anger which tends, like fear, to decrease the quality of information processing, while at the same time increasing group confidence and the willingness to take risks.56 As Booth and Wheeler argue, security dilemmas are both about interpreting the other’s motives, intentions and capabilities and about determining a response.57 Fear thus keeps active security dilemma action-reaction dynamics that produce a spiral of mutual hostility and escalation. How can foreign policy decision-makers ameliorate the deleterious effects of individual and institutionalized fear? At the organizational level, intelligence that disconfirms potentially threatening information that will induce fear should be forwarded alongside the threatening information. Decision-makers should be reminded not to discount the disconfirming evidence and organizations should be tasked with looking for non-threatening cues. Fear is obviously not the only important emotional relationship between groups or states. The degree of empathy and trust that groups feel toward one another may account for the quality of their relationship. Richard Rorty has argued that dehumanization accounts for ethnic cleansing, while increased sentimentality and empathy account for our willingness to intervene in such conflicts.58 Some historical cases suggest that the development of empathy over long periods of time can have important political consequences. For example, increased empathy accounts, in part, for the end of legalized slavery and formal colonialism.59 And Lynn Hunt argues that the development of human rights over the long term depends on the development of greater sympathy and empathy towards others, starting in the eighteenth century.60 Regions characterized by security communities or successful post-conflict peacebuilding, may have achieved their success by first ratcheting down the effects of fear and gradually increasing the effects of empathy and the capacity to trust. Indeed, the literature on fear and empathy I have reviewed suggests that confidence-building measures, such as data exchanges, cultural exchanges, exercises in conciliation, and the graduated reciprocation in tension reduction (GRIT), are extremely important if understudied by political science.61 Trust building and maintaining mechanisms must be institutionalized in routine practices and expectations to have their greatest effects.62

### AT: Bacevich

#### Goes neg

Bacevich 13

[Andrew, professor of history and international relations (Boston University), Ph.D. in American Diplomatic History (Princeton), “The New American Militarism”, Oxford Press, Revised Edition]

Today as never before in their history Americans are enthralled with military power. The global military supremacy that the United States presently enjoys—and is bent on perpetuating—has become central to our national identity. More than America’s matchless material abundance or even the effusions of its pop culture, the nation’s arsenal of high-tech weaponry and the soldiers who employ that arsenal have come to signify who we are and what we stand for. When it comes to war, Americans have persuaded themselves that the United States possesses a peculiar genius. Writing in the spring of 2003, the journalist Gregg Easterbrook observed that “the extent of American military superiority has become almost impossible to overstate.” During Operation Iraqi Freedom, U.S. forces had shown beyond the shadow of a doubt that they were “the strongest the world has ever known, . . . stronger than the Wehrmacht in 1940, stronger than the legions at the height of Roman power.” Other nations trailed “so far behind they have no chance of catching up.”1 The commentator Max Boot scoffed at comparisons with the German army of World War II, hitherto “the gold standard of operational excellence.” In Iraq, American military performance had been such as to make “fabled generals such as Erwin Rommel and Heinz Guderian seem positively incompetent by comparison.”2 Easterbrook and Boot concurred on the central point: on the modern battlefield Americans had located an arena of human endeavor in which their flair for organizing and deploying technology offered an apparently decisive edge. As a consequence, the United States had (as many Americans have come to believe) become masters of all things military. Further, American political leaders have demonstrated their intention of tapping that mastery to reshape the world in accordance with American interests and American values. That the two are so closely intertwined as to be indistinguishable is, of course, a proposition to which the vast majority of Americans subscribe. Uniquely among the great powers in all of world history, ours (we insist) is an inherently values-based approach to policy. Furthermore, we have it on good authority that the ideals we espouse represent universal truths, valid for all times. American statesmen past and present have regularly affirmed that judgment. In doing so, they validate it and render it all but impervious to doubt. Whatever momentary setbacks the United States might encounter, whether a generation ago in Vietnam or more recently in Iraq, this certainty that American values are destined to prevail imbues U.S. policy with a distinctive grandeur. The preferred language of American statecraft is bold, ambitious, and confident. Reflecting such convictions, policymakers in Washington nurse (and the majority of citizens tacitly endorse) ever more grandiose expectations for how armed might can facilitate the inevitable triumph of those values. In that regard, George W. Bush’s vow that the United States will “rid the world of evil” both echoes and amplifies the large claims of his predecessors going at least as far back as Woodrow Wilson.3 Coming from Bush the warrior-president, the promise to make an end to evil is a promise to destroy, to demolish, and to obliterate it. One result of this belief that the fulfillment of America’s historic mission begins with America’s destruction of the old order has been to revive a phenomenon that C. Wright Mills in the early days of the Cold War described as a “military metaphysics”—a tendency to see international problems as military problems and to discount the likelihood of finding a solution except through military means.4 To state the matter bluntly, Americans in our own time have fallen prey to militarism, manifesting itself in a romanticized view of soldiers, a tendency to see military power as the truest measure of national greatness, and outsized expectations regarding the efficacy of force. To a degree without precedent in U.S. history, Americans have come to define the nation’s strength and well-being in terms of military preparedness, military action, and the fostering of (or nostalgia for) military ideals.5 Already in the 1990s America’s marriage of a militaristic cast of mind with utopian ends had established itself as the distinguishing element of contemporary U.S. policy. The Bush administration’s response to the horrors of 9/11 served to reaffirm that marriage, as it committed the United States to waging an open-ended war on a global scale. Events since, notably the alarms, excursions, and full-fledged campaigns comprising the Global War on Terror, have fortified and perhaps even sanctified this marriage. Regrettably, those events, in particular the successive invasions of Afghanistan and Iraq, advertised as important milestones along the road to ultimate victory, have further dulled the average American’s ability to grasp the significance of this union, which does not serve our interests and may yet prove our undoing.

