## 1NC

### 1

The aff must specify statutory or judicial restrictions—

“And/or” means one or the other or both

CED ‘9

(http://dictionary.reference.com/browse/and%2For)

and/or

— conj

( coordinating ) used to join terms when **either one or the other or both** is indicated: passports and/or other means of identification

Vote neg—plan text clarity key to specific negative ground and tests the core question of the resolution—where the authority is located—

Presumption

CMS ‘3

(http://www.chicagomanualofstyle.org/CMS\_FAQ/CapitalizationTitles/CapitalizationTitles32.html, accessed 10/16/07, re-accessed at <http://www.chicagomanualofstyle.org/qanda/data/faq/topics/CapitalizationTitles/faq0015.html>, 8/19/2013)

Q. When I refer to the government of the United States in text, should it be US Federal Government or US federal government? A. **The government of the** United States **is not a single official entity**. Nor is it when it is referred to as the federal government or the U.S. government or the U.S. federal government. It’s just a government, which, like those in all countries, has some official bodies that act and operate in the name of government: the Congress, the Senate, the Department of State, etc.

Aff conditionality – violates “Resolved”

Random House Unabridged Dictionary, 1997

(http://www.infoplease.com/dictionary/resolved)

firm in purpose or intent; determined

### 2

Increase implies previous existence—the aff has to expand an already existing program in scope or size

Buckley, 6

(Attorney-Amicus Curiae Brief, Safeco Ins. Co. of America et al v. Charles Burr et al,

http://supreme.lp.findlaw.com/supreme\_court/briefs/06-84/06-84.mer.ami.mica.pdf)

First, the court said that the ordinary meaning of the word “increase” is “to make something greater,” which it believed should not “be limited to cases in which a company raises the rate that an individual has previously been charged.” 435 F.3d at 1091. Yet the definition offered by the Ninth Circuit compels the opposite conclusion. Because “increase” means “to make something greater,” **there must necessarily have been an existing premium**, to which Edo’s actual premium may be compared, **to determine whether an “increase” occurred**. Congress could have provided that “ad-verse action” in the insurance context means charging an amount greater than the optimal premium, but instead chose to define adverse action in terms of an “increase.” That def-initional choice must be respected, not ignored. See Colautti v. Franklin, 439 U.S. 379, 392-93 n.10 (1979) (“[a] defin-ition which declares what a term ‘means’ . . . excludes any meaning that is not stated”). Next, the Ninth Circuit reasoned that because the Insurance Prong includes the words “existing or applied for,” Congress intended that an “increase in any charge” for insurance must “apply to all insurance transactions – from an initial policy of insurance to a renewal of a long-held policy.” 435 F.3d at 1091. **This interpretation** reads the words “exist-ing or applied for” in isolation. Other types of adverse action described in the Insurance Prong apply only to situations where a consumer had an existing policy of insurance, such as a “cancellation,” “reduction,” or “change” in insurance. Each of these forms of adverse action **presupposes an already-existing policy**, and under usual canons of statutory construction the term “increase” also **should be construed to apply to increases of an already-existing policy**. See Hibbs v. Winn, 542 U.S. 88, 101 (2004) (“a phrase gathers meaning from the words around it”) (citation omitted).

TK does not include assassination

Silva, LL.M. from the University of Montreal, 2003

(Jose Sebastian, “Death for Life: A Study of Targeted Killing by States In International Law,” https://papyrus.bib.umontreal.ca/xmlui/handle/1866/2372)

As defined by Steven R. David, targeted killing is the "intentional slaying of a specific individual or group of individuals undertaken with explicit governmental approval.,,25 Though concise, the problem with this definition is that it fails to specify the intended targets and ignores the context in which they are carried out. **By failing to define targeted killings as measures of counter-terrorism**, **killings of all types may indiscriminately fall under its mantle with devastating consequences**. As such, the killing of political leaders in peacetime, which amounts to assassination, can fall within its scope. The same can be said about the killing of specific enemy combatants in armed conflict, which amounts to targeted military strikes, and the intentional slaying of common criminals, dissidents, or opposition leaders. Actions carried-out by governments within their jurisdictions can also be interpreted as targeted killings. Although the killing of terrorists abroad may constitute lawful and proportionate self-defense in response to armed attacks, the use of such measures by states for an unspecified number of reasons renders shady their very suggestion. David's definition is **essentially correct** **but over-inclusive**. As discussed in the following chapters, targeted killing will refer to lethal action taken by states against wanted individuals on foreign soil that have, or are preparing, to attack it. They must also not be equated with killings that occur during armed conflicts between states nor in the context of occupation or civil war. For the purpose of this study, **targeted killing will be defined as the *premeditated killing by states of specific individuals on foreign soil outside the context of armed conflict to prevent acts of international terrorism***. This definition covers almost any use of lethal force by states on foreign soil whose purpose is the prevention of international terrorism, provided that it is *not* carried-out in the context of an armed conflict as understood by the Geneva Conventions. Generally, this implies any military confrontation between "two or more of the High Contracting Parties, even if the state of war is not recognized by one of them,,,26 as well as armed conflicts not of an international character occurring in the territory of one of the High Contracting Parties. The limitation imposed by the proposed definition is that an armed conflict not already exist against the sanctuary-state or an armed group within it, as it would automatically render lawful the use of proportionate military force, including targeted killing. The purpose of the absence of armed conflict qualification is to remove from the analysis any possibility that targeted killings will be *automatically* justified as the killing combatants.

Vote negative---they make the topic huge—allow both quantitative reductions of and outright elimination of restrictions. Their interpretation ignores the plain meaning of the term ‘reduce,’ which determined how we researched the topic.

### 3

Obama pushing immigration—it’ll get through

Reid Epstein, Politico, 11/13/13, Obama: Don't let ACA problems stop immigration, dyn.politico.com/printstory.cfm?uuid=D92FF3A4-19D5-41D2-A8F1-C56D6BC23E08

President Barack Obama gave immigration reform advocates a simple message Wednesday: Don’t let Obamacare get you down. In an Oval Office meeting with eight Christian faith leaders, the president said he remains engaged on immigration legislation and hopes the reform effort can get a fair hearing despite his other political problems, several faith leaders told POLITICO. “He said he doesn’t want other debates that are going on to hurt this,” said Jim Wallis, the president and CEO of the Christian social justice agency Sojourners. “He doesn’t want all the other debates going on to prevent this from passing. It’s caught up in all the other debates and he wants this to be looked at on his own merits.” Obama’s exhortation came during a meeting just hours before his administration released the first batch of Affordable Care Act enrollment numbers – a figure the White House had for weeks telegraphed as far lower than expected. Much of Obama’s Oval Office conversation with the faith leaders, Biden and top aides Valerie Jarrett, Cecilia Munoz and Melissa Rogers centered around the idea that contemporary Washington politics is blocking reform efforts, the faith leaders said. Obama, they said, didn’t make a direct ask for them to press Congress to back the reform effort, as Vice President Joe Biden implored Catholic leaders to do during a call Tuesday night. Instead he asked for their input on how the current immigration system is harming their communities and echoed the urgency to pass reform legislation by the end of the year. But with House Speaker John Boehner (R-Ohio) announcing earlier in the day that he has “no intention of ever going to conference on the Senate bill,” it was clear to all in the room that immigration reform has lost momentum it had after the Senate immigration bill passed. “This can be a companion issue that also deserves some attention because we’ve come so far on this issue and we can’t let it get lost in the battle du jour,” said Joel Hunter, the senior pastor at Northland Church in suburban Orlando. “I think all of us are hoping that the headlines of the daily accusations don’t bury what is a very important and urgent issue in our time.” And **still**, Obama told the faith leaders **he remains optimistic there will be progress by the end of December**. “I did get the sense that he was wanting to reassure us that this is a priority for him,” said Russell Moore, the president of the Southern Baptist Ethics and Religious Liberty Commission. “He actually does want to work with Congress to get a bill, not to just to have an issue.” White House officials declined to comment on specifics of the meeting. In an official readout, the White House said Obama once again blamed House Republicans for blocking a vote. “The president and the leaders discussed their shared commitment to raise the moral imperative for immigration reform and said they will continue keeping the pressure on Congress so they can swiftly pass commonsense reform,” the statement said. “The president commended the faith leaders for their tireless efforts in sharing their stories with Congress. He noted there is no reason for House Republicans to continue to delay action on this issue that has garnered bipartisan support. Moore, a conservative evangelical leader, said he warned Obama not to make immigration a partisan political issue. “I did say to the president that I think he needs to take seriously that the Republicans in Congress are operating out of what I believe to be good motives and that there needs to be a sense of cooperation and not divisiveness on this issue,” Moore said. “I think that was well received. I think the president seemed to indicate that that’s what he wants to do.” Wallis said there was a discussion during the meeting that the upcoming holiday season could give a boost to the reform efforts as families and churches gather. “The holiday season now happens to be coming in the end game. Here are the holidays, religious holidays, maybe there is something there,” Wallis said. “We are hearing a president say, ‘I don’t want politics to prevent this. How can we transcend and reach people to make this not just political. What can you do to help us get this beyond the politics?’” Biden on Tuesday night told Catholic officials to make their opinions known forcefully to House Republicans. He said they can’t repeat the mistakes of the gun control fight, when opponents of expanding background checks on gun purchases outnumbered White House allies in calls and e-mails to senators debating the legislation. “Thank the representatives when you call who are already in favor of reform, especially the 32 Republicans who have expressed for a path to citizenship,” Biden said. “Give them a little bit of love and appeal to their better angels, the better angels of those who are still on the fence to take a politically courageous decision.” Hunter said the push will require some help from the public to spur House Republican leadership to call a vote. “We think that the votes are there and we think it is tricky for folks to vote the way they want to,” Hunter said. “They just need some momentum from the public in order to have the justification for voting the way they already want to.”

#### The plan sparks an inter-branch fight derailing the agenda

Douglas Kriner, Assistant Profess of Political Science at Boston University, 2010, After the Rubicon: Congress, Presidents, and the Politics of Waging War, p. 67-69

Raising or Lowering Political Costs by Affecting Presidential Political Capital

Shaping both real and anticipated public opinion are two important ways in which Congress can raise or lower the political costs of a military action for the president. However, focusing exclusively on opinion dynamics threatens to obscure the much broader political consequences of domestic reaction—particularly congressional opposition—to presidential foreign policies. At least since Richard Neustadt's seminal work Presidential Power, presidency scholars have warned that **costly political battles in one policy arena frequently have significant ramifications for presidential power in other realms**. Indeed, two of Neustadt's three "cases of command"—Truman's seizure of the steel mills and firing of General Douglas MacArthur—explicitly discussed the broader political consequences of stiff domestic resistance to presidential assertions of commander-in-chief powers. In both cases, Truman emerged victorious in the case at hand—yet, Neustadt argues, each victory cost Truman dearly in terms of his future power prospects and leeway in other policy areas, many of which were more important to the president than achieving unconditional victory over North Korea."

While congressional support leaves the president's reserve of political capital intact, congressional criticism saps energy from other initiatives on the home front by forcing the president to expend energy and effort defending his international agenda. **Political capital spent shoring up support for a president's foreign policies is capital that is unavailable for his future policy initiatives**. Moreover, any weakening in the president's political clout may have immediate ramifications for his reelection prospects, as well as indirect consequences for congressional races." Indeed, Democratic efforts to tie congressional Republican incumbents to President George W. Bush and his war policies paid immediate political dividends in the 2006 midterms, particularly in states, districts, and counties that had suffered the highest casualty rates in the Iraq War.6°

In addition to boding ill for the president's perceived political capital and reputation, such partisan losses in Congress only further imperil his programmatic agenda, both international and domestic. Scholars have long noted that President Lyndon Johnson's dream of a Great Society also perished in the rice paddies of Vietnam. Lacking both the requisite funds in a war-depleted treasury and the political capital needed to sustain his legislative vision, Johnson gradually let his domestic goals slip away as he hunkered down in an effort first to win and then to end the Vietnam War. In the same way, many of President Bush's **highest second-term domestic priorities**, such as Social Security and immigration reform, **failed** perhaps in large part **because the administration had to expend so much energy** and effort **waging a rear-guard action against congressional critics** of the war in Iraq.

When making their cost-benefit calculations, presidents surely consider these wider political costs of congressional opposition to their military policies. If **congressional opposition in the military arena stands to** derail other elements of his agenda, all else being equal, the president will be more likely to judge the benefits of military action insufficient to its costs than if Congress stood behind him in the international arena

#### That destroys Obama’s push—it’s critical to lock-up a House vote

Bill Scher, The Week, 10/18/13, How to make John Boehner cave on immigration, theweek.com/article/index/251361/how-to-make-john-boehner-cave-on-immigration

Speaker John Boehner (R-Ohio) generally adheres to the unwritten Republican rule that bars him from allowing votes on bills opposed by a majority of Republicans, even if they would win a majority of the full House.

But he's caved four times this year, allowing big bills to pass with mainly Democratic support. They include repealing the Bush tax cuts for the wealthiest Americans; providing Hurricane Sandy relief; expanding the Violence Against Women act to better cover immigrants, Native Americans, and LGBT survivors of abuse; and this week's bill raising the debt limit and reopening the federal government.

Many presume the Republican House is a black hole sucking President Obama's second-term agenda into oblivion. But the list of Boehner's past retreats offers a glimmer of hope, especially to advocates of immigration reform. Though it has languished in the House, an immigration overhaul passed with bipartisan support in the Senate, and was given a fresh push by Obama in the aftermath of the debt limit deal.

The big mystery that immigration advocates need to figure out: What makes Boehner cave? Is there a common thread? Is there a sequence of buttons you can push that forces Boehner to relent?

Two of this year's caves happened when Boehner was backed up against hard deadlines: The Jan. 1 fiscal cliff and the Oct. 17 debt limit. Failure to concede meant immediate disaster. Reject the bipartisan compromise on rolling back the Bush tax cuts, get blamed for jacking up taxes on every taxpayer. Reject the Senate's three-month suspension of the debt limit, get blamed for sparking a global depression. Boehner held out until the absolute last minute both times, but he was not willing to risk blowing the deadline.

A third involved the response to an emergency: Hurricane Sandy. Conservative groups were determined to block disaster relief because — as with other federal disaster responses — the $51 billion legislative aid package did not include offsetting spending cuts. Lacking Republican votes, Boehner briefly withdrew the bill from consideration, unleashing fury from New York and New Jersey Republicans, including Gov. Chris Christie. While there wasn't a hard deadline to meet, disaster relief was a time-sensitive matter, and the pressure from Christie and his allies was unrelenting. Two weeks after pulling the bill, Boehner put it on the floor, allowing it to pass over the objections of 179 Republicans.

The fourth cave occurred in order to further reform and expand a government program: The Violence Against Women Act. The prior version of the law had been expired for over a year, as conservatives in the House resisted the Senate bill in the run-up to the 2012 election. But after Mitt Romney suffered an 18-point gender gap in his loss to Obama, and after the new Senate passed its version again with a strong bipartisan vote, Boehner was unwilling to resist any longer. Two weeks later, the House passed the Senate bill with 138 Republicans opposed.

Unfortunately for immigration advocates, there is no prospect of widespread pain if reform isn't passed. There is no immediate emergency, nor threat of economic collapse.

But there is a deadline of sorts: The 2014 midterm elections.

If we've learned anything about Boehner this month, it's that he's a party man to the bone. He dragged out the shutdown and debt limit drama for weeks, without gaining a single concession, simply so his most unruly and revolutionary-minded members would believe he fought the good fight and stay in the Republican family. What he won is party unity, at least for the time being.

What Boehner lost for his Republicans is national respectability. Republican Party approval hit a record low in both the most recent NBC/Wall Street Journal poll and Gallup poll.

Here's where immigration advocates have a window of opportunity to appeal to Boehner's party pragmatism. Their pitch: The best way to put this disaster behind them is for Republicans to score a big political victory. You need this.

A year after the Republican brand was so bloodied that the Republican National Committee had to commission a formal "autopsy," party approval is the worst it has ever been. You've wasted a year. Now is the time to do something that some voters will actually like.

There's reason to hope he could be swayed. In each of the four cases in which he allowed Democrats to carry the day, he put the short-term political needs of the Republican Party over the ideological demands of right-wing activists.

Boehner will have to do another round of kabuki. He can't simply swallow the Senate bill in a day. There will have to be a House version that falls short of activists' expectations, followed by tense House-Senate negotiations. Probably like in the most formulaic of movies, and like the fiscal cliff and debt limit deals, there will have to be an "all-is-lost moment" right before we get to the glorious ending. Boehner will need to given the room to do all this again.

But he won't do it without a push. A real good push.

#### Immigration reform necessary to sustain the economy and competitiveness

Javier Palomarez, Forbes, 3/6/13, The Pent Up Entrepreneurship That Immigration Reform Would Unleash, www.forbes.com/sites/realspin/2013/03/06/the-pent-up-entrepreneurship-that-immigration-reform-would-unleash/print/

The main difference between now and 2007 is that today the role of immigrants and their many contributions to the American economy have been central in the country’s national conversation on the issue. Never before have Latinos been so central to the election of a U.S. President as in 2012. New evidence about the economic importance of immigration reform, coupled with the new political realities presented by the election, have given reform a higher likelihood of passing. As the President & CEO of the country’s largest Hispanic business association, the U.S. Hispanic Chamber of Commerce (USHCC), which advocates for the interests of over 3 million Hispanic owned businesses, I have noticed that nearly every meeting I hold with corporate leaders now involves a discussion of how and when immigration reform will pass. The USHCC has long seen comprehensive immigration reform as an economic imperative, and now the wider business community seems to be sharing our approach. It is no longer a question of whether it will pass. Out of countless conversations with business leaders in virtually every sector and every state, a consensus has emerged: our broken and outdated immigration system hinders our economy’s growth and puts America’s global leadership in jeopardy. Innovation drives the American economy, and without good ideas and skilled workers, our country won’t be able to transform industries or to lead world markets as effectively as it has done for decades. Consider some figures: Immigrant-owned firms generate an estimated $775 billion in annual revenue, $125 billion in payroll and about $100 billion in income. A study conducted by the New American Economy found that over 40 percent of Fortune 500 companies were started by immigrants or children of immigrants. Leading brands, like Google, Kohls, eBay, Pfizer, and AT&T, were founded by immigrants. Researchers at the Kauffman Foundation released a study late last year showing that from 2006 to 2012, one in four engineering and technology companies started in the U.S. had at least one foreign-born founder — in Silicon Valley it was almost half of new companies. There are an estimated 11 million undocumented workers currently in the U.S. Imagine what small business growth in the U.S. would look like if they were provided legal status, if they had an opportunity for citizenship. Without fear of deportation or prosecution, imagine the pent up entrepreneurship that could be unleashed. After all, these are people who are clearly entrepreneurial in spirit to have come here and risk all in the first place. Immigrants are twice as likely to start businesses as native-born Americans, and statistics show that most job growth comes from small businesses. While immigrants are both critically-important consumers and producers, they boost the economic well-being of native-born Americans as well. Scholars at the Brookings Institution recently described the relationship of these two groups of workers as complementary. This is because lower-skilled immigrants largely take farming and other manual, low-paid jobs that native-born workers don’t usually want. For example, when Alabama passed HB 56, an immigration law in 2012 aimed at forcing self-deportation, the state lost roughly $11 billion in economic productivity as crops were left to wither and jobs were lost. Immigration reform would also address another important angle in the debate – the need to entice high-skilled immigrants. Higher-skilled immigrants provide talent that high-tech companies often cannot locate domestically. High-tech leaders recently organized a nationwide “virtual march for immigration reform” to pressure policymakers to remove barriers that prevent them from recruiting the workers they need. Finally, and perhaps most importantly, fixing immigration makes sound fiscal sense. Economist Raul Hinojosa-Ojeda calculated in 2010 that comprehensive immigration reform would add $1.5 trillion to the country’s GDP over 10 years and add $66 billion in tax revenue – enough to fully fund the Small Business Administration and the Departments of the Treasury and Commerce for over two years. As Congress continues to wring its hands and debate the issue, lawmakers must understand what both businesses and workers already know: The American economy needs comprehensive immigration reform.

