# Rd 2 vs. GSU NS

## 1NC

## Off

### 1

#### Obama is successfully peeling off Democratic votes to stave off the Iran sanctions bill – but the fight isn’t over and bill supporters are looking for new openings

Omestad 2/18/14 (Thomas, Foreign Policy, "Icebergs Ahead," lexis)

American Politics. Similarly, Obama is bound by political fights at home. Any long-term nuclear deal with Iran will have to run a political gauntlet on Capitol Hill, where mistrust of Iran has only grown ever since the 1979 U.S. Embassy hostage crisis following Iran's revolution. "Moving toward a final agreement, the internal politics of the United States will be critical," said the European official.¶ A warning flare of sorts has gone up in the form of an Iran sanctions bill introduced by Sen. Robert Menendez (D-NJ) and Sen. Mark Kirk (R-IL) after the interim deal was reached. For now, the administration has gotten a reprieve. White House opposition has peeled off some Senate Democratic support. Menendez changed course on Feb. 6 and asked[5] that no vote take place for now. An influential lobby supporting the bill, the American Israel Public Affairs Committee, did likewise.¶ The episode nonetheless is a reminder of political uncertainties on the American side of the nuclear talks.¶ Fifty-nine senators have signed on as sponsors of the bill, which backers term a "diplomatic insurance policy" to strengthen Washington's hand in negotiations. It would create a framework for new sanctions -- which could be temporarily waived by the president -- unless Iran met certain conditions, including on non-nuclear issues like terrorism and missile tests. It also calls on the United States to support Israel if it strikes Iranian nuclear sites in "legitimate self-defense." Einhorn calls some of its provisions "poison pills."¶ The proposal ran head-on into the White House strategy to wall off the nuclear talks from the other disputes with Iran, which have inspired their own sanctions. The interim deal bars new nuclear-related sanctions on Iran during its six months in force. Administration officials charged that new sanctions would derail the talks and, as one put it, "undermine the sanctions regime that we have built so meticulously over the course of the last several years." Similarly, Zarif told[6] journalist Robin Wright that talks are "dead" if new sanctions materialize. Obama, who is said to be more engaged in internal Iran discussions than he has been in the nuclear dispute with North Korea, vowed to veto the bill if it reaches him.¶ Current and former officials insist that ample leverage with Iran already exists. "Iran is still facing crippling sanctions. Iran already has a tremendous incentive to negotiate seriously," said Einhorn.¶ Yet the lead U.S. negotiator in the Iran talks, Wendy Sherman, assured edgy senators on Feb. 4, "We have made it clear to Iran that, if it fails to live up to its commitments, or if we are unable to reach agreement on a comprehensive solution, we would ask the Congress to ramp up new sanctions." No doubt, the administration could get them. Both Republicans and Democrats who are wary of the Iran talks will be watching for them to break down -- and create a new opening to act.

#### It’s a war powers fight that Obama wins – but failure commits us to Israeli strikes

**Merry 1/1** (Robert W. Merry, political editor of the National Interest, is the author of books on American history and foreign policy, “Obama may buck the Israel lobby on Iran”, 2014, Washington Times, factiva)