### AT: Specificity

#### Concludes ABOSLUTELY NEG – This is an article criticizing constructivists for abandoning grounding in *critical* theory and *interpretivist* methods.

#### Here’s the abstract:

Richard **PRICE** **AND** Christian **REUS-SMIT** **’98** “Dangerous Liaisons? Critical International

Theory and Constructivism” http://www.artsrn.ualberta.ca/courses/PoliticalScience/661B1/documents/PriceReusSmithCriticalInternatlTheoryConstructivism.pdf

The 1990s have seen the emergence of a new ‘constructivist’ approach to international theory and analysis. This article is concerned with the relationship between constructivism and critical international theory, broadly defined. Contrary to the claims of several prominent critical theorists of the Third Debate, we argue that constructivism has its intellectual roots in **critical social theory**, and that the constructivist project of conceptual elaboration and empirical analysis **need not violate** the principal epistemological, **methodological** or **normative tenets** of **critical international theory**. Furthermore, we contend that constructivism can make a **vital contribution** to the development of critical international theory, offering crucial insights into the **sociology** of **moral community** in world politics. The advent of constructivism should thus be seen as a positive development, one that not only enables critical theorists to mount a **more powerful challenge to the dominant rationalist theories,** but one that also promises to advance critical international theory itself.

Their own card says we should use *interpretative* methods that avoid *totalizing* claims instead of positivist *covering-law* methods. Intersubjective social construction and normative effects are in play.

### 2NC AT Kaufman

**Kaufman goes neg---image of the enemy causes violence**

**Kaufman 9** Stuart J, Prof Poli Sci and IR – U Delaware, “Narratives and Symbols in Violent Mobilization: The Palestinian-Israeli Case,” *Security Studies* 18:3, p. 433

There are no heroes in this story. Before Camp David, both sides undermined the fundamental premises of the Oslo process, land for peace, with the Israelis grabbing land and the Palestinians withholding peace. At Camp David, the Israelis’ opening position was absurdly stingy on substance, while the Palestinians seemed to reject not just Israeli proposals but Israel itself. After Camp David, those in charge of the guns on both sides—the Israeli mil- itary and Fatah—decided to resort to violence to try to force the other side’s hand. The two sides’ hard-line policies were the result of national identity narratives that created explosive symbolic issues and allowed too little room for either to acknowledge the legitimacy of the other’s concerns, while pre-disposing both sides to believe violence would be effective. As a result, the compromises necessary for a negotiated peace were not politically possible or even well understood by negotiators on either side, while violence was a popular alternative for both.

In sum, narratives of national identity justifying hostility, fears of extinction, and a symbolic politics of extremist mobilization were what drove the escalation of conflict. Arafat was constrained in his negotiations by the symbolic power of the refugee and Jerusalem issues—the former being the centerpiece of the Charter narrative and the latter being the pivotal issue in the Islamist and Declaration narratives. The resulting Palestinian rejection of Israeli symbolic claims on the Temple Mount and indifference to Israeli demographic concerns about a large-scale return of Palestinian refugees convinced Israelis that Palestinians did not accept real peace or Israel’s right to exist.

### Jones

#### Spillover from criticism is empirically proven. The role of the judge should be an intellectual whose goal is to destabilize the security regimes through critical interrogation of the status quo.