**Extinction**

**Auslin 9**

(Michael, Resident Scholar – American Enterprise Institute, and Desmond Lachman – Resident Fellow – American Enterprise Institute, “The Global Economy Unravels”, Forbes, 3-6, http://www.aei.org/article/100187)

What do these trends mean in the short and medium term? The Great Depression showed how social and **global chaos** followed hard on economic collapse. The mere fact that parliaments across the globe, from America to Japan, are unable to make responsible, economically sound recovery plans suggests that they do not know what to do and are simply hoping for the least disruption. Equally worrisome is the adoption of more statist economic programs around the globe, and the concurrent decline of trust in free-market systems. The threat of instability is a pressing concern. China, until last year the world's fastest growing economy, just reported that 20 million migrant laborers lost their jobs. Even in the flush times of recent years, China faced upward of 70,000 labor uprisings a year. A sustained downturn poses grave and possibly immediate threats to Chinese internal stability. The regime in Beijing may be faced with a choice of repressing its own people or diverting their energies outward, leading to conflict with China's neighbors. Russia, an oil state completely dependent on energy sales, has had to put down riots in its Far East as well as in downtown Moscow. Vladimir Putin's rule has been predicated on squeezing civil liberties while providing economic largesse. If that devil's bargain falls apart, then wide-scale repression inside Russia, along with a continuing threatening posture toward Russia's neighbors, is likely. Even apparently stable societies face increasing risk and the threat of internal or possibly external conflict. As Japan's exports have plummeted by nearly 50%, one-third of the country's prefectures have passed emergency economic stabilization plans. Hundreds of thousands of temporary employees hired during the first part of this decade are being laid off. Spain's unemployment rate is expected to climb to nearly 20% by the end of 2010; Spanish unions are already protesting the lack of jobs, and the specter of violence, as occurred in the 1980s, is haunting the country. Meanwhile, in Greece, workers have already taken to the streets. Europe as a whole will face dangerously increasing tensions between native citizens and immigrants, largely from poorer Muslim nations, who have increased the labor pool in the past several decades. Spain has absorbed five million immigrants since 1999, while nearly 9% of Germany's residents have foreign citizenship, including almost 2 million Turks. The xenophobic labor strikes in the U.K. do not bode well for the rest of Europe. A prolonged global downturn, let alone a collapse, would **dramatically raise tensions** inside these countries. Couple that with possible protectionist legislation in the United States, unresolved ethnic and territorial disputes in **all regions of the globe** and a loss of confidence that world leaders actually know what they are doing. The result may be a series of small explosions that coalesce **into a big bang**.

### 4

Iran deal now—signal of presidential resolve is key—the impact is nuclear war

Rothkopf 11/12/13

David, Visiting Scholar, Carnegie Endowment, “This Deal Won’t Seal Itself,” http://carnegieendowment.org/2013/11/12/this-deal-won-t-seal-itself/gtpi

Rest assured however, there are several reasons this apparent screwup will not result in a major investigation as to what "went wrong." The most important of these reasons is that Secretary Kerry and his colleagues in the Obama White House were on some level **relieved** to have the clock stopped on the negotiations. One senior administration official acknowledged that late last week as it became clear that growing political opposition to the pending deal both domestically and from allies overseas demanded attention unless it produced a backlash that could have scuttled the agreement. In this official's words, "we were saved by the bell" as the parties agreed to delay further talks until Nov. 20. There are, of course, other reasons why this apparent breakdown between the United States and the ally with whom we have been working very closely on the P5+1 negotiating process for years, will not be overly scrutinized. One is that while in Abu Dhabi yesterday, Secretary Kerry asserted that it was not the French who undid the talks but the Iranians. He explained there was general agreement on terms but Iranian Foreign Minister Mohammad Javad Zarif and his team "couldn't take it at that particular moment, they weren't able to accept that particular thing." Zarif for his part took to Twitter to suggest that "half of the U.S. draft" was "gutted" on Thursday night and not by Iran. He accused Kerry of spinning the breakdown and warned such diplomatic maneuvering could "further erode confidence." In addition to the U.S.-Iranian "he said-he said" debate, there is also the whispered belief among some -- in both the Middle East and in Washington, acknowledged by at least one person with whom I spoke inside the administration -- that the last minute changes in language and the subsequent "rift" between the United States and France was too politically convenient. Both Paris and Washington were starting to feel the heat from allies like Saudi Arabia and Israel, and though France feared an economic squeeze on the big deals it has pending with the Saudis, the Americans could see organized opposition forming on Capitol Hill. The concern was that this opposition would not only result **in the rejection of any deal reached with Iran but** may even **compromise** a new push for **tougher sanctions** even as the administration was negotiating dialing them back. Such a rejection to the initiative would be absolutely **devastating to the president,** creating echoes of his failed effort to get Congressional support for his proposed very limited intervention in Syria to degrade their chemical weapons stores. In other words, it doesn't really matter who threw the monkey wrench. There was work to be done on this deal both in terms of strengthening its terms but also in garnering the necessary support before signatures were actually set to paper. Even given the Geneva agreement's goal of producing a temporary freeze in Iran's nuclear program while a more permanent deal could be struck, legitimate questions linger over whether the near-term deal could achieve that goal if it did not effectively freeze enrichment efforts and shut down work at an Iranian reactor capable of producing plutonium. Further, the Obama team still **has a great deal of work to do** -- some of which is being done this week by Secretary Kerry and Under Secretary of State Wendy Sherman as they meet with allies in the Middle East -- building support for the deal. This will be tough to do on Capitol Hill and in Saudi Arabia given that at, the moment, both environments seethe with distrust for President Obama. No, even the Iranians should be happy with the delay... and not just for the cynical reason that any delay buys them the time they want and need to advance their nuclear weapons program. They also very much want sanctions relief, and to get it, they **need** the deal to win support from the U.S. Congress. Given the efforts of multiple forces to block the deal, this will mean the Obama administration and the president himself will **have to** systematically **engage opponents** in a way they seldom do on anything. Winning support on Capitol Hill and with the American people for such a deal is potentially the president's next big domestic political test. Failure on this after the failure to win support for his Syria efforts, the blowback from the NSA scandal, and his unsteady and confusing Egypt policies would be a big setback for the president during his second term, a period in which chief executives often turn to foreign policy to shape their legacies. Of central concern to those domestic and international skeptics and opponents of any kind of rapprochement with Iran will be how the administration will ensure any deal is being adhered to and whether they have the resolve to punish Iran for any missteps or misrepresentations. If the President and his team can make a compelling case that they do, and then such a deal is certainly a risk worth taking. However, if the deal is seen as a dodge, as a way to avoid testing the president's resolve to do whatever is necessary to stop Iran from developing nuclear weapons, or even as a way to simply punt the hard questions associated with Iranian nukes to the next Oval Office occupant, then few will or should support what would amount to simply papering over one of the Middle East's great problems. In short, the most critical component of this deal is not the words drafted by diplomats but what lies in the heart of the Iranians and the president of the United States. If Iran reverses past patterns and actually complies, the deal could be part of a game-changing **reduction of tension** that **all in the region should welcome**. But because that is a change without precedent and one that goes against the grain of decades' worth of Iranian behavior, as well as the character and commitment of the president of the United States, it is even more important to its success. If the Iranians believe President Obama is resolved to enforce it swiftly and decisively, it may work. If they think he will be reluctant to take tough enforcement measures, if they think he can be played -- either because he wants the legacy of an apparently successful deal or because he simply is loath to run the risk of costly, dangerous military action against Iran -- **then history suggests they will play him** (much as past U.S. leaders have been played in other such "deals" as was the case with North Korea). One more caveat however, has gotten too little attention during the recent debate about these negotiations. Even if an agreement is ultimately successfully structured, implemented, and enforced, solving the Iranian nuclear problem does not resolve the Iran problem for the entire region or for the United States and its allies. But it would be a great step forward. That is not to be minimized. No one should **want a nuclear arms race** **in the Middle East** or allow for such a volatile region (or the world) to be poised on the precipice of the catastrophe of nuclear war or nuclear terrorism. Though Iran has, to date, never been a nuclear power, it has caused plenty of problems nonetheless. It remains the world's leading state sponsor of terror. It seeks to be a regional hegemon with clients at work at its behest in Iraq, Syria, Lebanon, and Gaza. It can **cause havoc in global oil markets** **via** the use of conventional weapons or even just **sabre-rattling** that might jeopardize shipping routes. No proposed deal addresses these threats or those that may emerge elsewhere (as in Western Afghanistan, for example).

### 5

The affirmative re-inscribes the primacy of liberal legalism as a method of restraint—that paradoxically collapses resistance to Executive excesses.

**Margulies ‘11**

Joseph, Joseph Margulies is a Clinical Professor, Northwestern University School of Law. He was counsel of record for the petitioners in Rasul v. Bush and Munaf v. Geren. He now is counsel of record for Abu Zubaydah, for whose torture (termed harsh interrogation by some) Bush Administration officials John Yoo and Jay Bybee wrote authorizing legal opinions. Earlier versions of this paper were presented at workshops at the American Bar Foundation and the 2010 Law and Society Association Conference in Chicago., Hope Metcalf is a Lecturer, Yale Law School. Metcalf is co-counsel for the plaintiffs/petitioners in Padilla v. Rumsfeld, Padilla v. Yoo, Jeppesen v. Mohammed, and Maqaleh v. Obama. She has written numerous amicus briefs in support of petitioners in suits against the government arising out of counterterrorism policies, including in Munaf v. Geren and Boumediene v. Bush., “Terrorizing Academia,” http://www.swlaw.edu/pdfs/jle/jle603jmarguilies.pdf

In an observation more often repeated than defended, we are told that the attacks of September 11 “changed everything.” Whatever merit there is in this notion, it is certainly true that 9/11—and in particular the legal response set in motion by the administration of President George W. Bush—left its mark on the academy. Nine years after 9/11, it is time to step back and assess these developments and to offer thoughts on their meaning. In Part II of this essay, we analyze the post-9/11 scholarship produced by this “emergency” framing. We argue that legal scholars writing in the aftermath of 9/11 generally fell into one of three groups: unilateralists, interventionists, and proceduralists. Unilateralists argued in favor of tilting the allocation of government power toward the executive because the state’s interest in survival is superior to any individual liberty interest, and because the executive is best able to understand and address threats to the state. Interventionists, by contrast, argued in favor of restraining the executive (principally through the judiciary) precisely to prevent the erosion of civil liberties. Proceduralists took a middle road, informed by what they perceived as a central lesson of American history.1 Because at least some overreaction by the state is an inevitable feature of a national crisis, the most one can reasonably hope for is to build in structural and procedural protections to preserve the essential U.S. constitutional framework, and, perhaps, to minimize the damage done to American legal and moral traditions. Despite profound differences between and within these groups, legal scholars in all three camps (as well as litigants and clinicians, including the authors) shared a common perspective—viz., that repressive legal policies adopted by wartime governments are temporary departures from hypothesized peacetime norms. In this narrative, metaphors of bewilderment, wandering, and confusion predominate. The country “loses its bearings” and “goes astray.” Bad things happen until at last the nation “finds itself” or “comes to its senses,” recovers its “values,” and fixes the problem. Internment ends, habeas is restored, prisoners are pardoned, repression passes. In a show of regret, we change direction, “get back on course,” and vow it will never happen again. Until the next time, when it does. This view, popularized in treatments like All the Laws but One, by the late Chief Justice Rehnquist,2 or the more thoughtful and thorough discussion in Perilous Times by Chicago’s Geoffrey Stone,3 quickly became the dominant narrative in American society and the legal academy. **This narrative also figured heavily in the many challenges to Bush-era policies,** including by the authors. The narrative permitted litigators and legal scholars to draw upon what elsewhere has been referred to as America’s “civic religion”4 and to cast the courts in the role of hero-judges5 **whom we hoped would restore legal order.**6 But by framing the Bush Administration’s response as the latest in a series of regrettable but temporary deviations from a hypothesized liberal norm, the legal academy ignored the more persistent, and decidedly illiberal, authoritarian tendency in American thought to demonize communal “others” during moments of perceived threat. Viewed in this light, what the dominant narrative identified as a brief departure caused by a military crisis is more accurately seen as part of a recurring process of intense stigmatization tied to periods of social upheaval, of which war and its accompanying repressions are simply representative (and particularly acute) illustrations. It is worth recalling, for instance, that the heyday of the Ku Klux Klan in this country, when the organization could claim upwards of 3 million members, was the early-1920s, and that the period of greatest Klan expansion began in the summer of 1920, almost immediately after the nation had “recovered” from the Red Scare of 1919–20.7 Klan activity during this period, unlike its earlier and later iterations, focused mainly on the scourge of the immigrant Jew and Catholic, and flowed effortlessly from the anti-alien, anti-radical hysteria of the Red Scare. Yet this period is almost entirely unaccounted for in the dominant post-9/11 narrative of deviation and redemption, which in most versions glides seamlessly from the madness of the Red Scare to the internment of the Japanese during World War II.8 And because we were studying the elephant with the wrong end of the telescope, we came to a flawed understanding of the beast. In Part IV, we argue that the interventionists and unilateralists came to an incomplete understanding by focusing almost exclusively on what Stuart Scheingold called “the myth of rights”—the belief that if we can identify, elaborate, and secure judicial recognition of the legal “right,” **political structures and policies will adapt their behavior to the requirements of the law** and change will follow more or less automatically.9 Scholars struggled to define the relationship between law and security primarily through exploration of structural10 and procedural questions, and, to a lesser extent, to substantive rights. And they examined the almost limitless number of subsidiary questions clustered within these issues. Questions about the right to habeas review, for instance, generated a great deal of scholarship about the handful of World War II-era cases that the Bush Administration relied upon, including most prominently Johnson v. Eisentrager and Ex Parte Quirin. 11 Regardless of political viewpoint, a common notion among most unilateralist and interventionist scholars was that when law legitimized or delegitimized a particular policy, **this would have a direct and observable effect on actual behavior**. The premise of this scholarship, in other words, was that policies “struck down” by the courts, or credibly condemned as lawless by the academy, would inevitably be changed—and that this should be the focus of reform efforts. Even when disagreement existed about the substance of rights or even which branch should decide their parameters, it reflected shared acceptance of the primacy of law, often to the exclusion of underlying social or political dynamics. Eric Posner and Adrian Vermeule, for instance, may have thought, unlike the great majority of their colleagues, that the torture memo was “standard fare.”12 But their position nonetheless accepted the notion that if the prisoners had a legal right to be treated otherwise, then the torture memo authorized illegal behavior and must be given no effect.13 Recent developments, however, cast doubt on two grounding ideas of interventionist and unilateralist scholarship—viz., that post-9/11 policies were best explained as responses to a national crisis (and therefore limited in time and scope), and that the problem was essentially legal (and therefore responsive to condemnation by the judiciary and legal academy). One might have reasonably predicted that in the wake of a string of Supreme Court decisions limiting executive power, apparently widespread and bipartisan support for the closure of Guantánamo during the 2008 presidential campaign, and the election of President Barack Obama, which itself heralded a series of executive orders that attempted to dismantle many Bush-era policies, the nation would be “returning” to a period of respect for individual rights and the rule of law. Yet the period following Obama’s election has been marked by an increasingly retributive and venomous narrative surrounding Islam and national security. **Precisely when the dominant narrative would have predicted change** and redemption, we have seen retreat and retrenchment. This conundrum is not adequately addressed by dominant strands of post-9/11 legal scholarship. In retrospect, it is surprising that much post-9/11 scholarship appears to have set aside critical lessons from previous decades as to the relationship among law, society and politics.14 Many scholars have long argued in other contexts that rights—or at least the experience of rights—are subject to political and social constraints, particularly for groups subject to historic marginalization. Rather than self-executing, rights are better viewed as contingent political resources, capable of mobilizing public sentiment and generating social expectations.15 From that view, a victory in Rasul or Boumediene no more guaranteed that prisoners at Guantánamo would enjoy the right to habeas corpus than a victory in Brown v. Board16 guaranteed that schools in the South would be desegregated.17 Rasul and Boumediene, therefore, should be seen as part (and probably only a small part) of a varied and complex collection of events, including the fiasco in Iraq, the scandal at the Abu Ghraib prison, and the use of warrantless wiretaps, as well as seemingly unrelated episodes like the official response to Hurricane Katrina. These and other events during the Bush years merged to give rise to a powerful social narrative critiquing an administration committed to lawlessness, content with incompetence, and engaged in behavior that was contrary to perceived “American values.”18 Yet the very success of this narrative, culminating in the election of Barack Obama in 2008, produced quiescence on the Left, even as it stimulated massive opposition on the Right. The result has been the emergence of a counter-narrative about national security that has produced a vigorous social backlash such that most of the Bush-era policies will continue largely unchanged, at least for the foreseeable future.19 Just as we see a widening gap between judicial recognition of rights in the abstract and the observation of those rights as a matter of fact, there appears to be an emerging dominance of proceduralist approaches, which take as a given that rights dissolve under political pressure, and, thus, are best protected by basic procedural measures. But that stance falls short in its seeming readiness to trade away rights in the face of political tension. First, it accepts the tropes du jour surrounding radical Islam—namely, that it is a unique, and uniquely apocalyptic, threat to U.S. security. In this, proceduralists do not pay adequate heed to the lessons of American history and sociology. And second, it endorses too easily the idea that procedural and structural protections will protect against substantive injustice in the face of popular and/or political demands for an outcome-determinative system that cannot tolerate acquittals. Procedures only provide protection, however, if there is sufficient political support for the underlying right. Since the premise of the proceduralist scholarship is that such support does not exist, it is folly to expect the political branches to create meaningful and robust protections. In short, a witch hunt does not become less a mockery of justice when the accused is given the right to confront witnesses. And a separate system (especially when designed for demonized “others,” such as Muslims) cannot, by definition, be equal. In the end, we urge a fuller embrace of what Scheingold called “the politics of rights,” which recognizes the contingent character of rights in American society. We agree with Mari Matsuda, who observed more than two decades ago that rights are a necessary but not sufficient resource for marginalized people with little political capital.20 To be effective, therefore, we must look beyond the courts and grapple with the hard work of long-term change with, through and, perhaps, in spite of law. These are by no means new dilemmas, but the post-9/11 context raises difficult and perplexing questions that deserve study and careful thought as our nation settles into what appears to be a permanent emergency.