Presidential press secretary Jay Carney uttered 10 words the other day that represent a major presidential challenge to the American Israel lobby and its friends on Capitol Hill. Referring to Senate legislation designed to force President Obama to expand economic sanctions on Iran under conditions the president opposes, Mr. Carney said: “If it were to pass, the president would veto it.” For years, there has been an assumption in Washington that you can’t buck the powerful Israel lobby, particularly the American Israel Public Affairs Committee, or AIPAC, whose positions are nearly identical with the stated aims of Israeli Prime Minister Benjamin Netanyahu. Mr. Netanyahu doesn’t like Mr. Obama’s recent overture to Iran, and neither does AIPAC. The result is the Senate legislation, which is similar to a measure already passed by the House. With the veto threat, Mr. Obama has announced that he is prepared to buck the Israel lobby — and may even welcome the opportunity. It isn’t fair to suggest that everyone who thinks Mr. Obama’s overtures to Iran are ill-conceived or counterproductive is simply following the Israeli lobby’s talking points, but Israel’s supporters in this country are a major reason for the viability of the sanctions legislation the president is threatening to veto. It is nearly impossible to avoid the conclusion that the Senate legislation is designed to sabotage Mr. Obama’s delicate negotiations with Iran (with the involvement also of the five permanent members of the U.N. Security Council and Germany) over Iran’s nuclear program. The aim is to get Iran to forswear any acquisition of nuclear weapons in exchange for the reduction or elimination of current sanctions. Iran insists it has a right to enrich uranium at very small amounts, for peaceful purposes, and Mr. Obama seems willing to accept that Iranian position in the interest of a comprehensive agreement. However, the Senate measure, sponsored by Sens. Robert Menendez, New Jersey Democrat; Charles E. Schumer, New York Democrat; and Mark Kirk, Illinois Republican, would impose potent new sanctions if the final agreement accords Iran the right of peaceful enrichment. That probably would destroy Mr. Obama’s ability to reach an agreement. Iranian President Hasan Rouhani already is under pressure from his country’s hard-liners to abandon his own willingness to seek a deal. The Menendez-Schumer-Kirk measure would undercut him and put the hard-liners back in control. Further, the legislation contains language that would commit the United States to military action on behalf of Israel if Israel initiates action against Iran. This language is cleverly worded, suggesting U.S. action should be triggered only if Israel acted in its “legitimate self-defense” and acknowledging “the law of the United States and the constitutional responsibility of Congress to authorize the use of military force,” but the language is stunning in its brazenness and represents, in the view of Andrew Sullivan, the prominent blogger, “an appalling new low in the Israeli government’s grip on the U.S. Congress.” While noting the language would seem to be nonbinding, Mr. Sullivan adds that “it’s basically endorsing the principle of handing over American foreign policy on a matter as grave as war and peace to a foreign government, acting against international law, thousands of miles away.” That brings us back to Mr. Obama’s veto threat. The American people have made clear through polls and abundant expression (especially during Mr. Obama’s flirtation earlier this year with military action against Bashar Assad’s Syrian regime) that they are sick and weary of American military adventures in the Middle East. They don’t think the Iraq and Afghanistan wars have been worth the price, and they don’t want their country to engage in any other such wars. That’s what the brewing confrontation between Mr. Obama and the Israel lobby comes down to — war and peace. Mr. Obama’s delicate negotiations with Iran, whatever their outcome, are designed to avert another U.S. war in the Middle East. The Menendez-Schumer-Kirk initiative is designed to kill that effort and cedes to Israel America’s war-making decision in matters involving Iran, which further increases the prospects for war. It’s not even an argument about whether the United States should come to Israel’s aid if our ally is under attack, but whether the decision to do so and when that might be necessary should be made in Jerusalem or Washington.

#### The plan’s a perceived loss – it saps capital and causes defections

Loomis 7 --- Department of Government at Georgetown

(3/2/2007, Dr. Andrew J. Loomis is a Visiting Fellow at the Center for a New American Security, “Leveraging legitimacy in the crafting of U.S. foreign policy,” pg 35-36, <http://citation.allacademic.com//meta/p_mla_apa_research_citation/1/7/9/4/8/pages179487/p179487-36.php>)

Declining political authority encourages defection. American political analyst Norman Ornstein writes of the domestic context, In a system where a President has limited formal power, perception matters. The reputation for success—the belief by other political actors that even when he looks down, a president will find a way to pull out a victory—is the most valuable resource a chief executive can have. Conversely, the widespread belief that the Oval Office occupant is on the defensive, on the wane or without the ability to win under adversity can lead to disaster, as individual lawmakers calculate who will be on the winning side and negotiate accordingly. In simple terms, winners win and losers lose more often than not. Failure begets failure. In short, a president experiencing declining amounts of political capital has diminished capacity to advance his goals. As a result, political allies perceive a decreasing benefit in publicly tying themselves to the president, and an increasing benefit in allying with rising centers of authority. A president’s incapacity and his record of success are interlocked and reinforce each other. Incapacity leads to political failure, which reinforces perceptions of incapacity. This feedback loop accelerates decay both in leadership capacity and defection by key allies. The central point of this review of the presidential literature is that the sources of presidential influence—and thus their prospects for enjoying success in pursuing preferred foreign policies—go beyond the structural factors imbued by the Constitution. Presidential authority is affected by ideational resources in the form of public perceptions of legitimacy. The public offers and rescinds its support in accordance with normative trends and historical patterns, non-material sources of power that affects the character of U.S. policy, foreign and domestic.