Jones 99 [Richard Wyn Jones, Professor International Politics at Aberystwyth University, Security, Strategy, and Critical Theory, 1999, p. 155-163]

The central political task of the intellectuals is to aid in the construction of a counterhegemony and thus undermine the prevailing patterns of discourse and interaction that make up the currently dominant hegemony. This task is accomplished through educational activity, because, as Gramsci argues, “every relationship of ‘hegemony’ is necessarily a pedagogic relationship” (Gramsci 1971: 350). Discussing the relationship of the “philosophy of praxis” to political practice, Gramsci claims: It [the theory] does not tend to leave the “simple” in their primitive philosophy of common sense, but rather to lead them to a higher conception of life. If it affirms the need for contact between intellectuals and “simple” it is not in order to restrict scientific activity and preserve unity at the low level of the masses, but precisely in order to construct an intellectual-moral bloc which can make politically possible the intellectual progress of the mass and not only of small intellectual groups. (Gramsci 1971: 332-333). According to Gramsci, this attempt to construct an alternative “intellectual-moral bloc” should take place under the auspices of the Communist Party—a body he described as the “modern prince.” Just as Niccolo Machiavelli hoped to see a prince unite Italy, rid the country of foreign barbarians, and create a virtu-ous state, Gramsci believed that the modern price could lead the working class on its journey toward its revolutionary destiny of an emancipated society (Gramsci 1971: 125-205). Gramsci’s relative optimism about the possibility of progressive theorists playing a constructive role in emancipatory political practice was predicated on his belief in the existence of a universal class (a class whose emancipation would inevitably presage the emancipation of humanity itself) with revolutionary potential. It was a gradual loss of faith in this axiom that led Horkheimer and Adorno to their extremely pessimistic prognosis about the possibilities of progressive social change. But does a loss of faith in the revolutionary vocation of the proletariat necessarily lead to the kind of quietism ultimately embraced by the first generation of the Frankfurt School? The conflict that erupted in the 1960s between them and their more radical students suggests not. Indeed, contemporary critical theorists claim that the deprivileging of the role of the proletariat in the struggle for emancipation is actually a positive move. Class remains a very important axis of domination in society, but it is not the only such axis (Fraser 1995). Nor is it valid to reduce all other forms of domination—for example, in the case of gender—to class relations, as orthodox Marxists tend to do. To recognize these points is not only a first step toward the development of an analysis of forms of exploitation and exclusion within society that is more attuned to social reality; it is also a realization that there are other forms of emancipatory politics than those associated with class conflict.1 This in turn suggests new possibilities and problems for emancipatory theory. Furthermore, the abandonment of faith in revolutionary parties is also a positive development. The history of the European left during the twentieth century provides myriad examples of the ways in which the fetishization of party organizations has led to bureaucratic immobility and the confusion of means with ends (see, for example, Salvadori 1990). The failure of the Bolshevik experiment illustrates how disciplined, vanguard parties are an ideal vehicle for totalitarian domination (Serge 1984). Faith in the “infallible party” has obviously been the source of strength and comfort to many in this period and, as the experience of the southern Wales coalfield demonstrates, has inspired brave and progressive behavior (see, for example, the account of support for the Spanish Republic in Francis 1984). But such parties have so often been the enemies of emancipation that they should be treated with the utmost caution. Parties are necessary, but their fetishization is potentially disastrous. History furnishes examples of progressive developments that have been positively influenced by organic intellectuals operating outside the bounds of a particular party structure (G. Williams 1984). Some of these developments have occurred in the particularly intractable realm of security. These examples may be considered as “resources of hope” for critical security studies (R. Williams 1989). They illustrate that ideas are important or, more correctly, that change is the product of the dialectical interaction of ideas and material reality. One clear security-related example of the role of critical thinking and critical thinkers in aiding and abetting progressive social change is the experience of the peace movement of the 1980s. At that time the ideas of dissident defense intellectuals (the “alternative defense” school) encouraged and drew strength from