Only the CP solves – the plan leads to workarounds that are net worse

Alston, professor – NYU Law, ‘11

(Philip, 2 Harv. Nat'l Sec. J. 283)

Despite the existence of a multiplicity of techniques by which the CIA might be held to account at the domestic level, the foregoing survey demonstrates that there is no evidence to conclude that any of them has functioned effective-ly in relation to the expanding practices involving targeted killings. The CIA Inspector General's Office has been unable to exact accountability and proposals to expand or strengthen his role run counter to almost all official actions taken in relation to his work. The President's Intelligence Oversight Board and the President's Foreign Intelligence Advisory Board are lauded by some for their potential, but there is no indication that they scrutinize activities such as targeted killings policy or practice, and many indications that they view their role as being to support rather than monitor the intelligence community. The Privacy and Civil Liberties Oversight Board remains dormant. Congressional oversight has been seriously deficient and far from manifesting an appetite to scrutinize the CIA's targeted killings policies, a range of senior members of congress are on record as favoring a hands-off policy. And a combination of the political question doctrine, the state secrets privilege, and a reluctance to prosecute, ensure that the courts have indeed allowed the CIA to fall into a convenient legal **grey hole**. Finally, civil society has been largely stymied by the executive and the courts in their efforts to make effective use of freedom of information laws. All that remains is the media, and most of what they obtain through leaks come from government sources that are deliberately "spinning" the story in their own favor. Simi-lar conclusions have been reached in closely related contexts. Thus, for example, Kitrosser's survey of official responses to the warrantless wiretapping initiated after 9/11 led her to conclude that it was a shell [\*406] game, involving "an indefinite bi-partisan, cross-administration, cross-institutional pattern of accountability-avoidance." n450 In brief, at least in relation to targeted killings, the CIA enjoys almost complete impunity and is not subject to any form of meaningful internal or external accountability. Whether from the perspective of democratic theory or of interna-tional accountability for violations of the right to life, this is deeply problematic. One solution to this that has been sug-gested by some commentators is to follow the precedent set by Israel in its efforts to ensure legal oversight of its target killings programs. We turn now to examine the feasibility and desirability of pursuing such an option.

### 6

The executive branch should stop targeted killing and make the decision to do so public.

Self-restraint is durable and sends a credible signal

Eric Posner, The University of Chicago Law School Professor, and Adrian Vermeule, Harvard Law School Professor of Law, 2007, The Credible Executive, 74 U. Chi. L. Rev. 865

The Madisonian system of oversight has not totally failed. Sometimes legislators overcome the temptation to free ride; sometimes they invest in protecting the separation of powers or legislative prerogatives. Sometimes judges review exercises of executive discretion, even during emergencies. But often enough, legislators and judges have no real alternative to letting executive officials exercise discretion unchecked. The Madisonian system is a partial failure; compensating mechanisms must be adopted to fill the area of slack, the institutional gap between executive discretion and the oversight capacities of other institutions. Again, the magnitude of this gap is unclear, but plausibly it is quite large; we will assume that it is.

It is often assumed that this partial failure of the Madisonian system unshackles and therefore benefits ill-motivated executives. This is grievously incomplete. The failure of the Madisonian system harms the well-motivated executive as much as it benefits the ill-motivated one. Where Madisonian oversight fails, the well-motivated executive is a victim of his own power. Voters, legislators, and judges will be wary of granting further discretion to an executive whose motivations are uncertain and possibly nefarious. The partial failure of Madisonian oversight thus threatens a form of inefficiency, a kind of contracting failure that makes potentially everyone, including the voters, worse off.

Our central question, then, is what the well-motivated executive can do to solve or at least ameliorate the problem. The solution is for the executive to complement his (well-motivated) first-order policy goals with second-order mechanisms for demonstrating credibility to other actors. We thus do not address the different question of what voters, legislators, judges, and other actors should do about an executive who is ill motivated and known to be so. That project involves shoring up or replacing the Madisonian system to block executive dictatorship. Our project is the converse of this, and involves finding new mechanisms to help the well-motivated executive credibly distinguish himself as such.

IV. Executive Signaling: Law and Mechanisms

We suggest that the executive's credibility problem can be solved by second-order mechanisms of executive signaling. In the general case, well-motivated executives send credible signals by taking actions that are more costly for ill-motivated actors than for well-motivated ones, thus distinguishing themselves from their ill-motivated mimics. Among the specific mechanisms we discuss, an important subset involves executive self-binding, whereby executives commit themselves to a course of action that would impose higher costs on ill-motivated actors. Commitments themselves have value as signals of benign motivations.

This departs from the usual approach in legal scholarship. Legal theory has often discussed self-binding by "government" or government officials. In constitutional theory, it is often suggested that constitutions represent an attempt by "the people" to bind "themselves" against their own future decisionmaking pathologies, or relatedly, that constitutional prohibitions represent mechanisms by which governments commit themselves not to expropriate investments or to exploit their populations. n72 Whether or not this picture is coherent, n73 it is not the question we examine here, although some of the relevant considerations are similar. n74 We are not concerned with binding the president so that he cannot abuse his powers, but with how he might bind himself or take other actions that enhance his credibility, so that he can generate support from the public and other members of the government. [\*895]

Furthermore, our question is subconstitutional: it is whether a well-motivated executive, acting within an established set of constitutional and statutory rules, can use signaling mechanisms to generate public trust. Accordingly, we proceed by assuming that no constitutional amendments or new statutes will be enacted. Within these constraints, what can a well-motivated executive do to bootstrap himself to credibility? The problem for the well-motivated executive is to credibly signal his benign motivations. In general, the solution is to engage in actions that are less costly for good types than for bad types.

We begin with some relevant law, then examine a set of possible mechanisms -emphasizing both the conditions under which they might succeed and the conditions under which they might not -and conclude by examining the costs of credibility.

A. A Preliminary Note on Law and Self-Binding

Many of our mechanisms are unproblematic from a legal perspective, as they involve presidential actions that are clearly lawful. But a few raise legal questions; in particular, those that involve self-binding. n75 Can a president bind himself to respect particular first-order policies? With qualifications, the answer is yes, at least to the same extent that a legislature can. Formally, a duly promulgated executive rule or order binds even the executive unless and until it is validly abrogated, thereby establishing a new legal status quo. n76 The legal authority to establish a new status quo allows a president to create inertia or political constraints that will affect his own future choices. In a practical sense, presidents, like legislatures, have great de facto power to adopt policies that shape the legal landscape for the future. A president might commit himself to a long-term project of defense procurement or infrastructure or foreign policy, narrowing his own future choices and generating new political coalitions that will act to defend the new rules or policies.

More schematically, we may speak of formal and informal means of self-binding:

1. The president might use formal means to bind himself. This is possible in the sense that an executive order, if otherwise valid, legally binds the president while it is in effect and may be enforced by the courts. It is not possible in the sense that the president can always repeal the executive order if he can bear the political and reputational costs of doing so.

2. The president might use informal means to bind himself. This is not only possible but frequent and important. Issuing an executive rule providing for the appointment of special prosecutors, as Nixon did, is not a formal self-binding. n77 However, there may be large political costs to repealing the order. This effect does not depend on the courts' willingness to enforce the order, even against Nixon himself. Court enforcement makes the order legally binding while it is in place, but only political and reputational enforcement can protect it from repeal. Just as a dessert addict might announce to his friends that he is going on a no-dessert diet in order to raise the reputational costs of backsliding and thus commit himself, so, too, the executive's issuance of a self-binding order can trigger reputational costs. In such cases, repeal of an executive order may be seen as a breach of faith even if no other institution ever enforces it.

### culture of narration

No spillover – no evidence saying that addressing the symptom of TK changes the underlying dynamics

Religion’s collapsing

Hamilton Nolan 12, writer for Gawker, The Inevitable Collapse of Organized Religion in America, 10/9, <http://gawker.com/5950175/the-inevitable-collapse-of-organized-religion-in-america>

Organized religion in America is on the decline. The Church—any church, all churches, the omniscient "Church" representing all organized religious institutions—holds less allure for a new generation of American adults. This is a fact, not a supposition. The Church, though far from gone, is an institution of the past. A new report from the Pew Research Center makes clear two things: 1) America is still an overwhelmingly religious country, and 2) America is becoming a less religious country. Key findings: "One-fifth of the U.S. public – and a third of adults under 30 – are religiously unaffiliated today, the highest percentages ever in Pew Research Center polling." Atheists and agnostics make up almost 6% of Americans. Another 14% claim no specific religious affiliation. The percentage of unaffiliated Americans has grown by almost a third in the past five years. Two thirds of unaffiliated Americans say they believe in god. But when asked, "Are you looking for a religion that's right for you?" 88% of them say "no." The younger an adult is, the less likely they are to claim a religious affiliation. Only 9% of those over 65 are unaffiliated, while 32% of those aged 18-29 are unaffiliated. A strong majority of unaffiliated Americans tend to vote Democratic, and they are twice as likely to call themselves liberals as they are to call themselves conservatives. What does it add up to? The simplest interpretation is that as time goes on, the ranks of organized religion will continue to shrink in America, rendering The Church less socially and politically powerful, and our society more liberal as a whole, relative to where it is today. Which is generally a description of the past 300 years of American history anyhow, so it should not come as a surprise. Eventually—in another two generations, perhaps—organized religion will wither down to a minority preference, a niche activity that boasts a rich historic tradition, but which is looked upon with mild embarrassment, like Civil War reenacting. What will replace it is anyone's guess. Aspiring gurus, get in on the ground floor.

**The impact of narratives on the law is a reason to vote for the best policy – pure narrative focus fails**

Orna **Ben-Naftali**, Head of the International Law Division and of the Law and Culture Division, The Law School, The College of Management Academic Studies, Spring 200**3**, ARTICLE: 'We Must Not Make a Scarecrow of the Law': A Legal Analysis of the Israeli Policy of Targeted Killings, 36 Cornell Int'l L.J. 233

Our analysis concludes that while a specific act of preemptive killing may be legal if it meets the above-specified requirements, the policy of state targeted preemptive killings is not. Furthermore, some specific acts of targeted killings may generate state responsibility, while others may constitute a war crime entailing criminal accountability. These conclusions, emanating from the reading of the three legal texts applicable to the context, and informed by a sensibility that coheres them, do not rest on a negation of the importance of the national interest in security. On the contrary, these conclusions incorporate and express the way it should be balanced with a minimum standard of humanity and against the relevant context.

This delicate, ever precarious balance is at the heart of the democratic discourse. A democratic state is not a meek state. True, it is fighting with "one hand tied behind its back,"n342 as soberly observed by Chief Justice Barak of the Israeli Supreme Court, but democratic sensibilities internalize this limitation on State power, not as a source of weakness but as a sign of strength. Democracies require a public discourse forever alert to the importance of human rights, suspicious of the way power is used, and committed to the rule of law. The legal culture, in turn, while not a substitute for this public discourse, is never absent from it and indeed serves as a catalyst for its development.

We therefore reject the notion that the policy of targeted killings, designed by Israel as a way to combat terrorist attacks, is beyond the purview of the rule of law.n343 We also deny the purist position suggesting that the legalistic nitty-gritty preoccupation with details entailed in the above discussion is likely to obscure and legitimize a harrowing policy; n344 one that, on principle, should be condemned. n345 This position in fact maintains that the legality or illegality of targeted state killings is not a legitimate issue of discussion; that while an emergency situation may exceptionally necessitate the deed, it should never be elevated to the sphere of the Word. n346 We appreciate the sensibility of this position, but, alas, do not find it sensible. Indeed, nor would the people who consider themselves victims of the policy of targeted killings, and appeal to the courts to intervene. n347 Purity belongs to the Platonic world of ideas; it is a necessary ideal to strive for, even if forever unachievable in this all too fallible City of Man. n348 In the best of all possible worlds law would be superfluous; in this world, it is a necessary, albeit insufficient means to achieve some possible betterment. This article hopes to contribute to this modest goal.

**The right fills in**

Orly **Lobel**, University of San Diego Assistant Professor of Law, 200**7**, The Paradox of Extralegal Activism: Critical Legal Consciousness and Transformative Politics,” 120 HARV. L. REV. 937, http://www.harvardlawreview.org/media/pdf/lobel.pdf

Both the practical failures and the fallacy of rigid boundaries generated by extralegal activism rhetoric permit us to broaden our inquiry to the underlying assumptions of current proposals regarding transformative politics — that is, attempts to produce meaningful changes in the political and socioeconomic landscapes. The suggested alternatives produce a new image of social and political action. This vision rejects a shared theory of social reform, rejects formal programmatic agendas, and embraces a multiplicity of forms and practices. Thus, it is described in such terms as a plan of no plan,211 “a project of projects,”212 “anti-theory theory,”213 politics rather than goals,214 presence rather than power,215 “practice over theory,”216 and chaos and openness over order and formality. As a result, the contemporary message rarely includes a comprehensive vision of common social claims, but rather engages in the description of fragmented efforts. As Professor Joel Handler argues, the commonality of struggle and social vision that existed during the civil rights movement has disappeared.217 There is no unifying discourse or set of values, but rather an aversion to any metanarrative and a resignation from theory. Professor Handler warns that this move away from grand narratives is self-defeating precisely because only certain parts of the political spectrum have accepted this new stance: “[T]he opposition is not playing that game . . . . [E]veryone else is operating as if there were Grand Narratives . . . .”218 Intertwined with the resignation from law and policy, the new bromide of “neither left nor right” has become axiomatic only for some.219 The contemporary critical legal consciousness informs the scholarship of those who are interested in progressive social activism, but less so that of those who are interested, for example, in a more competitive securities market. Indeed, an interesting recent development has been the rise of “conservative public interest lawyer[ing].”220 Although “public interest law” was originally associated exclusively with liberal projects, in the past three decades conservative advocacy groups have rapidly grown both in number and in their vigorous use of traditional legal strategies to promote their causes.221 This growth in conservative advocacy is particularly salient in juxtaposition to the decline of traditional progressive advocacy. Most recently, some thinkers have even suggested that there may be “something inherent in the left’s conception of social change — focused as it is on participation and empowerment — that produces a unique distrust of legal expertise.”222

Once again, this conclusion reveals flaws parallel to the original disenchantment with legal reform. Although the new extralegal frames present themselves as apt alternatives to legal reform models and as capable of producing significant changes to the social map, in practice they generate very limited improvement in existing social arrangements. Most strikingly, the cooptation effect here can be explained in terms of the most profound risk of the typology — that of legitimation. The common pattern of extralegal scholarship is to describe an inherent instability in dominant structures by pointing, for example, to grassroots strategies,223 and then to assume that specific instances of counterhegemonic activities translate into a more complete transformation. This celebration of multiple micro-resistances seems to rely on an aggregate approach — an idea that the multiplication of practices will evolve into something substantial. In fact, the myth of engagement obscures the actual lack of change being produced, while the broader pattern of equating extralegal activism with social reform produces a false belief in the potential of change. There are few instances of meaningful reordering of social and economic arrangements and macro-redistribution. Scholars write about decoding what is really happening, as though the scholarly narrative has the power to unpack more than the actual conventional experience will admit.224 Unrelated efforts become related and part of a whole through mere reframing. At the same time, the elephant in the room — the rising level of economic inequality — is left unaddressed and comes to be understood as natural and inevitable.225 This is precisely the problematic process that critical theorists decry as losers’ self-mystification, through which marginalized groups come to see systemic losses as the product of their own actions and thereby begin to focus on minor achievements as representing the boundaries of their willed reality.

The explorations of micro-instances of activism are often fundamentally performative, obscuring the distance between the descriptive and the prescriptive. The manifestations of extralegal activism — the law and organizing model; the proliferation of informal, soft norms and norm-generating actors; and the celebrated, separate nongovernmental sphere of action — all produce a fantasy that change can be brought about through small-scale, decentralized transformation. The emphasis is local, but the locality is described as a microcosm of the whole and the audience is national and global. In the context of the humanities, Professor Carol Greenhouse poses a comparable challenge to ethnographic studies from the 1990s, which utilized the genres of narrative and community studies, the latter including works on American cities and neighborhoods in trouble.226 The aspiration of these genres was that each individual story could translate into a “time of the nation” body of knowledge and motivation.227 In contemporary legal thought, a corresponding gap opens between the local scale and the larger, translocal one. In reality, although there has been a recent proliferation of associations and grassroots groups, few new local-statenational federations have emerged in the United States since the 1960s and 1970s, and many of the existing voluntary federations that flourished in the mid-twentieth century are in decline.228 There is, therefore, an absence of links between the local and the national, an absent intermediate public sphere, which has been termed “the missing middle” by Professor Theda Skocpol.229 New social movements have for the most part failed in sustaining coalitions or producing significant institutional change through grassroots activism. Professor Handler concludes that this failure is due in part to the ideas of contingency, pluralism, and localism that are so embedded in current activism.230 Is the focus on small-scale dynamics simply an evasion of the need to engage in broader substantive debate?

It is important for next-generation progressive legal scholars, while maintaining a critical legal consciousness, to recognize that not all extralegal associational life is transformative. We must differentiate, for example, between inward-looking groups, which tend to be self-regarding and depoliticized, and social movements that participate in political activities, engage the public debate, and aim to challenge and reform existing realities.231 We must differentiate between professional associations and more inclusive forms of institutions that act as trustees for larger segments of the community.232 As described above, extralegal activism tends to operate on a more divided and hence a smaller scale than earlier social movements, which had national reform agendas. Consequently, within critical discourse there is a need to recognize the limited capacity of small-scale action. We should question the narrative that imagines consciousness-raising as directly translating into action and action as directly translating into change. Certainly not every cultural description is political. Indeed, it is questionable whether forms of activism that are opposed to programmatic reconstruction of a social agenda should even be understood as social movements. In fact, when groups are situated in opposition to any form of institutionalized power, they may be simply mirroring what they are fighting against and merely producing moot activism that settles for what seems possible within the narrow space that is left in a rising convergence of ideologies. The original vision is consequently coopted, and contemporary discontent is legitimated through a process of self-mystification.

The term “Judeo-Christian” is anti-Jewish – it subjugates an entirely separate tradition under the umbrella of Christianity – turns their K

Yanover, writer for Israel Shelanu, 12/24/2012

(Yori, http://www.jewishpress.com/blogs/yoris-news-clips/theres-no-such-thing-as-judeo-christian-values/2012/12/24/)

Having conjured the notion of universal Christian principles out of whole cloth, Klinghoffer now moves on to **another product of the American imagination**: “Judeo-Christian values.” …Pretending to fight “theocracy,” secularists are in fact attempting a radical redirection of American life that seeks to silence the authentic Judeo-Christian heritage that has sustained America since the country’s inception.

Klinghoffer should read Arthur Allen Cohen’s The Myth of the Judeo-Christian Tradition (Harper & Row, 1969), which questions the appropriateness of the term, theologically and historically, suggesting instead that it is an invention of American politics.

Cohen thinks that there is simply no such thing as Judeo-Christian tradition. He points to the fact that the two religions have had separate theological agendas for the last two thousand years. Or, if Klinghoffer prefers a gentile’s opinion:

The label “Judeo-Christian” tends to assume, at the expense of Judaism, that Christians and Jews believe essentially the same things. Besides glossing over the very real and important theological and liturgical differences, it tends to subsume Jewish traditions within an umbrella that is dominated by Christian ideas and practices. (Religion and the Workplace: Pluralism, Spirituality, Leadership, by Douglas A. Hicks; Cambridge University Press, 2003)

Let’s be clear: Far from “sharing” one tradition, Orthodox Jews are prohibited from marrying Christians, setting foot inside a Christian church—and we can’t even drink from an open bottle of kosher wine that has been used by a Christian. We reject the Christian idea of salvation, we abhor Christian divine teachings on every subject, and we are repulsed and outraged by incessant attempts by Christian missionaries to bring us into their fold.