#### Causes Israel strikes

Perr 12/24 (Jon Perr 12/24/13, B.A. in Political Science from Rutgers University; technology marketing consultant based in Portland, Oregon, has long been active in Democratic politics and public policy as an organizer and advisor in California and Massachusetts. His past roles include field staffer for Gary Hart for President (1984), organizer of Silicon Valley tech executives backing President Clinton's call for national education standards (1997), recruiter of tech executives for Al Gore's and John Kerry's presidential campaigns, and co-coordinator of MassTech for Robert Reich (2002). (Jon, “Senate sanctions bill could let Israel take U.S. to war against Iran” Daily Kos, [http://www.dailykos.com/story/2013/12/24/1265184/-Senate-sanctions-bill-could-let-Israel-take-U-S-to-war-against-Iran#](http://www.dailykos.com/story/2013/12/24/1265184/-Senate-sanctions-bill-could-let-Israel-take-U-S-to-war-against-Iran))

As 2013 draws to close, the negotiations over the Iranian nuclear program have entered a delicate stage. But in 2014, the tensions will escalate dramatically as a bipartisan group of Senators brings a new Iran sanctions bill to the floor for a vote. As many others have warned, that promise of new measures against Tehran will almost certainly blow up the interim deal reached by the Obama administration and its UN/EU partners in Geneva. But Congress' highly unusual intervention into the President's domain of foreign policy doesn't just make the prospect of an American conflict with Iran more likely. As it turns out, the Nuclear Weapon Free Iran Act essentially empowers Israel to decide whether the United States will go to war against Tehran.¶ On their own, the tough new sanctions imposed automatically if a final deal isn't completed in six months pose a daunting enough challenge for President Obama and Secretary of State Kerry. But it is the legislation's commitment to support an Israeli preventive strike against Iranian nuclear facilities that almost ensures the U.S. and Iran will come to blows. As Section 2b, part 5 of the draft mandates:¶ If the Government of Israel is compelled to take military action in legitimate self-defense against Iran's nuclear weapon program, the United States Government should stand with Israel and provide, in accordance with the law of the United States and the constitutional responsibility of Congress to authorize the use of military force, diplomatic, military, and economic support to the Government of Israel in its defense of its territory, people, and existence.¶ Now, the legislation being pushed by Senators Mark Kirk (R-IL), Chuck Schumer (D-NY) and Robert Menendez (D-NJ) does not automatically give the President an authorization to use force should Israel attack the Iranians. (The draft language above explicitly states that the U.S. government must act "in accordance with the law of the United States and the constitutional responsibility of Congress to authorize the use of military force.") But there should be little doubt that an AUMF would be forthcoming from Congressmen on both sides of the aisle. As Lindsey Graham, who with Menendez co-sponsored a similar, non-binding "stand with Israel" resolution in March told a Christians United for Israel (CUFI) conference in July:¶ "If nothing changes in Iran, come September, October, I will present a resolution that will authorize the use of military force to prevent Iran from developing a nuclear bomb."¶ Graham would have plenty of company from the hardest of hard liners in his party. In August 2012, Romney national security adviser and pardoned Iran-Contra architect Elliott Abrams called for a war authorization in the pages of the Weekly Standard. And just two weeks ago, Norman Podhoretz used his Wall Street Journal op-ed to urge the Obama administration to "strike Iran now" to avoid "the nuclear war sure to come."¶ But at the end of the day, the lack of an explicit AUMF in the Nuclear Weapon Free Iran Act doesn't mean its supporters aren't giving Prime Minister Benjamin Netanyahu de facto carte blanche to hit Iranian nuclear facilities. The ensuing Iranian retaliation against to Israeli and American interests would almost certainly trigger the commitment of U.S. forces anyway.¶ Even if the Israelis alone launched a strike against Iran's atomic sites, Tehran will almost certainly hit back against U.S. targets in the Straits of Hormuz, in the region, possibly in Europe and even potentially in the American homeland. Israel would face certain retaliation from Hezbollah rockets launched from Lebanon and Hamas missiles raining down from Gaza.¶ That's why former Bush Defense Secretary Bob Gates and CIA head Michael Hayden raising the alarms about the "disastrous" impact of the supposedly surgical strikes against the Ayatollah's nuclear infrastructure. As the New York Times reported in March 2012, "A classified war simulation held this month to assess the repercussions of an Israeli attack on Iran forecasts that the strike would lead to a wider regional war, which could draw in the United States and leave hundreds of Americans dead, according to American officials." And that September, a bipartisan group of U.S. foreign policy leaders including Brent Scowcroft, retired Admiral William Fallon, former Republican Senator (now Obama Pentagon chief) Chuck Hagel, retired General Anthony Zinni and former Ambassador Thomas Pickering concluded that American attacks with the objective of "ensuring that Iran never acquires a nuclear bomb" would "need to conduct a significantly expanded air and sea war over a prolonged period of time, likely several years." (Accomplishing regime change, the authors noted, would mean an occupation of Iran requiring a "commitment of resources and personnel greater than what the U.S. has expended over the past 10 years in the Iraq and Afghanistan wars combined.") The anticipated blowback?¶ Serious costs to U.S. interests would also be felt over the longer term, we believe, with problematic consequences for global and regional stability, including economic stability. A dynamic of escalation, action, and counteraction could produce serious unintended consequences that would significantly increase all of these costs and lead, potentially, to all-out regional war.