peace activism. Together they had an effect not only on short-term policy but on the dominant discourses of strategy and security, a far more important result in the long run. The synergy between critical security intellectuals and critical social movements and the potential influence of both working in tandem can be witnessed particularly clearly in the fate of common security. As Thomas Risse-Kappen points out, the term “common security” originated in the contribution of peace researchers to the German security debate of the 1970s (Risse-Kappen 1994: 186ff.); it was subsequently popularized by the Palme Commission report (Independent Commission on Disarmament and Security Issues 1982). Initially, mainstream defense intellectuals dismissed the concept as hopelessly idealistic; it certainly had no place in their allegedly hardheaded and realist view of the world. However, notions of common security were taken up by a number of different intellectuals communities, including the liberal arms control community in the United States, Western European peace researchers, security specialists in the center-left political parties of Western Europe, and Soviet “institutchiks”—members of the influential policy institutes in the Soviet Union such as the United States of America and Canada Institute (Landau 1996: 52-54; Risse-Kappen 1994: 196-200; Kaldor 1995; Spencer 1995). These communities were subsequently able to take advantage of public pressure exerted through social movements in order to gain broader acceptance for common security. In Germany, for example, “in response to social movement pressure, German social organizations such as churches and trade unions quickly supported the ideas promoted by peace researchers and the SPD” (Risse-Kappen 1994: 207). Similar pressures even had an effect on the Reagan administration. As Risse-Kappen notes: When the Reagan administration brought hard-liners into power, the US arms control community was removed from policy influence. It was the American peace movement and what became known as the “freeze campaign” that revived the arms control process together with pressure from the European allies. (Risse-Kappen 1994: 205; also Cortright 1993: 90-110). Although it would be difficult to sustain a claim that the combination of critical movements and intellectuals persuaded the Reagan government to adopt the rhetoric and substance of common security in its entirety, it is clear that it did at least have a substantial impact on ameliorating U.S. behavior. The most dramatic and certainly the most unexpected impact of alternative defense ideas was felt in the Soviet Union. Through various East-West links, which included arms control institutions, Pugwash conferences, interparty contacts, and even direct personal links, a coterie of Soviet policy analysts and advisers were drawn toward common security and such attendant notions as “nonoffensive defense” (these links are detailed in Evangelista 1995; Kaldor 1995; Checkel 1993; Risse-Kappen 1994; Landau 1996 and Spencer 1995 concentrate on the role of the Pugwash conferences). This group, including Palme Commission member Georgii Arbatov, Pugwash attendee Andrei Kokoshin , and Sergei Karaganov, a senior adviser who was in regular contact with the Western peace researchers Anders Boserup and Lutz Unterseher (Risse-Kappen 1994: 203), then influenced Soviet leader Mikhail Gorbachev. Gorbachev’s subsequent championing of common security may be attributed to several factors. It is clear, for example, that new Soviet leadership had a strong interest in alleviating tensions in East-West relations in order to facilitate much-needed domestic reforms (“the interaction of ideas and material reality”). But what is significant is that the Soviets’ commitment to common security led to significant changes in force sizes and postures. These in turn aided in the winding down of the Cold War, the end of Soviet domination over Eastern Europe, and even the collapse of Russian control over much of the territory of the former Soviet Union. At the present time, in marked contrast to the situation in the early 1980s, common security is part of the common sense of security discourse. As MccGwire points out, the North Atlantic Treaty Organization (NATO) (a common defense pact) is using the rhetoric of common security in order to justify its expansion into Eastern Europe (MccGwire 1997). This points to an interesting and potentially important aspect of the impact of ideas on politics. As concepts such as common security, and collective security before it (Claude 1984: 223-260), are adopted by governments and military services, they inevitably become somewhat debased. The hope is that enough of the residual meaning can survive to shift the parameters of the debate in a potentially progressive direction. Moreover, the adoption of the concept of common security by official circles provides critics with a useful tool for (immanently) critiquing aspects of security policy (as MccGwire 1997 demonsrates in relation to NATO expansion). The example of common security is highly