It is particularly disturbing when Klinghoffer makes statements which reveal his complete assumption of elements of New Testament Pauline ideology, for instance, the requirement that wives submit to their husband’s authority. There is no mandate on precisely how a woman should behave with her husband—Jews expect the happy couple to work it out for themselves. Also, while divorce may be a tragedy, and God cries, it is in no way banned—in Judaism, that is. The story in Christianity, and Klinghoffer’s “Judeo-Christian Biblical America,” is different. Incidentally, we have more in common with Muslims than we do with Christians; Jewish law permits Jews to enter a mosque… but not a church.

To insist that we have some kind of bond with religious Christians because of similar core values, is to propagate a terrible lie. Christians who base their views on what they call the Old Testament, don’t view Mosaic law as an abiding legal text. The Church has abolished Torah law as part of its attempt to abolish the very idea of Jewish nationhood.

Pauline anti-Judaism seems not to be through the left hand as an implication of his Christology; rather his teaching on the law appears to be a spear in his right hand aimed straight at the heart of Judaism, that is, Torah… [Paul] does not disagree with individual Jews but with Judaism itself, saying that Christianity has replaced it. By attacking the law as such, Paul appears to attack not abuses and personal failings but the essence of Israel. (Paul and the Torah, by Lloyd Gaston; University of British Columbia Press, 1987.)

Jews and Christians differ on every single fundamental principle—even on the meaning of core Scriptural texts. More crucially, Christians rely on the Old Testament for legal delineation; whereas Jews rely solely upon our rabbinic tradition. We never, ever turn to our Bible for legal guidance, only to our rabbinic literature. To suggest that our Sages had anything at all in common with the likes of Jerry Falwell, Jimmy Carter or Pat Robertson is a slap in the face of 2500 years of scholarship.

### book of judith

Their impact doesn’t escalate

Robert Hinde and Lea Pulkkinnen, Cambridge psychology professor and University of Jyväskylä psychology professor, 2K, DRAFT Background Paper for Working Group 1: HUMAN AGGRESSIVENESS AND WAR, 50th Pugwash Conference On Science and World Affairs: "Eliminating the Causes of War" Queens' College, Cambridge, http://www.pugwash.org/reports/pac/pac256/WG1draft1.htm

People are capable of perpetrating the most terrible acts of violence on their fellows. From before recorded history humans have killed humans, and violence is potentially present in every society. There is no escaping the fact that the capacity to develop a propensity for violence is part of human nature. But that does not mean that aggression is inevitable: temporary anger need not give rise to persistent hostility, and hostility need not give rise to acts of aggression. And people also have the capacity to care for the needs of others, and are capable of acts of great altruism and self-sacrifice. A subsidiary aim of this workshop is to identify the factors that make aggressive tendencies predominate over the cooperative and compassionate ones. Some degree of conflict of interest is often present in relationships between individuals, in the relations between groups of individuals within states, and in the relations between states: we are concerned with the factors that make such conflicts escalate into violence.

The answer to that question depends critically on the context. While there may be some factors in common, the bases of individual aggressiveness are very different from those involved in mob violence, and they differ yet again from the factors influencing the bomb-aimer pressing the button in a large scale international war. In considering whether acts which harm others are a consequence of the aggressive motivation of individuals, it is essential to recognise the diversity of such acts, which include interactions between individuals, violence between groups, and wars of the WW2 type. We shall see that, with increasing social complexity, individual aggressiveness becomes progressively less important, but other aspects of human nature come to contribute to group phenomena. Although research on human violence has focussed too often on the importance of one factor or another, it is essential to remember that violence always has multiple causes, and the interactions between the causal factors remain largely unexplored.

**Psychological motives can’t explain state behavior**

**Sharpe**, lecturer, philosophy and psychoanalytic studies, and Goucher, senior lecturer, literary and psychoanalytic studies – Deakin University, **‘10**

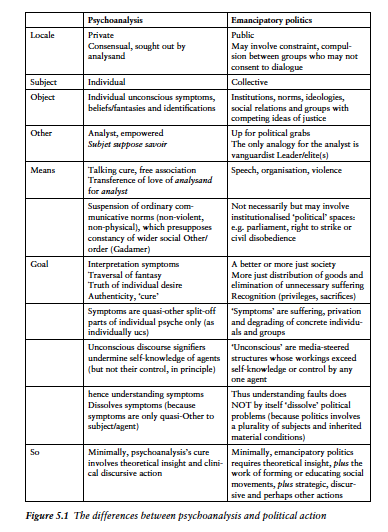
(Matthew and Geoff, Žižek and Politics: An Introduction, p. 182 – 185, Figure 1.5 included)

Can we bring some order to this host of criticisms? It is remarkable that, for all the criticisms of Žižek’s political Romanticism, no one has argued that the ultra- extremism of Žižek’s political position might reflect his untenable attempt to shape his model for political action on the curative final moment in clinical psychoanalysis. **The differences between these** two **realms**, listed in Figure 5.1, **are** nearly **too many and too great to restate** – which has perhaps caused the **theoretical oversight**. The key thing is this. Lacan’s notion of traversing the fantasy involves the radical transformation of people’s subjective structure: a refounding of their most elementary beliefs about themselves, the world, and sexual difference. This is undertaken in the security of the clinic, on the basis of the analysands’ voluntary desire to overcome their inhibitions, symptoms and anxieties.

As a clinical and existential process, it has its own independent importance and authenticity. The analysands, in transforming their subjective world, change the way they regard the objective, shared social reality outside the clinic. **But they do not transform the world.** The political relevance of the clinic can only be (a) as a supporting moment in ideology critique or (b) as a fully- fl edged model of politics, provided that the political subject and its social object are ultimately identical. Option (*b*), Žižek’s option, rests on the idea, not only of a subject who becomes who he is only through his (mis) recognition of the objective sociopolitical order, but whose ‘traversal of the fantasy’ is immediately identical with his transformation of the socio- political system or Other. Hence, according to Žižek, we can analyse the institutional embodiments of this Other using psychoanalytic categories. In Chapter 4, we saw Žižek’s resulting elision of the distinction between the (subjective) Ego Ideal and the (objective) Symbolic Order. This leads him to analyse our entire culture as a single subject–object, whose perverse (or perhaps even psychotic) structure is expressed in every manifestation of contemporary life. Žižek’s decisive political- theoretic errors, one substantive and the other methodological, are different (see Figure 5.1)

**The *substantive problem* is to equate any political change** worth the name **with** the **total change of the subject–object** that is, today, global capitalism. This is a type of change that can only mean equating politics with violent regime change, and ultimately embracing dictatorial government, as Žižek now frankly avows (*IDLC* 412–19). We have seen that the ultra- political form of Žižek’s criticism of everyone else, the theoretical Left and the wider politics, is that no one is sufficiently radical for him – even, we will discover, Chairman Mao. We now see that this is because Žižek’s model of politics proper is modelled on a pre- critical **analogy with** the total transformation of **a subject’s** entire **subjective structure, at the end of the talking cure.** For what could the concrete consequences of this governing analogy be?

We have seen that Žižek equates the individual fantasy with the collective identity of an entire people. The social fantasy, he says, structures the regime’s ‘inherent transgressions’: at once subjects’ habitual ways of living the letter of the law, and the regime’s myths of origin and of identity. If political action is modelled on the Lacanian cure, it must involve the complete ‘traversal’ – in Hegel’s terms, the abstract versus the determinate negation – of all these lived myths, practices and habits. Politics must involve the periodic founding of



entire new subject–objects. Providing the model for this set of ideas, the fi rst Žižekian political subject was Schelling’s divided God, who gave birth to the entire Symbolic Order before the beginning of time (*IDLC* 153; *OB* 144–8).

But can the political theorist reasonably hope or expect that subjects will simply give up on all their inherited ways, myths and beliefs, all **in one world- creating moment?** And can they be legitimately asked or expected to, on the basis of a set of ideals whose legitimacy they will only retrospectively see, after they have acceded to the Great Leap Forward? And if they do not – for Žižek laments that today subjects are politically disengaged in unprecedented ways – what means can the theorist and his allies use to move them to do so?

**Psychic explanations for violence are wrong**

Havi Carel 6, Senior Lecturer in Philosophy at the University of the West of England, “Life and Death in Freud and Heidegger”, googlebooks

Secondly, the constancy principle on which these ideas are based is incompatible with observational data. Once the passive model of the nervous system has been discarded, there was no need for external excitation in order for discharge to take place, and more generally, "**the behavioural picture seemed to negate the notion of drive, as a separate energizer of behaviour**" {Hcbb. 1982. p.35). According to Holt, the nervous system is not passive; it does not take in and conduct out energy from the environment, and it **shows no tendency to discharge its impulses**. 'The principle of constancy is quite without any biological basis" (1965, p. 109). He goes on to present the difficulties that arise from the pleasure principle as linked to a tension-reduction theory. The notion of tension is "conveniently ambiguous": it has phenomenological, physiological and abstract meaning. But empirical evidence against the theory of tension reduction has been "mounting steadily" and any further attempts to link pleasure with a reduction of physiological tension are "decisively refuted" (1965, pp. 1102). Additionally, the organism and the mental system are no longer considered closed systems. So the main arguments for the economic view collapse, as does the entropic argument for the death drive (1965, p. 114). A final, more general criticism of Freud's economic theory is sounded by Compton, who argues, "Freud fills in psychological discontinuities with neurological hypotheses" (1981, p. 195). The Nirvana principle is part and parcel of the economic view and the incomplete and erroneous assumptions about the nervous system (Hobson, 1988, p.277). It is an extension ad extremis of the pleasure principle, and as such is vulnerable to all the above criticisms. The overall contemporary view provides strong support for discarding the Nirvana principle and reconstructing the death drive as aggression.

**Liberal democracy is statistically more peaceful than any alternative**

**Zakaria**, Political Science – Harvard, editor – Newsweek, **‘97**

(Fareed, <http://www.fareedzakaria.com/ARTICLES/other/democracy.html>)

Lang's embarrassment highlights two common, and often mistaken, assumptions -- that the forces of democracy are the forces of ethnic harmony and of peace. Neither is necessarily true. Mature liberal democracies can usually accommodate ethnic divisions without violence or terror and live in peace with other liberal democracies. But without a background in constitutional liberalism, the introduction of democracy in divided societies has actually fomented nationalism, ethnic conflict, and even war. The spate of elections held immediately after the collapse of communism were won in the Soviet Union and Yugoslavia by nationalist separatists and resulted in the breakup of those countries. This was not in and of itself bad, since those countries had been bound together by force. But the rapid secessions, without guarantees, institutions, or political power for the many minorities living within the new countries, have caused spirals of rebellion, repression, and, in places like Bosnia, Azerbaijan, and Georgia, war. Elections require that politicians compete for peoples' votes. In societies without strong traditions of multiethnic groups or assimilation, it is easiest to organize support along racial, ethnic, or religious lines. Once an ethnic group is in power, it tends to exclude other ethnic groups. Compromise seems impossible; one can bargain on material issues like housing, hospitals, and handouts, but how does one split the difference on a national religion? Political competition that is so divisive can rapidly degenerate into violence. Opposition movements, armed rebellions, and coups in Africa have often been directed against ethnically based regimes, many of which came to power through elections. Surveying the breakdown of African and Asian democracies in the 1960s, two scholars concluded that democracy "is simply not viable in an environment of intense ethnic preferences." Recent studies, particularly of Africa and Central Asia, have confirmed this pessimism. A distinguished expert on ethnic conflict, Donald Horowitz, concluded, "In the face of this rather dismal account . . . of the concrete failures of democracy in divided societies . . . one is tempted to throw up one's hands. What is the point of holding elections if all they do in the end is to substitute a Bemba-dominated regime for a Nyanja regime in Zambia, the two equally narrow, or a southern regime for a northern one in Benin, neither incorporating the other half of the state?" Over the past decade, one of the most spirited debates among scholars of international relations concerns the "democratic peace" -- the assertion that no two modern democracies have gone to war with each other. The debate raises interesting substantive questions (does the American Civil War count? do nuclear weapons better explain the peace?) and even the statistical findings have raised interesting dissents. (As the scholar David Spiro points out, given the small number of both democracies and wars over the last two hundred years, sheer chance might explain the absence of war between democracies. No member of his family has ever won the lottery, yet few offer explanations for this impressive correlation.) But even if the statistics are correct, what explains them? Kant, the original proponent of the democratic peace, contended that in democracies, those who pay for wars -- that is, the public -- make the decisions, so they are understandably cautious. But that claim suggests that democracies are more pacific than other states. Actually they are more warlike, going to war more often and with greater intensity than most states. It is only with other democracies that the peace holds. When divining the cause behind this correlation, one thing becomes clear: the democratic peace is actually the liberal peace. Writing in the eighteenth century, Kant believed that democracies were tyrannical, and he specifically excluded them from his conception of "republican" governments, which lived in a zone of peace. Republicanism, for Kant, meant a separation of powers, checks and balances, the rule of law, protection of individual rights, and some level of representation in government (though nothing close to universal suffrage). Kant's other explanations for the "perpetual peace" between republics are **all** **closely linked** to their constitutional and liberal character: a mutual respect for the rights of each other's citizens, a system of checks and balances assuring that no single leader can drag his country into war, and classical liberal economic policies -- most importantly, free trade -- which create an interdependence that makes war costly and cooperation useful. Michael Doyle, th leading scholar on the subject, confirms in his 1997 book Ways of War and Peace that without constitutional liberalism, democracy itself has no peace-inducing qualities: Kant distrusted unfettered, democratic majoritarianism, and his argument offers no support for a claim that all participatory polities -- democracies -- should be peaceful, either in general or between fellow democracies. Many participatory polities have been non-liberal. For **two thousand years** before the modern age, popular rule was widely associated with aggressiveness (by Thucydides) or imperial success (by Machiavelli) . . . The **decisive preference** of [the] median voter might well include "ethnic cleansing" against other democratic polities. The distinction between liberal and illiberal democracies sheds light on another striking statistical correlation. Political scientists Jack Snyder and Edward Mansfield contend, using an **impressive data set**, that over the **last 200 years** democratizing states went to war **significantly more often** than either stable autocracies or liberal democracies. In countries not grounded in constitutional liberalism, the rise of democracy often brings with it **hyper-nationalism** and **war-mongering**. When the political system is opened up, diverse groups with incompatible interests gain access to power and press their demands. Political and military leaders, who are often embattled remnants of the old authoritarian order, realize that to succeed that they must rally the masses behind a national cause. The result is **invariably aggressive** rhetoric and **policies**, which often drag countries into **confrontation and war**. Noteworthy examples range from Napoleon III's France, Wilhelmine Germany, and Taisho Japan to those in today's newspapers, like Armenia and Azerbaijan and Milosevic's Serbia. The democratic peace, it turns out, has little to do with democracy.

**Quality of life is skyrocketing worldwide by all measures**

**Ridley**, visiting professor at Cold Spring Harbor Laboratory, former science editor of *The Economist*, and award-winning science writer, **2010**

(Matt, *The Rational Optimist*, pg. 13-15)

If my fictional family is not to your taste, perhaps you prefer statistics. Since 1800, the population of the world has multiplied six times, yet **average life expectancy has more than doubled and real income has risen more than nine times**. Taking a shorter perspective, in 2005, compared with 1955, the average human being on Planet Earth earned nearly three times as much money (corrected for inflation), ate one-third more calories of food, buried one-third as many of her children and could expect to live one-third longer. She was less likely to die as a result of war, murder, childbirth, accidents, tornadoes, flooding, famine, whooping cough, tuberculosis, malaria, diphtheria, typhus, typhoid, measles, smallpox, scurvy or polio. She was less likely, at any given age, to get cancer, heart disease or stroke. She was more likely to be literate and to have finished school. She was more likely to own a telephone, a flush toilet, a refrigerator and a bicycle. All this during a half-century when the world population has more than doubled, so that far from being rationed by population pressure, the goods and services available to the people of the world have expanded. It is, by any standard, an astonishing human achievement. Averages conceal a lot. **But even if you break down the world into bits**, **it is hard to find any region that was worse off in 2005 than it was in 1955**. Over that half-century, real income per head ended a little lower in only six countries (Afghanistan, Haiti, Congo, Liberia, Sierra Leone and Somalia), life expectancy in three (Russia, Swaziland and Zimbabwe), and infant survival in none. In the rest they have rocketed upward. Africa’s rate of improvement has been distressingly slow and patchy compared with the rest of the world, and many southern African countries saw life expectancy plunge in the 1990s as the AIDS epidemic took hold (before recovering in recent years). There were also moments in the half-century when you could have caught countries in episodes of dreadful deterioration of living standards or life chances – China in the 1960s, Cambodia in the 1970s, Ethiopia in the 1980s, Rwanda in the 1990s, Congo in the 2000s, North Korea throughout. Argentina had a disappointingly stagnant twentieth century. But overall, after fifty years, **the outcome for the world is** remarkably, astonishingly, **dramatically positive**. The average South Korean lives twenty-six more years and earns fifteen times as much income each year as he did in 1955 (and earns fifteen times as much as his North Korean counter part). The average Mexican lives longer now than the average Briton did in 1955. The average Botswanan earns more than the average Finn did in 1955. **Infant mortality is lower today in Nepal than it was in Italy in 1951**. The proportion of Vietnamese living on less than $2 a day has dropped from 90 per cent to 30 per cent in twenty years. The rich have got richer, but the poor have done even better. **The poor in the developing world grew their consumption twice as fast as the world as a whole between 1980 and 2000**. The Chinese are ten times as rich, one-third as fecund and twenty-eight years longer-lived than they were fifty years ago. Even Nigerians are twice as rich, 25 per cent less fecund and nine years longer-lived than they were in 1955. **Despite a doubling of the world population**, even **the raw number of people living in absolute poverty** (defined as less than a 1985 dollar a day) **has fallen since the 1950s**. The percentage living in such absolute poverty has dropped by more than half – to less than 18 per cent. That number is, of course, still all too horribly high, but the trend is hardly a cause for despair: at the current rate of decline, it would hit zero around 2035 – though it probably won’t. The United Nations estimates that poverty was reduced more in the last fifty years than in the previous 500.

No lashout

Eric A. **Posner and** Adrian **Vermeule 3**, law profs at Chicago and Harvard, Accommodating Emergencies, September, <http://www.law.uchicago.edu/files/files/48.eap-av.emergency.pdf>

Against the view that panicked government officials overreact to an emergency, and unnecessarily curtail civil liberties, we suggest a more constructive theory of the role of fear. Before the emergency, government officials are complacent. They do not think clearly or vigorously about the potential threats faced by the nation. After the terrorist attack or military intervention, their complacency is replaced by fear. Fear stimulates them to action. Action may be based on good decisions or bad: fear might cause officials to exaggerate future threats, but it also might arouse them to threats that they would otherwise not perceive. **It is impossible to say in the abstract whether decisions and actions provoked by fear are likely to be better than decisions and actions made in a state of calm**. But our limited point is that there is no reason to think that the fear-inspired decisions are likely to be worse. For that reason, the existence of fear during emergencies does not support the antiaccommodation theory that the Constitution should be enforced as strictly during emergencies as during non-emergencies.

C. The Influence of Fear during Emergencies

Suppose now that the simple view of fear is correct, and that it is an unambiguously negative influence on government decisionmaking. Critics of accommodation argue that this negative influence of fear justifies skepticism about emergency policies and strict enforcement of the Constitution. However, this argument is implausible. It is doubtful that fear, so understood, has more influence on decisionmaking during emergencies than decisionmaking during non-emergencies.