instructive. First, it indicates that critical intellectuals can be politically engaged and play a role—a significant one at that—in making the world a better and safer place. Second, it points to potential future addressees for critical international theory in general, and critical security studies in particular. Third, it also underlines the role of ideas in the evolution in society. CRITICAL SECURITY STUDIES AND THE THEORY-PRACTICE NEXUS Although most proponents of critical security studies reject aspects of Gramsci’s theory of organic intellectuals, in particular his exclusive concentration on class and his emphasis on the guiding role of the party, the desire for engagement and relevance must remain at the heart of their project. The example of the peace movement suggests that critical theorists can still play the role of organic intellectuals and that this organic relationship need not confine itself to a single class; it can involve alignment with different coalitions of social movements that campaign on an issue or a series of issues pertinent to the struggle for emancipation (Shaw 1994b; R. Walker 1994). Edward Said captures this broader orientation when he suggests that critical intellectuals “are always tied to and ought to remain an organic part of an ongoing experience in society: of the poor, the disadvantaged, the voiceless, the unrepresented, the powerless” (Said 1994: 84). In the specific case of critical security studies, this means placing the experience of those men and women and communities for whom the present world order is a cause of insecurity rather than security at the center of the agenda and making suffering humanity rather than raison d’etat the prism through which problems are viewed. Here the project stands full-square within the critical theory tradition. If “all theory is for someone and for some purpose,” then critical security studies is for “the voiceless, the unrepresented, the powerless,” and its purpose is their emancipation. The theoretical implications of this orientation have already been discussed in the previous chapters. They involve a fundamental reconceptualization of security with a shift in referent object and a broadening of the range of issues considered as a legitimate part of the discourse. They also involve a reconceptualization of strategy within this expanded notion of security. But the question remains at the conceptual level of how these alternative types of theorizing—even if they are self-consciously aligned to the practices of critical or new social movements, such as peace activism, the struggle for human rights, and the survival of minority cultures—can become “a force for the direction of action.” Again, Gramsci’s work is insightful. In the Prison Notebooks, Gramsci advances a sophisticated analysis of how dominant discourses play a vital role in upholding particular political and economic orders, or, in Gramsci’s terminology, “historic blocs” (Gramsci 1971: 323-377). Gramsci adopted Machiavelli’s view of power as a centaur, ahlf man, half beast: a mixture of consent and coercion. Consent is produced and reproduced by a ruling hegemony that holds sway through civil society and takes on the status of common sense; it becomes subconsciously accepted and even regarded as beyond question. Obviously, for Gramsci, there is nothing immutable about the values that permeate society; they can and do change. In the social realm, ideas and institutions that were once seen as natural and beyond question (i.e., commonsensical) in the West, such as feudalism and slavery, are now seen as anachronistic, unjust, and unacceptable. In Marx’s well-worn phrase, “All that is solid melts into the air.” Gramsci’s intention is to harness this potential for change and ensure that it moves in the direction of emancipation. To do this he suggests a strategy of a “war of position” (Gramsci 1971: 229-239). Gramsci argues that in states with developed civil societies, such as those in Western liberal democracies, any successful attempt at progressive social change requires a slow, incremental, even molecular, struggle to break down the prevailing hegemony and construct an alternative counterhegemony to take its place. Organic intellectuals have a crucial role to play in this process by helping to undermine the “natural,” “commonsense,” internalized nature of the status quo. This in turn helps create political space within which alternative conceptions of politics can be developed and new historic blocs created. I contend that Gramsci’s strategy of a war of position suggests an appropriate model for proponents of critical security studies to adopt in relating their theorizing to political practice. THE TASKS OF CRITICAL SECURITY STUDIES If the project of critical security studies is conceived in terms of war of position, then the main task of those intellectuals who align themselves with the enterprise is to attempt to undermine the prevailing hegemonic security discourse. This may be accomplished by utilizing specialist information and expertise to engage in an immanent critique///

of the prevailing security regimes, that is, comparing the justifications of those regimes with actual outcomes. When this is attempted in the security field, the prevailing structures and regimes are found to fail grievously on their own terms. Such an approach also involves challenging the pronouncements of those intellectuals, traditional or organic, whose views serve to legitimate, and hence reproduce, the prevailing world order. This challenge entails teasing out the often subconscious and certainly unexamined assumptions that underlie their arguments while drawing attention to the normative viewpoints that are smuggled into mainstream thinking about security behind its positivist façade. In this sense, proponents of critical security studies approximate to Foucault’s notion of “specific intellectuals” who use their expert knowledge to challenge the prevailing “regime of truth” (Foucault 1980: 132). However, critical theorists might wish to reformulate this sentiment along more familiar Quaker lines of “speaking truth to power” (this sentiment is also central to Said 1994) or even along the eisteddfod lines of speaking “truth against the world.” Of course, traditional strategists can, and indeed do, sometimes claim a similar role. Colin S. Gray, for example, states that “strategists must be prepared to ‘speak truth to power’” (Gray 1982a: 193). But the difference between Gray and proponents of critical security studies is that, whereas the former seeks to influence policymakers in particular directions without questioning the basis of their power, the latter aim at a thoroughgoing critique of all that traditional security studies has taken for granted. Furthermore, critical theorists base their critique on the presupposition, elegantly stated by Adorno, that “the need to lend suffering a voice is the precondition of all truth” (cited in Jameson 1990: 66). The aim of critical security studies in attempting to undermine the prevailing orthodoxy is ultimately educational. As Gramsci notes, “every relationship of ‘hegemony’ is necessarily a pedagogic relationship” (Gramsci 1971: 350; see also the discussion of critical pedagogy in Neufeld 1995: 116-121). Thus, by criticizing the hegemonic discourse and advancing alternative conceptions of security based on different understandings of human potentialities, the approach is simultaneously playing apart in eroding the legitimacy of the ruling historic bloc and contributing to the development of a counterhegemonic position. There are a number of avenues of avenues open to critical security specialists in pursuing this educational strategy. As teachers, they can try to foster and encourage skepticism toward accepted wisdom and open minds to other possibilities. They can also take advantage of the seemingly unquenchable thirst of the media for instant pundistry to forward alternative views onto a broader stage. Nancy Fraser argues: “As teachers, we try to foster an emergent pedagogical counterculture …. As critical public intellectuals we try to inject our perspectives into whatever cultural or political public spheres we have access to” (Fraser 1989: 11). Perhaps significantly, support for this type of emancipatory strategy can even be found in the work of the ultrapessimistic Adorno, who argues: In the history of civilization there have been not a few instances when delusions were healed not by focused propaganda, but, in the final analysis, because scholars, with their unobtrusive yet insistent work habits, studied what lay at the root of the delusion. (cited in Kellner 1992: vii) Such “unobtrusive yet insistent work” does not in itself create the social change to which Adorno alludes. The conceptual and the practical dangers of collapsing practice into theory must be guarded against. Rather, through their educational activities, proponent of critical security studies should aim to provide support for those social movements that promote emancipatory social change. By providing a critique of the prevailing order and legitimating alternative views, critical theorists can perform a valuable role in supporting the struggles of social movements. That said, the role of theorists is not to direct and instruct those movements with which they are aligned; instead, the relationship is reciprocal. The experience of the European, North American, and Antipodean peace movements of the 1980s shows how influential social movements can become when their efforts are harnessed to the intellectual and educational activity of critical thinkers. For example, in his account of New Zealand’s antinuclear stance in the 1980s, Michael C. Pugh cites the importance of the visits of critical intellectuals such as Helen Caldicott and Richard Falk in changing the country’s political climate and encouraging the growth of the antinuclear movement (Pugh 1989: 108; see also COrtright 1993: 5-13). In the 1980s peace movements and critical intellectuals interested in issues of security and strategy drew strength and succor from each other’s efforts. If such critical social movements do not exist, then this creates obvious difficulties for the critical theorist. But even under these circumstances, the theorist need not abandon all hope of an eventual orientation toward practice. Once again, the peace movement of the 1980s provides evidence of the possibilities. At that time, the movement benefited from the intellectual work undertaken in the lean years of the peace movement in the late 1970s. Some of the theories and concepts developed then, such as common security and nonoffensive defense, were eventually taken up even in the Kremlin and played a significant role in defusing the second Cold War. Those ideas developed in the 1970s can be seen in Adornian terms of the a “message in a bottle,” but in this case, contra Adorno’s expectations, they were picked up and used to support a program of emancipatory political practice. Obviously, one would be naïve to understate the difficulties facing those attempting to develop alternative critical approaches within academia. Some of these problems have been alluded to already and involve the structural constraints of academic life itself. Said argues that many problems are caused by what he describes as the growing “professionalisation” of academic life (Said 1994: 49-62). Academics are now so constrained by the requirements of job security and marketability that they are extremely risk-averse. It pays—in all senses—to stick with the crowd and avoid the exposed limb by following the prevalent disciplinary preoccupations, publish in certain prescribed journals, and so on. The result is the navel gazing so prevalent in the study of international relations and the seeming inability of security specialists to deal with the changes brought about by the end of the Cold War (Kristensen 1997 highlights the search of U.S. nuclear planners for “new targets for old weapons”). And, of course, the pressures for conformism are heightened in the field of security studies when governments have a very real interest in marginalizing dissent. Nevertheless, opportunities for critical thinking do exist, and this thinking can connect with the practices of social movements and become a “force for the direction of action.” The experience of the 1980s, when, in the depths of the second Cold War, critical thinkers risked demonization and in some countries far worse in order to challenge received wisdom, thus arguably playing a crucial role in the very survival of the human race, should act as both an inspiration and a challenge to critical security studies.