The panic thesis, implicit in much scholarship though rarely discussed in detail, holds that citizens and officials respond to terrorism and war in the same way that an individual in the jungle responds to a tiger or snake. The national response to emergency, because it is a standard fear response, is characterized by the same circumvention of ordinary deliberative processes: thus, (i) the response is instinctive rather than reasoned, and thus subject to error; and (ii) the error will be biased in the direction of overreaction. While the flight reaction was a good evolutionary strategy on the savannah, in a complex modern society the flight response is not suitable and can only interfere with judgment. Its advantage—speed—has minimal value for social decisionmaking. No national emergency requires an immediate reaction—except by trained professionals who execute policies established earlier—but instead over days, months, or years people make complex judgments about the appropriate institutional response. And the asymmetrical nature of fear guarantees that people will, during a national emergency, overweight the threat and underweight other things that people value, such as civil liberties.

But if decisionmakers rarely act immediately, then the tiger story cannot bear the metaphoric weight that is placed on it. Indeed, the flight response has nothing to do with the political response to the bombing of Pearl Harbor or the attack on September 11. The people who were there—the citizens and soldiers beneath the bombs, the office workers in the World Trade Center—no doubt felt fear, and most of them probably responded in the classic way. They experienced the standard physiological effects, and (with the exception of trained soldiers and security officials) fled without stopping to think. It is also true that in the days and weeks after the attacks, many people felt fear, although not the sort that produces a irresistible urge to flee. **But this kind of fear is not the kind in which cognition shuts down**. (Some people did have more severe mental reactions and, for example, shut themselves in their houses, but these reactions were rare.) The fear is probably better described as a general anxiety or jumpiness, an anxiety that was probably shared by government officials as well as ordinary citizens.53

While, as we have noted, there is psychological research suggesting that normal cognition partly shuts down in response to an immediate threat, we are aware of no research suggesting that people who feel anxious about a non-immediate threat are incapable of thinking, or thinking properly, or systematically overweight the threat relative to other values. Indeed, it would be surprising to find research that clearly distinguished “anxious thinking” and “calm thinking,” given that anxiety is a pervasive aspect of life. People are anxious about their children; about their health; about their job prospects; about their vacation arrangements; about walking home at night. No one argues that people’s anxiety about their health causes them to take too many precautions—to get too much exercise, to diet too aggressively, to go to the doctor too frequently—and to undervalue other things like leisure. So it is hard to see why anxiety about more remote threats, from terrorists or unfriendly countries with nuclear weapons, should cause the public, or elected officials, to place more emphasis on security than is justified, and to sacrifice civil liberties.

Fear generated by immediate threats, then, causes instinctive responses that are not rational in the cognitive sense, not always desirable, and not a good basis for public policy, but it is not this kind of fear that leads to restrictions of civil liberties during wartime. The internment of Japanese Americans during World War II may have been due to racial animus, or to a mistaken assessment of the risks; it was not the direct result of panic; indeed there was a delay of weeks before the policy was seriously considered.54 Post-9/11 curtailments of civil liberties, aside from immediate detentions, came after a significant delay and much deliberation. The civil libertarians’ argument that fear produces bad policy trades on the ambiguity of the word “panic,” which refers both to real fear that undermines rationality, and to collectively harmful outcomes that are driven by rational decisions, such as a bank run, where it is rational for all depositors to withdraw funds if they believe that enough other depositors are withdrawing funds. Once we eliminate the false concern about fear, it becomes clear that the panic thesis is indistinguishable from the argument that during an emergency people are likely to make mistakes. But if the only concern is that during emergencies people make mistakes, there would be no reason for demanding that the constitution be enforced normally during emergencies. Political errors occur during emergencies and nonemergencies, but the stakes are higher during emergencies, and that is the conventional reason why constitutional constraints should be relaxed.

**Response to drives demands pragmatism and avoiding extinction**

Winchester 94

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Nietzsche's Aesthetic Turn

As uninformed as it is to assume that there is an easy connec- tion between his thought and National Socialism, it is neither diffi- cult nor misguided to consider his lack of social concern. Nietzsche saw one danger in our century, but failed to see a second. His critique of herd mentality reads like a prophetic warning against the dictatorships that have plagued and continue to haunt the twentieth cen- tury. But **the context of our world has changed in ways that Nietzsche never imagined**. We now have, as never before, the ability to destroy-the planet. The threat of the destruction of a society is not new. From the beginnings of Western literature in the Iliad and the Odyssey, the Western mind has contemplated the destruction that, for example, warfare has wrought. Although the Trojan war destroyed almost everyone involved, both the victors and the van- quished, it did not destroy the entire world. In the twentieth century, **what has changed is the scale of destruction.** If a few countries destroy the ozone layer, the whole world perishes, or if two countries fight a nuclear or biological war, the whole planet is threatened. This is something new in the history of the world/ The intercon- nectedness of the entire world has grown dramatically. We live, as never before, in a global community where our actions effect ever- larger numbers of the world's population. The earth's limits have become more apparent. Our survival depends on working together to solve problems like global pollution. **Granted** mass movements have instituted reigns of terror, **but** our survival as a planet is becoming ever-more predicated on community efforts of the sort that Nietzsche's thought seems to denigrate if not preclude. I do not criticize Nietzsche for failing to predict the rise of problems requiring communal efforts such as the disintegration of the ozone layer, acid rain, and the destruction of South American rain forests. Noting his lack of foresight and his occasional extrem- ism, I propose, in a Nietzschean spirit, to reconsider his particular tastes, without abandoning his aesthetic turn. Statements like "com- mon good is a self-contradiction" are extreme, even for Nietzsche. He was not always so radical. Yet **there is little room in** Nietzsche's **egoism for** the kind of cooperation and sense of community that is today **so important for our survival**. I am suggesting that **the time for** Nietzsche's **radical individualism is past. There are compelling prag- matic** and aesthetic reasons why we should now be more open to the positive possibilities of living in a community. There is nothing new about society's need to work together. What has changed is the level of interconnectedness that the technological age has pressed upon us.

Util is key

Nussbaum 94

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We now turn to the heart of the matter, the role of "external goods" in the good human life. And here we encounter a rather large surprise. There is no philosopher in the modern Western tradition who is more emphatic than Nietzsche is about the central importance of **the body,** and about the fact that we are bodily creatures. Again and again he charges Christian and Platonist moralities with making a false separation between our spiritual and our physical nature; against them, he insists that we are physical through and through. The surprise is that, having said so much and with such urgency, he really is very loathe to draw **the conclusion that is naturally suggested** by his position: that **human beings need worldly goods in order to function.** In all of Nietzsche's rather abstract and romantic praise of solitude and asceticism, we find no grasp of the simple truth that **a hungry person cannot think well**; that a person who lacks shelter, basic health care, and the basic necessities of life, is not likely to become a great philosopher or artist, no matter what her innate equipment. The solitude Nietzsche describes is comfortable bourgeois solitude, whatever its pains and loneli- ness. Who are his ascetic philosophers? "Heraclitus, Plato. Descartes, Spi- noza, Leibniz, Kant, Schopenhauer"—none a poor person, none a person who had to perform menial labor in order to survive. And because Nietzsche does not grasp the simple fact that **if our abilities are physical abilities they have physical necessary conditions**, he does not understand what the democratic and socialist movements of his day were all about. **The pro-pity tradition,** from Homer on, understood that one **functions badly if one is hungry**, that one thinks badly if one has to labor all day in work that does not involve the fully human use of one's faculties. I have suggested that such thoughts were made by Rousseau the basis for the modern development of democratic-socialist thinking. Since Nietzsche does not get the basic idea, he docs not see what socialism is trying to do. Since he probably never saw or knew an acutely hungry person, or a person performing hard physical labor, he never asked how human self-command is affected by such forms of life. And thus he can proceed as if it does not matter how people live front day to day, how they get their food. Who provides basic welfare support for Zarathustra? What are the "higher men" doing all the day long? The reader docs not know and the author does not seem to care. Now Nietzsche himself obviously was not a happy man. He was lonely, in bad health, scorned by many of his contemporaries. And yet, there still is a distinction to be drawn between the sort of vulnerability that Nietzsche's life contained and the sort we find if we examine the lives of truly impov- erished and hungry people. We might say. simplifying things a bit, that there are two sorts of vulnerability: what we might call bourgeois vulnerabil- ity—for example, the pains of solitude, loneliness, bad reputation, some ill health, pains that are painful enough but still compatible with thinking and doing philosophy—and what we might call basic vulnerability, which is a deprivation of resources so central to human functioning that thought and character are themselves impaired or not developed. Nietzsche, focuv ing on the first son of vulnerability, holds that it is not so bad; it may even be good for the philosopher.\*® The second sort. I claim, he simply ne- glects—believing, apparently, that even a beggar can be a Stoic hero, if only socialism does not inspire him with weakness.5"

## 2NC

### CP

### cp

#### If we win our CP solves, it access their moral framework

Finnish, 1980

John Finnis, deontologist, teaches jurisprudence and constitutional Law. He has been Professor of Law & Legal Philosophy since 1989,1980, Natural Law and Natural Rights, pg. 111-2

The sixth requirement has obvious connections with the fifth, but introduces a new range of problems for practical reason, problems which go to the heart of ‘morality’. For this is the requirement that one bring about good in the world (in one’s own life and the lives of others) by actions that are efficient for their (reasonable) purpose (s). One must not waste one’s opportunities by using inefficient methods. One’s actions should be judged by their effectiveness, by their fitness for their purpose, by their utility, their consequences… There is a wide range of contexts in which it is possible and only reasonable to calculate, measure, compare, weigh, and assess the consequences of alternative decisions. Where a choice must be made it is reasonable to prefer human good to the good of animals. Where a choice must be made it is reasonable to prefer basic human goods (such as life) to merely instru­mental goods (such as property). Where damage is inevitable, it is reasonable to prefer stunning to wounding, wounding to maiming, maiming to death: i.e. lesser rather than greater damage to one-and-the-same basic good in one-and-the-same instantiation. Where one way of participating in a human good includes both all the good aspects and effects of its alternative, and more, it is reasonable to prefer that way: a remedy that both relieves pain and heals is to be preferred to the one that merely relieves pain. Where a person or a society has created a personal or social hierarchy of practical norms and orienta­tions, through reasonable choice of commitments, one can in many cases reasonably measure the benefits and disadvantages of alternatives. (Consider a man who ha decided to become a scholar, or a society that has decided to go to war.) Where one ~is considering objects or activities in which there is reasonably a market, the market provides a common de­nominator (currency) and enables a comparison to be made of prices, costs, and profits. Where there are alternative techniques or facilities for achieving definite, objectives, cost— benefit analysis will make possible a certain range of reasonable comparisons between techniques or facilities. Over a wide range of preferences and wants, it is reasonable for an individual or society to seek o maximize the satisfaction of those preferences or wants.

### consequences

#### Evaluate consequences

Weiss, Prof Poli Sci – CUNY Grad Center, ‘99

(Thomas G, “Principles, Politics, and Humanitarian Action,” *Ethics and International Affairs* 13.1)

Scholars and practitioners frequently employ the term “dilemma” to describe painful decision making but “quandary” would be more apt.27A dilemma involves two or more alternative courses of action with unintended but unavoidable and equally undesirable consequences. If consequences are equally unpalatable, then remaining inactive on the sidelines is an option rather than entering the serum on the field. A quandary, on the other hand, entails tough choices among unattractive options with better or worse possible outcomes. While humanitarians are perplexed, they are not and should not be immobilized. The solution is not indifference or withdrawal but rather appropriate engagement. The key lies in making a good faith effort to analyze the advantages and disadvantages of different alloys of politics and humanitarianism, and then to choose what often amounts to the lesser of evils.

Thoughtful humanitarianism is more appropriate than rigid ideological responses, for four reasons: goals of humanitarian action often conflict, good intentions can have catastrophic consequences; there are alternative ways to achieve ends; and even if none of the choices is ideal, victims still require decisions about outside help. What Myron Wiener has called “instrumental humanitarianism” would resemble just war doctrine because contextual analyses and not formulas are required. Rather than resorting to knee-jerk reactions to help, it is necessary to weigh options and make decisions about choices that are far from optimal.

Many humanitarian decisions in northern Iraq, Somalia, Bosnia, and Rwanda—and especially those involving economic or military sanctions— required selecting least-bad options. Thomas Nagle advises that “given the limitations on human action, it is naive to suppose that there is a solution to every moral problem. “29 Action-oriented institutions and staff are required in order to contextualized their work rather than apply preconceived notions of what is right or wrong. Nonetheless, classicists continue to insist on Pictet’s “indivisible whole” because humanitarian principles “are interlocking, overlapping and mutually supportive. . . . It is hard to accept the logic of one without also accepting the others. “30

The process of making decisions in war zones could be compared to that pursued by “clinical ethical review teams” whose members are on call to make painful decisions about life-and-death matters in hospitals.sl The sanctity of life is complicated by new technologies, but urgent decisions cannot be finessed. It is impermissible to long for another era or to pretend that the bases for decisions are unchanged. However emotionally wrenching, finding solutions is an operational imperative that is challenging but intellectually doable. Humanitarians who cannot stand the heat generated by situational ethics should stay out of the post-Cold War humanitarian kitchen.

Principles in an Unprincipled World

Why are humanitarians in such a state of moral and operational disrepair? In many ways Western liberal values over the last few centuries have been moving toward interpreting moral obligations as going beyond a family and intimate networks, beyond a tribe, and beyond a nation. The impalpable moral ideal is concern about the fate of other people, no matter how far away.szThe evaporation of distance with advances in technology and media coverage, along with a willingness to intervene in a variety of post–Cold War crises, however, has produced situations in which humanitarians are damned if they do and if they don’t. Engagement by outsiders does not necessarily make things better, and it may even create a “moral hazard by altering the payoffs to combatants in such a way as to encourage more intensive fighting.“33

This new terrain requires analysts and practitioners to admit ignorance and question orthodoxies. There is no comfortable theoretical framework or world vision to function as a compass to steer between integration and fragmentation, globalization and insularity. Michael Ignatieff observes, “The world is not becoming more chaotic or violent, although our failure to understand and act makes it seem so. “34Gwyn Prins has pointed to the “scary humility of admitting one’s ignorance” because “the new vogue for ‘complex emergencies’ is too often a means of concealing from oneself that one does not know what is going on. “3sTo make matters more frustrating, never before has there been such a bombardment of data and instant analysis; the challenge of distilling such jumbled and seemingly contradictory information adds to the frustration of trying to do something appropriate fast.

International discourse is not condemned to follow North American fashions and adapt sound bites and slogans. It is essential to struggle with and even embrace the ambiguities that permeate international responses to wars, but without the illusion of a one-size-fits-all solution. The trick is to grapple with complexities, to tease out the general without ignoring the particular, and still to be inspired enough to engage actively in trying to make a difference.

Because more and more staff of aid agencies, their governing boards, and their financial backers have come to value reflection, an earlier policy prescription by Larry Minear and me no longer appears bizarre: “Don’t just do something, stand there! “3sThis advice represented our conviction about the payoffs from thoughtful analyses and our growing distaste for the stereotypical, yet often accurate, image of a bevy of humanitarian actors flitting from one emergency to the next.

### --- Durable Fiat / AT: Rollback

#### And executive orders have the force of law:

Oxford Dictionary of English 2010

(Oxford Reference, Georgetown Library)

executive order

▶ noun US (Law) a rule or order issued by the President to an executive branch of the government and having the force of law.

#### Executive orders are permanent

Duncan, Associate Professor of Law at Florida A&M, Winter 2010

(John C., “A Critical Consideration of Executive Orders,” 35 Vt. L. Rev. 333, Lexis)

The trajectory of the evolution of the executive power in the United States, as seen through the prism of the growing edifice of executive orders have become increasingly formal and permanent. The evolution of executive power in the United States has shifted executive orders from mere legislative interpretation to ancillary legislation. **Executive orders continue to influence subsequent presidents**. The elaboration of executive order promulgation, as an autopoietic process was necessary to the very existence of presidential power. That is, the mechanisms for formalizing executive orders have always existed in the executive power in a government whose legitimacy lives in written pronouncements treated as delicate, sacred, and worth protecting at all cost. **Part of this formalization is** a consequence of **the reverence for precedent**. Thus, **prior presidents influence future presidents**, less because future presidents wish to mimic their predecessors, but more **because future presidents act within an edifice their predecessors have already erected**. Thus, the growth and elaboration of an ever more robust structure of executive orders resembles an autopoietic process. n561

#### CP constrains future Presidents – it creates a legal framework

Brecher, JD University of Michigan, December 2012

(Aaron, Cyberattacks and the Covert Action Statute, 111 Mich. L. Rev. 423, Lexis)

The executive might also issue the proposed order, even though it would limit her freedom in some ways, because of the possible benefits of **constraining future administrations** or preempting legislative intervention. n149 For example, in this context, an administration may choose to follow the finding and reporting requirements in order to convince Congress that legislative intervention is unnecessary for proper oversight. This is acceptable if the covert action regime is in fact adequate on its own. Moreover, if greater statutory control over cyberattacks is needed, the information shared with Congress may give Congress the tools and knowledge of the issue necessary to craft related legislation. n150 Additionally, while executive orders are hardly binding, **the inertia following adoption of an order may help constrain future administrations**, which may be more or less trustworthy than the current one. **Creating a presumption through an executive order** also **establishes a stable legal framework** for cyberattacks that allows law to follow policy in this new field, and permits decisionmakers to learn more about the nature of cyberoperations before passing detailed statutes that may result in unintended consequences.

### DA

### Impact – 2NC

#### Solves their impacts

Griswold, Trade Policy Studies @ Cato, 4/20/’7,

(Daniel, Trade, Democracy and Peace, http://www.freetrade.org/node/681

A second and even more potent way that trade has promoted peace is by promoting more economic integration. As national economies become more intertwined with each other, those nations have more to lose should war break out. War in a globalized world not only means human casualties and bigger government, but also ruptured trade and investment ties that impose lasting damage on the economy. In short, globalization has dramatically raised the economic cost of war.

#### Causes the will to revenge to get worse

Hart, politicalscience @ the University of Michigan, March/April ‘9

(Ronald, Foreign Affairs, How Development Leads to Democracy, p. 26-38)

Thus, other things being equal, high levels of economic development tend to make people more tolerant and trusting, bringing more emphasis on self-expression and more participation in decisionmaking**.** This process is not deterministic, and any forecasts can only be probabilistic, since economic factors are not the only influence; a given country's leaders and nation-specific events also shape what happens. Moreover, modernization is not irreversible. Severe economic collapse can reverse it, as happened during the Great Depression in Germany, Italy, Japan, and Spain and during the 1990s in most of the Soviet successor states. Similarly, if the current economic crisis becomes a twenty-first-century Great Depression, the world could face a new struggle against renewed xenophobia and authoritarianism.