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### Cong wont

#### Their primary objective is blame avoidance. Congress will not check the president

Glennon 95—Professor of Law @ UC-Davis [Glennon, Michael J., “Too Far Apart: Repeal the War Powers Resolution,” University of Miami Law Review, Vol. 50, Issue 1 (October 1995), pp. 17-32

Since the high-water mark of congressional activism during which the Resolution was adopted, members of Congress have increasingly come to eschew controversial votes. Kent Weaver of the Brookings Institution has characterized this as "credit claiming" and "blame avoiding" behavior," and it has come to pervade vast stretches of legislative terrain beyond the war power: base-closing, interest rate regulation, and budget cuts have all been assigned to entities removed from the political process.12 The problem in recent years has been less and less an imperial presidency and more and more a monarchical legislature-a Congress whose members seek the trappings of office but flee from their traditional decision-making responsibilities.13 It is said to many new members of Congress that no one will ever regret a speech that one never gives; the same can be said for a vote that one never casts. The upshot, increasingly, is legislative autopilot, a process through which credit can be claimed but blame avoided. As Senator Robert Byrd has candidly said, "It is not just that the President is often reluctant to consult, but it is always the case that if we are honest with ourselves, we here sometimes do not want early responsibility."' 14 Pg. 19-21

### Mission Creep

#### Casualty aversion checks aggression

Farley 12—JD from Emory University [Benjamin R. Farley (M.A., The George Washington University Elliott Schoolof International Affairs), “Drones and Democracy: Missing Out on Accountability?,” South Texas Law Review, Vol. 54, No. 2, 2012]

Political accountability is particularly important for political leaders making use-of-force decisions. Political accountability acts as a substantial constraint on the willingness of political leaders to choose to use force. In fact, an appreciation for the potency of political accountability as a constraint on use-of-force decisions is responsible in part for the structure of the U.S. Constitution. It also undergirds the democratic peace thesis. However, the importance of political accountability to use-of-force decisionmaking-and the extent to which it limits leaders' ability to use force-depends on the nature of that use-of-force decision, including the scope of the use of force, its expected duration, the risk of U.S. casualties, and whether the use of force is overt or covert.79

In general, "[g]overnments lose popularity in proportion to the war's cost in blood and money."80 After an initial boost in popularity at the outset of hostilities,1 rising casualties, increasing costs, and lengthening duration of a conflict dampen political leaders' chances of reelection. 82 This relationship between casualties and a leader's popular support encourages leaders to avoid potentially costly uses of force. But it is not merely the accumulation of casualties that erodes public support (thereby increasing the threat of negative electoral sanction) for a use of force. Public support also erodes due to marginal casualties. Thus, episodes in which US causalities occur unexpectedly or in which several U.S. service men and women are killed in a single incident can generate precipitous declines in support for a use of force,84 even if there have been relatively few cumulative casualties. Such was the case in Somalia, when a dramatic episode resulting in a relatively small number of casualties-in a historical sense-caused public support for the mission to evaporate, U.S. forces to withdraw, and the mission to fail. Additionally, in the United States, the electorate's sensitivity to casualties-and the attendant risk of political accountability leaders face for casualties-may be increasing. "Casualty for casualty, support ... declined far more quickly [in Iraq] than it did during either the Korean War or the Vietnam War."86 pg. 397-399

#### Lack of public support prevent US intervention

Ignatius 13—Associate editor and columnist for The Washington Post [David Ignatius (Senior Fellow to the Future of Diplomacy Program @ Harvard University), “America the War-Weary,” Real Clear Politics, April 7, 2013, pg. http://www.realclearpolitics.com/articles/2013/04/07/america\_the\_war-weary\_117836.html

ISTANBUL -- Talking with members of Congress at a gathering here last week was an education in the public's wariness of new foreign entanglements -- especially in Syria. It was a reminder that the post-Iraq era is only beginning, and that it may limit America's ability to exercise power for the next few years.

The great advantage (and on occasion, disadvantage) of the House of Representatives is that its members are so close to their constituents. Most of them spend every nearly weekend back home in their districts. So they know what the public is thinking in a personal way that's sometimes missing in Washington foreign-policy debates.

The discussion here arose during an off-the-record conference organized by a Washington group. One of the topics was possible U.S. involvement in Syria, and it provoked an intense conversation. Many members from both parties made clear how uneasy they are about new U.S. adventures in this part of the world, no matter how noble-sounding the cause.

"I can't adequately describe how unwilling the American people are to get involved in another war in the Middle East," said one congressman. "We're almost unable to respond," given what the U.S. has spent in Iraq and Afghanistan, said another. He described intervention proposals as "half-baked," and argued that "the last thing we need is something ineffective." A third member summed up the public mood this way: "We are not just war-weary, we are war-wary."

The skeptical mood was underlined by one member who quoted former German Chancellor Helmut Schmidt as saying: "The problem is that you Americans think every problem has a solution." Well, not anymore -- not after Iraq and Afghanistan.

Both Republicans and Democrats expressed caution about venturing onto Syria's slippery slope. "This is not a tragedy of our making," warned one House veteran. He argued that countries in the region need to decide what they want. "Absent that consensus, you can't act." This longtime member noted that President Obama won't be able to do much in Syria without support from Democrats: "You can't be a war president without having a war party."

Obama recognizes the national war fatigue and made it a subtle centerpiece of his bid for re-election. He was emphatic about bringing troops home from Afghanistan and doing nation-building at home, rather than abroad. Mitt Romney, the Republican nominee, opened the general-election campaign with hawkish rhetoric, but by the last debate he had so trimmed his foreign-policy positions that they were nearly identical to Obama's.

In his caution on Syria, Obama has been reading the public mood correctly. Personally, I hope the president will accept the recommendation of some of his advisers and provide training and other limited military assistance for the Syrian rebels. But he would do so without a solid base of public support, a bad way to begin any new commitment. If Obama does decide to get more involved, he will need to bring the country along with him.

The big question is whether America's war weariness will undermine Obama's pledge to use military force, if necessary, to prevent Iran from obtaining a nuclear weapon. The Iranians seem convinced that, given the public mood, Obama is bluffing. President Mahmoud Ahmadinejad told me pointedly in an interview last September that America was tired of the "back-breaking expenses" of foreign wars. "Will the people of the U.S. accept meddling and intervention in the affairs of others?" he mused. "I don't believe so."

The House members who attended the conference seemed less skeptical about military options for Iran than for Syria. That's partly because the Iranian threat is more obvious toward both the U.S. and Israel. But given the current public mood, Obama will have to work carefully to build support for any U.S. military action against Iran -- convincing people that it's a legal and necessary use of American power.

Visiting this sprawling city was a reminder of the mysterious process through which empires wax and wane. Turkey's neo-imperial prospects seem to be rising for the first time in a century, with Turkish leaders talking about a new Ottoman hegemony in the region. America's cloak of leadership, by contrast, seems a bit faded.

One Arab politician cautioned the group: "American credibility is being doubted in this part of the world." What the members of Congress needed to remember, he said, was that "America remains indispensable." But when the members are back home talking to constituents on weekends, this traditional invocation of global U.S. leadership is not what they're hearing.

### 2NC—No Transition Impact

#### Deterrence theory creates spirals of distrust -- Most recent psychological and neuroscience research proves.

Neta CRAWFORD Poli Sci @ Boston University 11 [*Realism and World Politics* Ed. Ken Booth p. 173]

For example, research on fear suggests that long-held assumptions of deterrence theory are probably not simply wrong but dangerously so. Research in political psychology has shown that ‘deterrence is inadequate as an explanatory theory of international relations because the growing body of empirical evidence’ does not support the theory.69 Recent research on fear implies that the notion that deterrence threats can be manipulated with great confidence is folly. We cannot expect decision-makers to respond to threats by doing elaborate (or even boundedly rational) calculations of costs, risks and benefits, yet policy-makers are still counselled as if this were possible. This is not simply because signalling resolve is difficult. Fear, and also anger and perceived humiliation, affect the ways people reason and react to threats////

: fear is a powerful source and re-enforcer of both the cognitive and motivated biases that interfere with the communication and reception of deterrent threats. Fear can become institutionalized and self-reinforcing. To the extent that our theories, uninformed by research on fear, have guided decision-makers and shaped foreign policies by promoting the use of threats, they have made the world more dangerous rather than less. The path to decreased tension, conflict resolution, and improved security lies in re-examining the relationship between ‘human nature’, political practices and institutions and in devising policies that actually decrease fear and enhance trust.

### No China War

#### No military aggression

Goldstein 11—Professor and Director of the China Maritime Studies Institute @ US Naval War College [Dr. Lyle J. Goldstein, “Resetting the US–China Security Relationship,” Survival | vol. 53 no. 2 | April–May 2011 | pp. 89–116]

Weighed in the aggregate, China’s rise remains a peaceful process, and the record to date should engender significant confidence. Beijing has not resorted to a significant use of force against another state in more than three decades. Its deployments of troops as UN peacekeepers to hot spots such as Lebanon and the Democratic Republic of the Congo have played a helpful role, as have the counter-piracy operations of its fleet in the Gulf of Aden. When dealing with weak and occasionally unstable states on its borders, such as Kyrgyzstan or Tajikistan, Beijing has not resorted to military intervention, nor even flexed its military muscles to gain advantage. Chinese maritime claims, whether in the South or the East China seas, are generally being enforced by unarmed patrol cutters, a clear signal that Beijing does not seek escalation to a major crisis on these matters. Contrary to the perception that China’s senior military officers are all irreconcilable hawks, one influential People’s Liberation Army Navy (PLAN) admiral recently said in an interview, with reference to lessons learned from recent border negotiations on China’s periphery: ‘If there are never any concessions or compromises, there is simply no possibility of reaching a breakthrough in border negotiations.’2 pg. 90