### 2ac borders k

**Nation state identity is inevitable and key to solving multiple scenarios for violence and war**

**Calhoun 7**

(Craig, Prof of Social Science at New York University and President of the Social Science Research Council”, Nations Matter: Citizenship, Solidarity and the Cosmopolitcan Dream, p 3-7)

The idea of a nation-state is arguably pernicious. The hyphen ties the notion of a historically or naturally unified people who intrinsically belong together to that of a modern polity with unprecedented military power and capacity for effective internal administration. It has been a recipe for conflicts both internal and external. Populations straddle borders or move long distances to new states while retaining allegiances to old nations. Dominant groups demand that governments enforce cultural conformity, challenging both the individual freedom and the vitality that comes from cultural creativity. And yet, the nation-state neither can be nor should be wished away. Source of so many evils, it is also the framework in which the modern era produced history’s most enduring and successful experiments in largescale democracy. It continues to shape not just the fact of democracy but diversity in its forms (as Chapter 7 suggests). It is basic to the rule of law, not only because most law remains a domestic matter of nation-states but because most international law is literally that: structured by agreements among nation-states. Not least of all, while globalization has produced innumerable paths across state borders, it has opened these very unevenly and disproportionately to the benefit of those with access to high levels of fluid capital. Conversely, it has made belonging to a nation-state and having clear rights within a nation-state **more, not less, important.** The fact that Hannah Arendt observed more than half a century ago remains true: human rights are secured mainly when they are institutionalized as civil rights.1 In the 1990s, optimistic after the end of the Cold War, a number of enthusiasts for globalization suggested that sovereign states were obsolete. Money, media, and human migrations all flowed across borders; Why should military and political power maintain borders? States bolstered by nationalist passions – and nationalists eager to gain state power – were behind many of the twentieth century’s bloody wars. Surely there was – and remains – a good prima facie case for hoping nation-states might organize less of human loyalty, power, and conflict. And of course new reasons for hating abuses of state authority merged with ancient resentments of state power. But **it is one thing to seek limits on the exercise of state power and another to contemplate transcending it.** It is one thing to encourage a cosmopolitan pluralism of perspectives and another to regard nationalism as merely a fading inheritance and not a recurrently renewed source of solidarity. It is one thing to seek to advance global civil society and another to imagine democracy can thrive without effective states. The many evils of the late twentieth and early twenty-first centuries called forth a widespread indignation and, among many, a determination to act. The idea of human rights moved to the forefront not only of discussion but of court cases and treaties. Humanitarian interventions were proposed and implemented in a widening range of circumstances. Ethnic cleansing and genocidal nationalism made the notion that sovereignty should be a barrier to international efforts to do good ring hollow. An international criminal court was created (if not universally recognized). Indeed for a time there seemed no occupation more virtuous than that of a human rights activist or humanitarian aid worker. Almost imperceptibly these shifted from volunteer pursuits and accidental careers for physicians and pacifists to new professional roles, complete with academic courses and credentials, funding from major foundations and national governments, and increasing bureaucracy. And humanitarian action became increasingly intertwined with military interventions, whether for peacekeeping or regime change. At the same time, protesters challenged the dominance of capitalist corporations over the course of globalization. This was misleadingly termed the anti-globalization movement. Though there were some campaigners truly bent on enhancing the autonomy of local populations, most were actually proponents of a different sort of globalization. They objected to environmental depredation, sweatshops, and high prices for necessary drugs but they worked on a global scale and imagined the world in terms of global connections – albeit connections among ordinary people without the powerful mediation of corporations and states. The movement contesting capitalist globalization has not been theory-driven, but its protagonists have shared a general account of the problems of the world in which the twin centers of power – capitalist corporations and nation-states – pursue a logic of self-aggrandizement that neither the natural world nor its human inhabitants can afford. Many have found the language of Michael Hardt and Antonio Negri sympathetic: they represent the heterogeneous “multitude” of the world who struggled to be free of a seamless and destructive but nearly exhausted “empire.”2 Something of the same quasi-theory – that states and corporations are both bad and unnecessary – has been widespread among human rights activists and humanitarian aid workers. Both groups, of course, saw first hand the vicious ways in which state elites pursued or held on to power and firms sought or sustained profits. The Sudan is one of the largest scale and longest-lasting examples. Its central government has seldom cared much for the people of Darfur in its west, the non-Arabs of its south, or for that matter most ordinary Sudanese. But the central government has cared about holding the country together and defeating any secessionist movements. It cared all the more when oil was discovered in the south – as did global corporations seeking to extract that oil in “peace.” And it cared all the more when it took on a more pronounced Islamic identity and mission. Despite religious commitment (and partly because of intra-Islamist struggles), it became a peculiarly bad government, but also one too weak to establish peace or prosperity in the Sudan; it unleashed brutal war and civil violence against and among its own people. So there were refugees and internally displaced people, rape as a tactic of war, robber militias, and spreading diseases left untreated. The state did not look very good. Yet by the beginning of the twenty-first century, there were not many left for whom the **fantasy** of overcoming the state was not tinged with anxiety. Yes, state power was often overweaning, often corrupt, and often mobilized in evil ways. But weak states typically failed their citizens and crises in strong states often unleashed violence and disrupted both lives and livelihoods. Pandemic diseases, global crime, human rights abuses, and forced migration all revealed the dark side to globalization – yet all seemed to call at least in part for better states, not an end to states. Could outsiders make peace in Sudan or would that depend on a more representative, honest, and competent Sudanese government? Or in a range of other African countries, could outside interventions contain the spread of AIDS unless states joined the struggle? And yet, partly because of structural adjustment programs pushed with fiscal good intentions and disastrous human consequences by the World Bank and others, most African states had neither money nor personnel nor health care systems to address AIDS – or for that matter malaria and other diseases. The “failed state” seemed as problematic as the abusive state. And this was not only an issue in Africa but in different local configurations around the world. A great buzzword of the 1990s was “civil society” (see Chapter 4). And indeed, strengthening civil society – loose institutions part neither of the state nor of large-scale projects of capital accumulation – has been an important trend in many places. Both local and transnational voluntary organizations have grown and played crucial roles. Many are religiously inspired and some denominationally organized. Others are secular. All reflect efforts to create social organization on the basis of voluntary relations among people rather than the coercion of either political authority or capital. And yet, civil society organizations depend on money as well as personal connections. And except where states are able to regulate such organizations they are largely unaccountable and nontransparent. Civil society without a public sphere is not necessarily democratic. Civil society is a hugely valuable complement and sometimes corrective to states and markets, but not a substitute for either.3 It is no accident that “global governance” has become almost as ubiquitous a concern in the current decade as global civil society was in the last. But the issues are not only global; they are also national and local. Intermediate powers and solidarities still matter. Individual sovereign states confront a variety of global flows and processes against which they are weak and which in turn weaken some of their other capacities. Global currency and equity markets make it hard for individual countries to operate autonomous fiscal or industrial policies. Global crime is hard to fight with the tools of national legal systems (and especially their domestic criminal law). Global diseases challenge domestic health care systems. Yet these challenges faced by contemporary states no more make them irrelevant than the history of abuses of state power makes the stability and public services states can deliver unimportant. And crucially, most actually existing democracy has been achieved in and through states.

Can’t reject territories

David Chandler 9, IR prof at the University of Westminster, Critiquing Liberal Cosmopolitanism? The Limits of the Biopolitical Approach, International Political Sociology (2009) 3, 53–70

Many authors have understood the rejection of territorial politics as the rejection of the ontological privileging of state power, articulated in particularly radical terms by Hardt and Negri (2006:341) as ‘‘a ﬂight, an exodus from sovereignty.’’ Fewer have understood that this implies the rejection of political engagement itself. Politics without the goal of power would be purely performative or an expression of individual opinions. Politics has been considered important because community was constituted not through the private sphere but through the public sphere in which shared interests and perspectives were generated through engagement and debate with the goal of building and creating collective expressions of interests. Without the goal of power, that is, the capacity to shape decision making, political engagement would be a personal private expression rather than a public one. There would be no need to attempt to convince another person in an argument or to persuade someone why one policy was better than another. In fact, in rejecting territorial politics it is not power or the state which is problematized—power will still exist and states are still seen as important actors even in post-territorial frameworks.

### 2ac discourse

**Reality outweighs representations**

**Wendt, 1999**

Alexander Wendt, Professor of International Security at Ohio State University, 1999, “Social theory of international politics,” gbooks

The effects of holding a relational theory of meaning on theorizing about world politics are apparent in **David Campbell's** provocative study of US foreign policy, which **shows** how the **threats** posed by the Soviets, immigration, drugs, and so on, **were constructed** out of US national security discourse.29 The book clearly shows that material things in the world did not force US decision-makers to have particular representations of them - the picture theory of reference does not hold. In so doing it highlights the discursive aspects of truth and reference, the sense in which objects are relationally "constructed."30 On the other hand, while emphasizing several times that he is not denying the reality of, for example, Soviet actions, he specifically eschews (p. 4) any attempt to assess the extent to which they caused US representations. Thus **he cannot address the extent to which US representations of the Soviet threat were accurate or true** (questions of correspondence). **He can only focus on the nature and consequences of the representations**.31 Of course, there is nothing in the social science rule book which requires an interest in causal questions, and the nature and consequences of representations are important questions. In the terms discussed below he is engaging in a constitutive rather than causal inquiry. However, I suspect **Campbell thinks that any attempt to assess the correspondence of discourse to reality is inherently pointless.** According to the relational theory of reference **we simply have no access to what the Soviet threat "really" was, and as such its truth is established entirely within discourse**, not by the latter's correspondence to an extra-discursive reality 32 **The main problem** with the relational theory of reference **is that it cannot account for the resistance of the world to certain representations, and thus for representational failures or m/'sinterpretations**. Worldly resistance is most obvious in nature: whether our discourse says so or not, pigs can't fly. But examples abound in society too. **In 1519 Montezuma faced the same kind of epistemological problem facing social scientists today: how to refer to people who, in his case, called themselves Spaniards. Many representations were conceivable**, and no doubt the one he chose - that they were **gods - drew on the discursive materials available to him. So why was he killed and his empire destroyed by an army hundreds of times smaller than his own**? The realist answer is that **Montezuma was simply wrong: the Spaniards were not gods, and had come instead to conquer his empire. Had Montezuma adopted this alternative representation of what the Spanish were, he might have prevented this outcome because that representation would have corresponded more to reality. The reality of the conquistadores did not force him to have a true representation**, as the picture theory of reference would claim, **but it did have certain effects - whether his discourse allowed them or not.** The external world to which we ostensibly lack access, in other words. often frustrates or penalizes representations. **Postmodernism gives us no insight into why this is so, and indeed, rejects the question altogether.33** The description theory of reference favored by empiricists focuses on sense-data in the mind while the relational theory of the postmoderns emphasizes relations among words, but they are similar in at least one crucial respect: neither grounds meaning and truth in an external world that regulates their content.34 Both privilege epistemology over ontology. What is needed is a theory of reference that takes account of the contribution of mind and language yet is anchored to external reality. The realist answer is the causal theory of reference. According to the causal theory the meaning of terms is determined by a two-stage process.35 First there is a "baptism/' in which some new referent in the environment (say, a previously unknown animal) is given a name; then this connection of thing-to-term is handed down a chain of speakers to contemporary speakers. Both stages are causal, the first because the referent impressed itself upon someone's senses in such a way that they were induced to give it a name, the second because the handing down of meanings is a causal process of imitation and social learning. Both stages allow discourse to affect meaning, and as such do not preclude a role for "difference" as posited by the relational theory. Theory is underdetermined by reality, and as such the causal theory is not a picture theory of reference. However, conceding these points does not mean that meaning is entirely socially or mentally constructed. In the realist view beliefs are determined by discourse and nature.36 This solves the key problems of the description and relational theories: our ability to refer to the same object even if our descriptions are different or change, and the resistance of the world to certain representations. **Mind and language help determine meaning, but meaning is also regulated by a mind-independent, extra-linguistic world**.

### at: root causes

#### Violence is proximately caused – root cause logic is poor scholarship

Sharpe, lecturer, philosophy and psychoanalytic studies, and Goucher, senior lecturer, literary and psychoanalytic studies – Deakin University, ‘10

(Matthew and Geoff, Žižek and Politics: An Introduction, p. 231 – 233)

We realise that this argument, which we propose as a new ‘quilting’ framework to explain Žižek’s theoretical oscillations and political prescriptions, raises some large issues of its own. While this is not the place to further that discussion, we think its analytic force leads into a much wider critique of ‘Theory’ in parts of the latertwentieth- century academy, which emerged following the ‘cultural turn’ of the 1960s and 1970s in the wake of the collapse of Marxism. Žižek’s paradigm to try to generate all his theory of culture, subjectivity, ideology, politics and religion is psychoanalysis. But a similar criticism would apply, for instance, to theorists who feel that the method Jacques Derrida developed for criticising philosophical texts can meaningfully supplant the methodologies of political science, philosophy, economics, sociology and so forth, when it comes to thinking about ‘the political’. Or, differently, thinkers who opt for Deleuze (or Deleuze’s and Guattari’s) Nietzschean Spinozism as a new metaphysics to explain ethics, politics, aesthetics, ontology and so forth, seem to us candidates for the same type of criticism, as a reductive passing over the empirical and analytic distinctness of the different object fields in complex societies.

In truth, we feel that Theory, and the continuing line of ‘master thinkers’ who regularly appear particularly in the English- speaking world, is the last gasp of what used to be called First Philosophy. The philosopher ascends out of the city, Plato tells us, from whence she can espie the Higher Truth, which she must then bring back down to political earth. From outside the city, we can well imagine that she can see much more widely than her benighted political contemporaries. But from these philosophical heights, we can equally suspect that the ‘master thinker’ is also always in danger of passing over the salient differences and features of political life – differences only too evident to people ‘on the ground’. Political life, after all, is always a more complex affair than a bunch of ideologically duped fools staring at and enacting a wall (or ‘politically correct screen’) of ideologically produced illusions, from Plato’s timeless cave allegory to Žižek’s theory of ideology.

We know that Theory largely understands itself as avowedly ‘post- metaphysical’. It aims to erect its new claims on the gravestone of First Philosophy as the West has known it. But it also tells us that people very often do not know what they do. And so it seems to us that too many of its proponents and their followers are mourners who remain in the graveyard, propping up the gravestone of Western philosophy under the sign of some totalising account of absolutely everything – enjoyment, différance, biopower . . . Perhaps the time has come, we would argue, less for one more would- be global, allpurpose existential and political Theory than for a multi- dimensional and interdisciplinary critical theory that would challenge the chaotic specialisation neoliberalism speeds up in academe, which mirrors and accelerates the splintering of the Left over the last four decades. This would mean that we would have to shun the hope that one method, one perspective, or one master thinker could single- handedly decipher all the complexity of socio- political life, the concerns of really existing social movements – which specifi cally does not mean mindlessly celebrating difference, marginalisation and multiplicity as if they could be suffi cient ends for a new politics. It would be to reopen critical theory and non- analytic philosophy to the other intellectual disciplines, most of whom today pointedly reject Theory’s legitimacy, neither reading it nor taking it seriously.

### util

#### Util best for policymaking

Harries, 94 – Editor @ The National Interest

(Owen, Power and Civilization, The National Interest, Spring, lexis)

Performance is the test. Asked directly by a Western interviewer, “In principle, do you believe in one standard of human rights and free expression?”, Lee immediately answers, “Look, it is not a matter of principle but of practice.” This might appear to represent a simple and rather crude pragmatism. But in its context it might also be interpreted as an appreciation of the fundamental point made by Max Weber that, in politics, it is “the ethic of responsibility” rather than “the ethic of absolute ends” that is appropriate. While an individual is free to treat human rights as absolute, to be observed whatever the cost, governments must always weigh consequences and the competing claims of other ends. So once they enter the realm of politics, human rights have to take their place in a hierarchy of interests, including such basic things as national security and the promotion of prosperity. Their place in that hierarchy will vary with circumstances, but no responsible government will ever be able to put them always at the top and treat them as inviolable and over-riding. The cost of implementing and promoting them will always have to be considered.

### at: apartheid

#### Prolif impacts outweigh the K and flip ethics

Ford 11

Chris Ford, Senior Fellow at the Hudson Institute in Washington, D.C. He previously served as U.S. Special Representative for Nuclear Nonproliferation, Principal Deputy Assistant Secretary of State, and General Counsel to the U.S. Senate Select Committee on Intelligence, 1/10/11, Havea and Have-Nots: "Unfairness in nuclear Weapons possession," www.newparadigmsforum.com/NPFtestsite/?p=658

First, however, let’s provide some context. As I noted above, it is fascinating that in the long history of military technological have/have not dynamics, the international politics of nuclear weaponry has acquired such a strong flavor of moral critique. To my knowledge, after all, one did not see Xiongnu politics emphasizing how darned unfair it was of those nasty Chinese Emperors to monopolize the presumed secrets of China’s bingjia strategic literature. Nor does the unfairness of Byzantine efforts to control the recipe for Greek Fire seem to have become a prevalent trope of Frankish or Persian diplomacy. “Have nots” have surely always coveted powerful tools possessed by the “haves,” or at least wished that the “haves” did not possess them. It seems pretty unusual, however, for non-possessors to articulate such understandable envy and resentment in the moral language of “unfairness,” and to assume that this presumed injustice should motivate the “haves” to change their behavior. This argument seems to be a curiously modern phenomenon.

One might respond that the very specialness of nuclear weapons makes such a position appropriate. After all, while a local monopoly on iron swords may have given the Vikings some advantage in skirmishes with Native Americans in what the Norsemen called Vinland, such technological asymmetry was not strategically decisive. (Indeed, the Vikings seem ultimately to have been pushed out of the New World entirely.) If iron had threatened to offer the Vikings an insuperable advantage, would the Skraelings have been justified in developing a moral language of “have/have not” resentment that demanded either the sharing of iron weaponry or Viking disarmament in the name of achieving a global “iron zero”? I’m skeptical, but for the sake of argument let’s say “maybe.”

The argument that nuclear weapons are “special,” however, is a two-edged sword. Perhaps they are indeed so peculiarly potent and militarily advantageous that their asymmetric possession is sufficiently “unfair” to compel sharing or disarmament. Such an argument, however, sits only awkwardly – to say the least – with the simultaneous claim by many advocates of the “have/have not” critique that nuclear weapons have no real utility in the modern world and can therefore safely be abandoned by their possessors. After all, it is hard to paint nuclear weapons as being strategically decisive and useless at the same time. (If they are indeed useless, the conclusion of “unfairness” hardly sounds very compelling. If they aren’t useless, however, it may be appropriately hard to abolish them.)

More importantly, any argument about the destructively “special” character of nuclear weaponry cuts against the “unfairness critique” in that it is this very specialness that seems to rob the “have/have not” issue of its moral relevance. Unlike iron swords, the bingjia literature, Greek Fire, or essentially all other past military technologies the introduction of which produced global control/acquisition dynamics, **nuclear weapons** have **introduced existential questions about the future of human civilization which utterly swamp the conventional playground morality of unfair “have/have not” competition. No prior technology held the potential to destroy humanity, making nuclear weapons** – with the possible exception of certain techniques of biological weaponry – **a sui generis case to which the conventional “unfairness” critique simply does not very persuasively apply.**

III. Implications

Let me be clear about this. The moral critique of nuclear weapons possession may yet speak to the issue of whether anyone should have them. (This is not the place for a discussion of the feasibility of the remedies proposed by the disarmament community, but let us at least acknowledge the existence of a real moral issue.) But this matter has nothing to do with “unfairness” per se – and to the extent that it purports to, one should give it little credence. If indeed nuclear weapons do menace the survival of humanity, it is essentially irrelevant whether their possession is “unfairly” distributed – and it is certainly no solution to make the global balance of weaponry more “fair” by allowing more countries to have them. (Disarmament advocates hope to address the fairness problem by eliminating nuclear weapons, of course, but this is just icing. Disarmament is almost never articulated as being driven primarily by fairness; the critical part of that argument is instead consequentialist, stressing the dangers that any nuclear weapons are said to present.) As a moral critique, in other words, the fair/unfair dichotomy fails to speak intelligibly to the world’s nuclear dilemma. It isn’t really about “fairness” at all.

Given the entanglement of nuclear weapons issues with quasi-existential questions potentially affecting the survival of millions or perhaps even billions of people, moreover, **it stands to reason that an “unfair” outcome that nonetheless staves off such horrors is a perfectly good solution**. On this scale, one might say, **non-catastrophe entirely trumps accusations of “unfairness.” Questions of stability are far more important than issues of asymmetric distribution**.

This, of course, has powerful implications for nonproliferation policy, because pointing out the hollowness of the “unfairness” argument as applied to nuclear weapons suggests the moral sustainability of nonproliferation even if complete nuclear disarmament cannot be achieved and the world continues to be characterized by inequalities in weapons possession. **We forget this at our collective peril**.

Don’t get me wrong. “Unfairness” arguments will presumably continue to have a political impact upon the diplomacy of nuclear nonproliferation, either as a consequence of genuine resentment or as a cynical rationalization for the destabilizing pursuit of dangerous capabilities. (Indeed, one might even go so far as to suspect that the emergence of the “unfairness” critique in modern diplomatic discourse is in some sense partly the result of how morally compelling nonproliferation is, in this context, irrespective of the “fairness” of “have/have not” outcomes. Precisely because **the moral case for nonproliferation-driven inequality is** so **obvious and** so **compelling** if such imbalance serves the interests of strategic stability, perhaps it was necessary to develop a new rationale of “fairness” to help make proliferation aspirations seem more legitimate. Skraelings, one imagines, did not need an elaborate philosophy of “fairness” in order to justify trying to steal iron weapons; the desirability of such tools was simply obvious, and any effort to obtain them unsurprising and not in itself condemnable.) But even in this democratic and egalitarian age, merely to incant the mantra of “unfairness” – or to inveigh against the existence of “haves” when there also exist “have nots” – is not the same thing as having a compelling moral argument. Indeed, I would submit that **we lose our moral bearings if we allow “unfairness” arguments to distract us from what is really important here: substantive outcomes in the global security environment**.

“Unfairness,” in other words, is an overrated critique, and “fairness” is an overrated destination. At least where nuclear weapons are concerned, there are more important considerations in play. Let us not forget this.

#### Prolif exacerbates inequality—turns the K

Biswas 1

Shampa Biswas, Whitman College Politics Professor, December 2001, “Nuclear apartheid" as political position: race as a postcolonial resource?, Alternatives 26.4

At one level, as Partha Chatterjee has pointed out, the concept of apartheid relates to a discourse about "democracy." (49) To use apartheid to designate the unequal distribution of nuclear resources then is also simultaneously to draw attention to the undemocratic character of international relations--or, more literally, the exclusion of a group of people from some kind of legitimate and just entitlement. More specifically, to talk in terms of nuclear haves and have-nots is to talk in terms of a concept of democratic justice based on the "possession" (or lack thereof) of something. "Apartheid," as Sumit Sarkar points out, "implies as its valorised Other a notion of equal rights." (50) **But that this something is "nuclear weapons" complicates the issue a great deal.** If the vision of democracy that is implicit in the concept of nuclear apartheid implies a world of "equal possession" of nuclear weapons, a position implied in the Indian decision to test, **that is a frightening thought indeed**. Yet surely even India does not subscribe to that vision of democracy. "Would India," asks Sarkar, "welcome a nuclearised Nepal or Bangladesh?" (51) If Jaswant Singh is serious that "the country"s national security in a world of nuclear proliferation lies either in global disarmament or in exercise of the principle of equal and legitimate security for all," (52) then it should indeed support the "equal and legitimate" nuclearization of its neighbors, which is extremely unlikely given its own demonstrated hegemonic aspirations in the South Asian region. (53) Further, if India does indeed now sign the NPT and the CTBT, and sign them in the garb of a nuclear power as it wants to do, what does that say about its commitment to nuclear democracy? Even if India and Pakistan were to be included in the treaties as NWSs, **all that would do is expand the size of the categories, not delegitimize** the **unequal privileges** and burdens **written into the categories themselves**.

Indian military scientists claim that India has now accumulated enough data for reliable future weaponization without explosive testing, and Indian leaders have, since the tests, indicated more willingness to sign the CTBT. India has already voluntarily accepted restraints on the exports of nuclear-related materials, as required by the NPT. According to an Indian strategic analyst with respect to negotiation of the Fissile Material Cut-Off Treaty, the next major arms-control treaty to be discussed in the Conference on Disarmament, "The key question in relation to the FMCT is not if it is global and nondiscriminatory. It is whether India has sufficient nuclear material at hand to maintain a credible nuclear deterrent." (54) If all India ever wanted was to move from the side of the discriminated to the side of the discriminators, so much for speaking for democratic ideals through the symbol of nuclear apartheid. (55)

There are several troublesome issues here with respect to the concept of "nuclear democracy." On the one hand, it seems clear that **the widespread proliferation of nuclear weapons sits ill at ease with any notion of democratic entitlement.** It seems that **rather than equalizing the possession of nuclear weapons, it would be equalizing the dispossession of nuclear weapons that entails a more compelling democratic logic.** (56) On the other hand, there is also the question of the fundamentally undemocratic nature of nuclear weapons themselves. At one level, the sheer scope of such weapons to kill and destroy indiscriminately (a democratic logic here?) renders any laws of 'just war" moot. As Braful Bidwai and Achin Vanaik point out, the very use of nuclear weapons would be to break the principle of proportionate use of force, and such weapons clearly cannot be made to distinguish between combatants and noncombatants as required in the just conduct of war. (57)

In this context, it might be worth pointing to the 1996 ruling by the International Court of Justice at the Hague that stipulated that the "the threat or use of nuclear weapons would generally be contrary to the rules of international law applicable in armed conflict and, in particular, the principles and rules of humanitarian law." (58) If the regulation of war can be considered a democratic exercise, then nuclear weapons by their very nature make that exercise futile. At another level is the secrecy that has historically and perhaps necessarily accompanied the development of nuclear-weapons programs, relegated to an aspect of the national-security state that is immunized from democratic scrutiny. Chatterjee argues that nuclear weapons involve a technology that is intrinsically undemocratic -- both domestically and internationally -- since the enormous destructive potential that they embody requires a great deal of secrecy and inaccessibility. (59) Itty Abraham's excellent analysis shows how the intertwined emergence of the independent Indian state and the atomic-energy establishment legally foreclosed the democratic and institutional oversight of the entire atomic-energy enterprise because of its proximity to national security. In other words, the state sponsorship and control of nuclear science, and indeed its constitution in and through nuclear science, makes both science and the state susceptible to undemocratic governance. (60)

### T

“Resolved” before a colon reflects a legislative forum

Army Officer School ‘04

(5-12, “# 12, Punctuation – The Colon and Semicolon”, http://usawocc.army.mil/IMI/wg12.htm)

The colon introduces the following: a.  A list, but only after "as follows," "the following," or a noun for which the list is an appositive: Each scout will carry the following: (colon) meals for three days, a survival knife, and his sleeping bag. The company had four new officers: (colon) Bill Smith, Frank Tucker, Peter Fillmore, and Oliver Lewis. b.  A long quotation (one or more paragraphs): In The Killer Angels Michael Shaara wrote: (colon) You may find it a different story from the one you learned in school. There have been many versions of that battle [Gettysburg] and that war [the Civil War]. (The quote continues for two more paragraphs.) c.  A formal quotation or question: The President declared: (colon) "The only thing we have to fear is fear itself." The question is: (colon) what can we do about it? d.  A second independent clause which explains the first: Potter's motive is clear: (colon) he wants the assignment. e.  After the introduction of a business letter: Dear Sirs: (colon) Dear Madam: (colon) f.  The details following an announcement For sale: (colon) large lakeside cabin with dock g.  A *formal* resolution, after the word "resolved:"

Resolved: (colon) That this council petition the mayor.

2. “USFG should” means the debate is solely about a policy established by governmental means

Ericson ‘03

(Jon M., Dean Emeritus of the College of Liberal Arts – California Polytechnic U., et al., The Debater’s Guide, Third Edition, p. 4)

The Proposition of Policy: Urging Future Action In policy propositions, each topic contains certain key elements, although they have slightly different functions from comparable elements of value-oriented propositions. 1. An agent doing the acting ---“The United States” in “The United States should adopt a policy of free trade.” Like the object of evaluation in a proposition of value, the agent is the subject of the sentence. 2. The verb *should*—the first part of a verb phrase that urges action. 3. An action verb to follow *should* in the *should*-verb combination. For example, *should adopt* here **means to put a** program or **policy into action though governmental means**. 4. A specification of directions or a limitation of the action desired. The phrase *free trade*, for example, gives direction and limits to the topic, which would, for example, eliminate consideration of increasing tariffs, discussing diplomatic recognition, or discussing interstate commerce. Propositions of policy deal with future action. Nothing has yet occurred. The entire debate is about whether something ought to occur. What you agree to do, then, when you accept the *affirmative side* in such a debate is to offer sufficient and compelling reasons for an audience to perform the future action that you propose.

### 2nc at: roleplaying bad

Analysis of policy is particularly empowering, even if we’re not the USFG

**Shulock 99**

Nancy, PROFESSOR OF PUBLIC POLICY --- professor of Public Policy and Administration and director of the Institute for Higher Education Leadership & Policy (IHELP) at Sacramento State University, The Paradox of Policy Analysis: If It Is Not Used, Why Do We Produce So Much of It?, Journal of Policy Analysis and Management, Vol. 18, No. 2, 226–244 (1999)

In my view, none of these radical changes is necessary. **As interesting as our politics might be with the kinds of changes outlined by proponents of** participatory and **critical policy analysis,** **we do not need these changes to justify our investment in policy analysis.** **Policy analysis already involves discourse, introduces ideas** into politics, **and affects policy outcomes**. The problem is not that policymakers refuse to understand the value of traditional policy analysis or that policy analysts have not learned to be properly interactive with stakeholders and reflective of multiple and nontechnocratic perspectives. The problem, in my view, is only that policy analysts, policymakers, and observers alike do not recognize policy analysis for what it is. **Policy analysis has changed**, right along with the policy process, to become the provider of ideas and frames, to help sustain the discourse that shapes citizen preferences, and to provide the appearance of rationality in an increasingly complex political environment. Regardless of what the textbooks say, there does not need to be a client in order for ideas from policy analysis to resonate through the policy environment.10¶ Certainly there is room to make our politics more inclusive. But **those critics who see policy analysis as a tool of the power elite might be less concerned if they understood that analysts are only adding to the debate**—they are unlikely to be handing ready-made policy solutions to elite decisionmakers for implementation. Analysts themselves might be more contented if they started appreciating the appropriation of their ideas by the whole gamut of policy participants and stopped counting the number of times their clients acted upon their proposed solutions. And **the cynics disdainful of the purported objectivism of analysis might relax if analysts themselves would acknowledge that they are seeking not truth**, **but to elevate the level of debate with a compelling, evidence-based presentation of their perspectives. Whereas critics call**, **unrealistically** in my view, **for analysts to** present competing perspectives on an issue or to “**design a discourse among multiple perspectives,” I see no reason why an individual analyst must do this** when multiple perspectives are already in abundance, brought by multiple analysts. If we would acknowledge that policy analysis does not occur under a private, contractual process whereby hired hands advise only their clients, we would not worry that clients get only one perspective.¶ **Policy analysis is used, far more extensively than is commonly believed**. Its **use could be appreciated and expanded if policymakers, citizens, and analysts themselves began to present it more accuratel**y, not as a comprehensive, problem-solving, scientific enterprise, but **as a contributor to informed discourse**. For years Lindblom [1965, 1968, 1979, 1986, 1990] has argued that we should understand policy analysis for the limited tool that it is—just one of several routes to social problem solving, and an inferior route at that. Although I have learned much from Lindblom on this odyssey from traditional to interpretive policy analysis, my point is different. Lindblom sees analysis as having a very limited impact on policy change due to its ill-conceived reliance on science and its deluded attempts to impose comprehensive rationality on an incremental policy process. I, with the benefit of recent insights of Baumgartner, Jones, and others into the dynamics of policy change, see that **even with** these **limitations, policy analysis can have a major impact on policy. Ideas, aided by institutions and embraced by citizens, can reshape the policy landscape. Policy analysis can supply the ideas.**

### 2nc at: switch side bad

Switching sides activates critique

Stevenson, PhD, senior lecturer and independent consultant – Graduate School of the Environment @ Centre for Alternative Technology, ‘9

(Ruth, “Discourse, power, and energy conflicts: understanding Welsh renewable energy planning policy,” *Environment and Planning C: Government and Policy*, Volume 27, p. 512-526)

It could be argued that this result arose from the lack of expertise of the convenors of the TAN 8 in consensual decision making. Indeed, there is now more research and advice on popular participation in policy issues at a community level (eg Kaner et al, 1996; Ostrom, 1995; Paddison, 1999). However, for policy making the state remains the vehicle through which policy goals must be achieved (Rydin, 2003) and it is through the state that global issues such as climate change and sustainable development must be legislated for, and to some extent enacted. It is therefore through this structure that any consensual decision making must be tested. This research indicates that the policy process cannot actually overcome contradictions and conflict. Instead, **encompassing them may well be a more fruitful way forward than attempts at consensus.** Foucault reinforces the notion that the `field of power' can prove to be positive both for individuals and for the state by allowing both to act (Darier, 1996; Foucault, 1979). Rydin (2003) suggests that actors can be involved in policy making but through `deliberative' policy making rather than aiming for consensus: ``the key to success here is not consensus but building a position based on divergent positions'' (page 69). Deliberative policy making for Rydin involves: particular dialogic mechanisms such as speakers being explicit about their values, understandings, and activities: the need to move back and forth between memories (historical) and aspirations (future); moving between general and the particular; and the adoption of role taking (sometimes someone else's role). There is much to be trialed and tested in these deliberative models, however, a strong state is still required as part of the equation if we are to work in the interests of global equity, at least until the messages about climate change and sustainable development are strong enough to filter through to the local level. It is at the policy level that the usefulness of these various new techniques of deliberative policy making must be tested, and at the heart of this must be an understanding of the power rationalities at work in the process.

## 1NR

### revenge

No risk of endless warfare

Gray 7—Director of the Centre for Strategic Studies and Professor of International Relations and Strategic Studies at the University of Reading, graduate of the Universities of Manchester and Oxford, Founder and Senior Associate to the National Institute for Public Policy, formerly with the International Institute for Strategic Studies and the Hudson Institute (Colin, July, “The Implications of Preemptive and Preventive War Doctrines: A Reconsideration”, <http://www.ciaonet.org/wps/ssi10561/ssi10561.pdf>)

7. A policy that favors preventive warfare expresses a futile quest for absolute security. It could do so. Most controversial policies contain within them the possibility of misuse. In the hands of a paranoid or boundlessly ambitious political leader, prevention could be a policy for endless warfare. However, the American political system, with its checks and balances, was designed explicitly for the purpose of constraining the executive from excessive folly. Both the Vietnam and the contemporary Iraqi experiences reveal clearly that although the conduct of war is an executive prerogative, in practice that authority is disciplined by public attitudes. Clausewitz made this point superbly with his designation of the passion, the sentiments, of the people as a vital component of his trinitarian theory of war. 51 It is true to claim that power can be, and indeed is often, abused, both personally and nationally. It is possible that a state could acquire a taste for the apparent swift decisiveness of preventive warfare and overuse the option. One might argue that the easy success achieved against Taliban Afghanistan in 2001, provided fuel for the urge to seek a similarly rapid success against Saddam Hussein’s Iraq. In other words, the delights of military success can be habit forming. On balance, claim seven is not persuasive, though it certainly contains a germ of truth. A country with unmatched wealth and power, unused to physical insecurity at home—notwithstanding 42 years of nuclear danger, and a high level of gun crime—is vulnerable to demands for policies that supposedly can restore security. But we ought not to endorse the argument that the United States should eschew the preventive war option because it could lead to a futile, endless search for absolute security. One might as well argue that the United States should adopt a defense policy and develop capabilities shaped strictly for homeland security approached in a narrowly geographical sense. Since a president might misuse a military instrument that had a global reach, why not deny the White House even the possibility of such misuse? In other words, constrain policy ends by limiting policy’s military means. This argument has circulated for many decades and, it must be admitted, it does have a certain elementary logic. It is the opinion of this enquiry, however, that the claim that a policy which includes the preventive option might lead to a search for total security is **not at all convincing**. Of course, folly in high places is always possible, which is one of the many reasons why popular democracy is the superior form of government. It would be absurd to permit the fear of a futile and dangerous quest for absolute security to preclude prevention as a policy option. Despite its absurdity, this rhetorical charge against prevention is a stock favorite among prevention’s critics. It should be recognized and dismissed for what it is, a debating point with little pragmatic merit. And strategy, though not always policy, **must be nothing if not pragmatic**.

#### War turns any root cause

Goldstein, professor of IR – American University, ‘1

(Joshua S, War and Gender: How Gender Shapes the War System and Vice Versa, pg. 412)

First, peace activists face a dilemma in thinking about causes of war and working for peace. Many peace scholars and activists support the approach, “if you want peace, work for justice.” Then, if one believes that sexism contributes to war, one can work for gender justice specifically (perhaps among others) in order to pursue peace. This approach brings strategic allies to the peace movement (women, labor, minorities), but rests on the assumption that injustices cause war. The evidence in this book suggests that causality runs at least as strongly the other way. War is not a product of capitalism, imperialism, gender, innate aggression, or any other single cause, although these influence wars’ outbreaks and outcomes. Rather, war has in part fueled and sustained these and other injustices. So, “if you want peace, work for peace.” Indeed, if you want justice (gender and others), work for peace. Causality does not run just upward through the levels of analysis, from types of individuals, societies, and governments up to war. It runs downward too. Enloe suggests that changes in attitudes towards war and the military may be the most important way to “reverse women’s oppression.” The dilemma is that peace work focused on justice brings to the peace movement energy, allies, and moral grounding, yet, in light of this book’s evidence, the emphasis on injustice as the main cause of war seems to be empirically inadequate.10

### nietzsche

**They can’t prevent ressentiment – altruism is evolutionary, not social**

Martin A. **Nowak 11**, Professor of Biology and of Mathematics at Harvard University and Director of Harvard's Program for Evolutionary Dynamics, SuperCooperators, googlebooks

Scientists from a wide range of disciplines have attempted for more than a century to explain how cooperation, altruism, and self-sacrifice arose in our dog-eat-dog world. Darwin himself was troubled by selfless behavior. Yet in his great works, the problem of cooperation was a sideshow, a detail that had to be explained away. That attitude prevails among many biologists even today.

In stark contrast, I believe that our ability to cooperate goes hand in hand with succeeding in the struggle to survive, as surmised more than a century ago by Peter Kropotkin (1842-1921), the Russian prince and anarchist communist who believed that a society freed from the shackles of government would thrive on communal enterprise. In Mutual Aid (1902), Kropotkin wrote: “Besides the law of Mutual Struggle there is in Nature the law of Mutual Aid, which, for the success of the struggle for life, and especially for the progressive evolution of the species, is far more important than the law of mutual contest. This suggestion…was, in reality, nothing but a further development of the ideas expressed by Darwin himself.”

I have spent more than two decades cooperating with many great minds to solve the mystery of how natural selection can lead to mutual aid, so that competition turns into cooperation. I have introduced some new ideas to this well-explored field and refined this mix with my own specialty, which relies on blending mathematics and biology. My studies show that cooperation is entirely compatible with the hard-boiled arithmetic of survival in an unremittingly cold-eyed and competitive environment. Based on mathematical insights, I have created idealized communities in a computer and charted the conditions in which cooperation can take hold and bloom. My confidence in what I have found has been bolstered by research on a wide range of species, from bugs to people. In light of all this work, I have now pinned down five basic mechanisms for cooperation. **The way that we human beings collaborate is as clearly described by mathematics** as the descent of the apple that once fell in Newton’s garden.

These mechanisms tell us much about the way the world works. They reveal, for example, that your big brain evolved to cope with gossip, not the other way around; that your guts have cone-like glands to fend off that potentially deadly breakdown of cellular cooperation that we know as cancer; that you are more generous if you sense that you are being watched (even if you are not); that the fewer friends you have, the more strongly your fate is bound to theirs; genes may not be that selfish, after all; if you are a cooperator, you will find yourself surrounded by other cooperators so that what you reap is what you sow; no matter what we do, empires will always decline and fall; and to succeed in life, you need to work together – pursuing the struggle for existence, if you like – just as much as you strive to win the struggle for existence. In this way, the quest to understand cooperation has enabled us to capture the essence of all kinds of living, breathing, red-blooded evolving processes.

Cooperation – not competition – underpins innovation. To spur creativity, and to encourage people to come up with original ideas, you need to use the lure of the carrot, not fear of the stick. Cooperation is the architect of creativity throughout evolution, from cells to multi-cellular creates to anthills to villages to cities. Without cooperation there can neither construction nor complexity in evolution.

I can derive everyday insights – as well as many unexpected ones – from mathematical and evolutionary models of cooperation. While the idea that the trajectory of spears, cannonballs, and planets can be traced out by equations is familiar, I find it extraordinary that we can also use mathematics to map out the trajectory of evolution. And, of course, it is one thing to know how to foster cooperation but it is quite another to explain why an action helps us get along with each other and to what extent. The mathematical exploration of these mechanisms enables us to do this with profound understanding and with precision too. This is proof, as if we need it, that math is universal.

In the following chapters I will explain the origins of each mechanism of cooperation and interweave this train of thought with my own intellectual journey, one that began in Vienna and then continued to Oxford, Princeton, and now Harvard. En route, I have had the honor to cooperate with many brilliant scientists and mathematicians. Two of them proved particularly inspirational: Karl Sigmund and Robert May, for reasons that will become clear. I have also had to enlist the help of computer programs, students willing to play games, and various funding bodies, from foundations to philanthropists. It is a lovely and intoxicating thought that a high degree of cooperation is required to understand cooperation. And to further underline this powerful idea, this book is also a feat of cooperation between Roger Highfield and myself.

The implications of this new understanding of cooperation are profound. Previously, there were only two basic principles of evolution – mutation and selection – where the former generates genetic diversity and the latter picks the individuals that are best suited to a given environment. For us to understand the creative aspects of evolution, we must now accept that cooperation is the third principle. For selection you need mutation and, in the same way, for cooperation you need both selection and mutation. From cooperation can emerge the constructive side of evolution, from genes to organisms to language and complex social behaviors. **Cooperation is the master architect of evolution**.

### biopower

**No impact – democratic norms and civil society check totalitarianism and genocide**

**Dickinson**, associate professor of history – UC Davis, **‘4**

(Edward, Central European History, 37.1)

In short, the continuities between early twentieth-century biopolitical discourse and the practices of the welfare state in our own time are unmistakable. Both are instances of the “disciplinary society” and of biopolitical, regulatory, social-engineering modernity, and they share that genealogy with more authoritarian states, including the National Socialist state, but also fascist Italy, for example. And it is certainly fruitful to view them from this very broad perspective. **But that analysis can easily become superficial and misleading**, because it obfuscates the **profoundly different** strategic and local dynamics of power in the two kinds of regimes. Clearly the democratic welfare state is not only formally but also substantively **quite different from totalitarianism.** Above all, again, it has nowhere developed the fateful, radicalizing dynamic that characterized National Socialism (or for that matter Stalinism), the psychotic logic that leads from economistic population management to mass murder. Again, there is always the potential for such a discursive regime to generate coercive policies. In those cases in which the regime of rights does not successfully produce “health,” such a system can —and historically does— create compulsory programs to enforce it. But again, there are political and policy potentials and constraints in such a structuring of biopolitics that are very different from those of National Socialist Germany. Democratic biopolitical regimes require, enable, and incite a degree of self-direction and participation that is **functionally incompatible** with authoritarian or totalitarian structures. And this pursuit of biopolitical ends through a regime of democratic citizenship does appear, historically, to have imposed increasingly **narrow limits on coercive policies**, and to have generated a “logic” or imperative of increasing liberalization. Despite limitations imposed by political context and the slow pace of discursive change, I think this is the unmistakable message of the really very impressive waves of legislative and welfare reforms in the 1920s or the 1970s in Germany.90

Of course it is not yet clear whether this is an irreversible dynamic of such systems. Nevertheless, such regimes are characterized by sufficient degrees of autonomy (and of the potential for its expansion) for sufé cient numbers of people that I think it becomes useful to conceive of them as productive of a strategic coné guration of power relations that might fruitfully be analyzed as a condition of “liberty,” just as much as they are productive of constraint, oppression, or manipulation. At the very least, **totalitarianism cannot be the sole orientation point** for our understanding of biopolitics, the only end point of the logic of social engineering.

**This notion is not at all at odds with the core of Foucauldian** (and Peukertian) **theory.** Democratic welfare states are regimes of power/knowledge no less than early twentieth-century totalitarian states; these systems are not “opposites,” in the sense that they are two alternative ways of organizing the same thing. But they are two very different ways of organizing it. The concept “power” should not be read as a universal stiè ing night of oppression, manipulation, and entrapment, in which all political and social orders are grey, are essentially or effectively “the same.” Power is a set of social relations, in which individuals and groups have varying degrees of autonomy and effective subjectivity. And discourse is, as Foucault argued, “tactically polyvalent.” Discursive elements (like the various elements of biopolitics) can be combined in different ways to form parts of quite different strategies (like totalitarianism or the democratic welfare state); they cannot be assigned to one place in a structure, but rather circulate. The varying possible constellations of power in modern societies create “multiple modernities,” modern societies with quite **radically differing potentials.**91

**We control uniqueness – meaning isn’t doomed, it’s just transient – we should stop suffering when we can**

Mitchell **Smolkin**, doctor who specializes in depression, Understanding Pain, 19**89** p75-79

For Camus, the absurdity of the human condition consists in the incongruity between what humans naturally desire, and the reality of the world. **Humans naturally desire not to be injured and killed. They desire to understand life and** to **find meaning in living.** They desire to feel at home in the universe. **Despite these** natural **needs, [humanity]** man is confronted with a silent universe that does not answer human questions about meaning. He **is surrounded by** irrational **destructiveness, and** by **the spectre of suffering and pain hurtling out of the void capriciously at human recipients with no regard for their relative merits.** Man is estranged from a universe which seems so antagonistic to his natural needs. He feels homeless, in exile, a stranger in his own land. He **[Humanity] hears** his **“nights and days filled** always, everywhere **with the eternal cry of** human **pain.”**56 Man has been “sentenced, for an unknown crime to an indeterminate period of punishment. And while a good many people adapted themselves to confinement and carried out their humdrum lives as before, there were others who rebelled, and whose one idea was to break loose from the prison house.” Like Ivan Karamozov (Bk V, Chap 4), Camus refuses to accept the idea that future goods such as Divine salvation or eternal happiness “can compensate for a single moment of human suffering,”57 or a child’s tears. Both Ivan Karamozov and Camus believe that “if evil is essential to Divine creation, then creation is unacceptable.” They wish to replace “the reign of grace by the reign of justice.”58 They both assert that no good man would accept salvation on these terms. “There is no possible salvation for the man who feels real compassion,” because he would side with the damned and for their sake reject eternity.59 What is to be gained by rebellion, what are its dangers, and **how does one avoid** merely **“beating the sea with rods” in a nihilistic orgy?** With great perceptiveness, Camus discusses these issues in The Rebel. He begins by outlining the entire history of nihilistic rebellion. He admits that once God is declared dead and life meaningless, there is the tendency to rebel in anger by engaging in irrational acts of violence and destruction. Andre Breton has written that the simplest surrealistic act consists “in going out in the Street, revolver in hand, and shooting at random into the crowd.”6° Camus cites “the struggle between the will to be and the desire for annihilation, between the yes and the no, which we have discovered again and again at every stage of rebellion.”61 Citing numerous historical examples, he continually warns against this degeneration of rebellion into crime and murder. Another danger of rebellion which Camus discusses is the sub- stitution of human gods and concepts of salvation for the dead God. This error is more subtle than shooting at random into the crowd, but leads to much more killing and human suffering than the nihilist sniper. **Camus criticizes “Nietzsche**, at least **in his theory of super-humanity,** and Marx before him, with his classless society, **[who]** both **replace The Beyond by the Later On.”**62 In this respect, these thinkers have not abandoned the notion that history marches toward redemption in which some messianic goal will be realized. Camus urges moderation in the quest for distant goals. He writes, “the absolute is not attained nor, above all, created through history. Politics is not religion, or if it is, then it is nothing but the inquisition.”63 **He contrasts rebellion, which he applauds with revolution which leads to murder** in the name of vague future goals. “**Revolution consists in loving[those]** a man **who does not yet exist,” and in murdering [those]** men **who do** exist.64 “He who dedicates himself to this history, dedicates himself to nothing, and in his turn is nothing.”65 In The Plague, the character Tarrou renounces his revolutionary past. He states, For many years I’ve been ashamed, mortally ashamed of having been, even with the best intentions, even at many removes, a murderer in my turn. . . All I maintain is that on this earth there are pestilences and there are victims, and its up to us, so far as possible, not to join forces with the pestil- ences.66 Though obviously attuned to the dangers of rebellion, he insists that “these consequences are in no way due to rebellion itself, or at least they occur to the extent that the rebel forgets his original purpose.”67 What is the original purpose that has been forgotten? Rebellion begins because the rebel denounces the lack of justice in the world. He denounces the idea that the end, whether it be the coming of the messianic age, or the revo- lution, or eternal bliss, justifies means which involve so much suffering. **Once injustice and suffering are denounced, [people]** man **need**s **to exert all** his **effort against injustice and in solidarity with the sufferers** in the world. **Killing** existing men **for a questionable future good, would not be a rational method of exhibi ting solidarity with** the **sufferers. Nor would solidarity be shown by** stoical **acceptance of the status quo. Camus urges his rebels to** renounce murder completely and **work for justice and** for **a decrease in suffering.** Like Dr. Rieux in The Plague, **one should take the victim’s side and “share with** his **fellow citizens the only certitude they have in common—love, exile, suffering.”**68 **What can be accomplished through rebellion? Camus**’ goals are modest. He **realizes that the rebel is doomed to “a never ending defeat,”**69 **in that** death, finitude and **suffering will always conquer** him. **He realizes that after [humanity]** man **has mastered everything in creation** that can be mastered and rectified everything that can be rectified, **children will still die unjustly even in a perfect society.** Even by his greatest effort man can only purpose to diminish arithmetically the sufferings of the world. But the injustice and the suffering will remain and, no matter how limited they are, they will not cease to be an outrage.7° **However, there are ephemeral victories and rewards for the rebel.** He **[One] who dedicates [oneself]** himself for the duration of his life to the house he builds, **to the dignity of [hu]mankind,** dedicates himself the earth and **reaps from it the harvest that sows its seed** **and sustains the world again and again. Those whose** desires are limited to man and his humble yet formidable love, should enter, if only now and then, into their reward. They know that if there is one thing one can always yearn for and sometimes attain, it is human love. **Society must be arranged to limit injustice and suffering as much as possible so that each individual has the leisure and freedom to** pursue his own **search for meaning. Future utopias must be renounced, and “history can no longer be presented as an object of worship.”**74 **“It is time to forsake our age and its adolescent furies,” and to aim for what is possible—more justice, solidarity, and love among [people]** men. **The rebel must** “reject divinity in order to **share in the struggles and destiny of all** men.”75 Redemption is impossible. **Human dignity and love can intermittently be achieved with struggle and constant vigilance against the plague** bacillus **that “never** dies or **disappears** for good. .. [but can] rouse up its rats again and send them forth to die in a happy city.”76

### religion down

#### Best stats prove – if their account of politics is true, the squo solves

Pew Research Center, a nonpartisan fact tank that informs the public about the issues, attitudes and trends shaping America and the world. It conducts public opinion polling, demographic research, media content analysis and other empirical social science research, 10/9/2012

(http://www.pewforum.org/2012/10/09/nones-on-the-rise/)

“Nones” on the Rise

The number of Americans who do not identify with any religion continues to grow at a rapid pace. One-fifth of the U.S. public – and a third of adults under 30 – are religiously unaffiliated today, the highest percentages ever in Pew Research Center polling.

In the last five years alone, the unaffiliated have increased from just over 15% to just under 20% of all U.S. adults. Their ranks now include more than 13 million self-described atheists and agnostics (nearly 6% of the U.S. public), as well as nearly 33 million people who say they have no particular religious affiliation (14%).3

### judaism

This undermines the 1ac’s entire narrative – the book of Judith isn’t in the Jewish canon because it’s a copy of the book of Esther with key theological principles brought in line with Church ideas of piety

Sidnie White Crawford 99 – date inferred, Department of Classics and Religious Studies University of Nebraska-Lincoln, Esther Not Judith: Why One Made It and the Other Didn't, <http://fontes.lstc.edu/~rklein/Documents/esther.htm>

The similarities cannot be attributed to coincidence. Rather, the author of Judith clearly used Esther as a model.(8) Yet, in defining what a great Jewish heroine should be (Judith's name means "Jewess"), the author of Judith made some significant changes.

First, there are no equivalents to the characters of Vashti and Mordecai in the story of Judith. The contrast between Vashti's disobedience and Esther's obedience is critical to the portrayal of Esther. No female protagonist serves as a foil for Judith, however; Judith is unique.

Likewise, Mordecai is a unique character. As Esther's guardian he at first controls her actions ("for Esther obeyed Mordecai just as when she was brought up by him," Esther 2:20); Judith tells other people what to do. Mordecai sets the story in motion by refusing to obey Haman, which results in the danger to the Jews of Persia; the Jews of Bethulia, in contrast, put themselves in danger by refusing to capitulate in a war. Mordecai galvanizes Esther into action against Haman; Judith needs no urging from anyone. And finally, at the end of the Book of Esther, Mordecai becomes the king's second-in-command; there is no equivalent in Judith.

Two other differences bear mentioning. The Book of Esther is set in Persia, in the Diaspora, and the concerns and interests of all the characters reside in the Diaspora. They display no interest in the biblical land of Israel or its institutions; the exile from Judah gets only a passing reference in Mordecai's genealogy (Esther 2:6). Gentile rule is not a problem for the author of Esther as long as it is benevolent. Judith, however, is set in Israel (albeit in a fictional location), and displays a great interest in and concern for Jerusalem, the Temple and its institutions. The author of Judith envisions a Jewish community governed by a high priest from the Temple in Jerusalem. For the author of Judith, unlike the author of Esther, gentile rule is never benevolent and must be opposed.

The differences in geographical and political stance reflect the different dates of the books. Esther, written in the eastern Diaspora in the late fourth or early third centuries B.C.E., reflects the relatively benign rule of the Persians over their subject people. Foreigners could and did rise to prominence in the Persian court, as is witnessed in the Bible by Nehemiah, cupbearer to King Artaxerxes I (Nehemiah 1:11). Judith, however, was written around 150 B.C.E., the time of the Maccabean revolt. The Maccabees (also called the Hasmoneans) were a Jewish dynasty that successfully rose against their Greek Seleucid overlords in the 160s B.C.E. and founded, for the first time in 450 years, an independent Jewish state. They would rule until the Romans entered Judea in 63 B.C.E. For the Jewish author of Judith, writing during or immediately after the initial revolt, foreign rulers were the enemy.

The establishment of the Jewish festival of Purim in the Book of Esther also constitutes a major difference between the two books. The book's raison d'être is the creation of this festival. As is stated in Esther 9:28, "These days should be remembered and kept throughout every generation, in every family, province and city; and these days of Purim should never fall into disuse among the Jews, nor should the commemoration of these days cease among their descendants." In fact, Purim, since it was not a festival established by Moses in the Torah, did have trouble winning acceptance among all Jews. However, its popularity proved too strong in the end for it to be abolished.

The Book of Judith does not seek to establish a permanent festival, although the story of Judith, because of its connection with the Maccabean revolt, was later associated with the festival of Hanukkah, which commemorates this revolt. Hanukkah, too, was not established by Moses and therefore was not accepted by all Jews.

Most striking is the difference in the role that religion and piety play in the two stories. In the Book of Esther in the Hebrew Bible, God is never mentioned by name (a distinction shared with only one other biblical book, the Song of Songs).\* Neither Esther nor Mordecai displays any concern for any of the laws of Judaism (Esther 3:8). They do not pray, make sacrifices or perform other acts of conventional religious piety.(9) Instead Esther becomes the sexual partner and then the wife of a gentile; she lives in his palace and eats his food with no recognition of the laws of kashrut (Jewish dietary laws). Esther is apparently so assimilated that her husband Ahasuerus and his court have no idea that she is a Jew!

The Book of Judith remedies all the religious deficiencies of Hebrew Esther: God is central to the story, and Judith wears her piety openly. When she is first introduced, we learn that "no one ... spoke ill of her, so devoutly did she fear God" (Judith 8:8). Throughout the book, the Law is observed, and Judith fasts, prays and offers sound theology to the leaders of Bethulia. When she ventures into the enemy camp, she apparently upholds the laws of kashrut by refusing all food from the gentile Holofernes and she undertakes a nightly purification ritual. Judith never has sexual intercourse with a gentile, or anyone else, for that matter, choosing to remain a widow for the rest of her life. At the end of the book, Judith dedicates all the spoil of Holofernes to the Temple (Judith 16:19). Clearly, the author of Judith has tried to create a more acceptable heroine for ancient Jewish society. **Why, then, did the Book of Judith not become part of the Jewish canon**?

Several reasons have been put forth for Judith's exclusion.\*\* One is the language: Although most scholars today agree that Judith was written in Hebrew and then translated into Greek, by the time the Jewish canon was being formed, the Hebrew original may have been no longer extant. Only Hebrew or Aramaic books became part of the Jewish canon; hence Greek Judith was excluded. (The language of the Septuagint was Greek, so Judith was included there.) Also, no books written later than the Persian period (538-332 B.C.E.)† were included in the Jewish canon; Judith was written in the second century B.C.E. (There was no such restriction for the Septuagint.) Other minor reasons for Judith's exclusion include the book's obvious historical errors; its support of the Hasmonean dynasty, which was out of favor with the rabbis; and its occasional deviation from rabbinic law (for example, Achior does not undergo the full rabbinic ritual of conversion after he arrives in Bethulia).