#### Impact is nuclear war

**Reuveny** **10** (Rafael – professor in the School of Public and Environmental affairs at Indiana University, Unilateral strike on Iran could trigger world depression, p. http://www.indiana.edu/~spea/news/speaking\_out/reuveny\_on\_unilateral\_strike\_Iran.shtml)

A unilateral Israeli strike on Iran’s nuclear facilities would likely have dire consequences, including a regional war, global economic collapse and a major power clash. For an Israeli campaign to succeed, it must be quick and decisive. This requires an attack that would be so overwhelming that Iran would not dare to respond in full force. Such an outcome is extremely unlikely since the locations of some of Iran’s nuclear facilities are not fully known and known facilities are buried deep underground. All of these widely spread facilities are shielded by elaborate air defense systems constructed not only by the Iranians, but also the Chinese and, likely, the Russians as well. By now, Iran has also built redundant command and control systems and nuclear facilities, developed early-warning systems, acquired ballistic and cruise missiles and upgraded and enlarged its armed forces. Because Iran is well-prepared, a single, conventional Israeli strike — or even numerous strikes — could not destroy all of its capabilities, giving Iran time to respond. A regional war Unlike Iraq, whose nuclear program Israel destroyed in 1981, Iran has a second-strike capability comprised of a coalition of Iranian, Syrian, Lebanese, Hezbollah, Hamas, and, perhaps, Turkish forces. Internal pressure might compel Jordan, Egypt, and the Palestinian Authority to join the assault, turning a bad situation into a regional war. During the 1973 Arab-Israeli War, at the apex of its power, Israel was saved from defeat by President Nixon’s shipment of weapons and planes. Today, Israel’s numerical inferiority is greater, and it faces more determined and better-equipped opponents. Despite Israel’s touted defense systems, Iranian coalition missiles, armed forces, and terrorist attacks would likely wreak havoc on its enemy, leading to a prolonged tit-for-tat. In the absence of massive U.S. assistance, Israel’s military resources may quickly dwindle, forcing it to use its alleged nuclear weapons, as it had reportedly almost done in 1973. An Israeli nuclear attack would likely destroy most of Iran’s capabilities, but a crippled Iran and its coalition could still attack neighboring oil facilities, unleash global terrorism, plant mines in the Persian Gulf and impair maritime trade in the Mediterranean, Red Sea and Indian Ocean. Middle Eastern oil shipments would likely slow to a trickle as production declines due to the war and insurance companies decide to drop their risky Middle Eastern clients. Iran and Venezuela would likely stop selling oil to the United States and Europe. The world economy would head into a tailspin; international acrimony would rise; and Iraqi and Afghani citizens might fully turn on the United States, immediately requiring the deployment of more American troops. Russia, China, Venezuela, and maybe Brazil and Turkey — all of which essentially support Iran — could be tempted to form an alliance and openly challenge the U.S. hegemony. Replaying Nixon’s nightmare Russia and China might rearm their injured Iranian protege overnight, just as Nixon rearmed Israel, and threaten to intervene, just as the U.S.S.R. threatened to join Egypt and Syria in 1973. President Obama’s response would likely put U.S. forces on nuclear alert, replaying Nixon’s nightmarish scenario. Iran may well feel duty-bound to respond to a unilateral attack by its Israeli archenemy, but it knows that it could not take on the United States head-to-head. In contrast, if the United States leads the attack, Iran’s response would likely be muted. If Iran chooses to absorb an American-led strike, its allies would likely protest and send weapons, but would probably not risk using force. While no one has a crystal ball, leaders should be risk-averse when choosing war as a foreign policy tool. If attacking Iran is deemed necessary, Israel must wait for an American green light. A unilateral Israeli strike could ultimately spark World War III.

### 2

#### Interp – aff must increase restrictions on armed forces

#### “Increase” means a net increase – you apply existing restrictions

Rogers 5 (Judge – New York, et al., Petitioners v. U.S. Environmental Protection Agency, Respondent, NSR Manufacturers Roundtable, et al., Intervenors, 2005 U.S. App. LEXIS 12378, \*\*; 60 ERC (BNA) 1791, 6/24, Lexis)

[\*\*48]  Statutory Interpretation. [HN16](http://www.lexis.com/research/retrieve?_m=1fe428155fdfc9074f3623f0dae9d78a&docnum=14&_fmtstr=FULL&_startdoc=1&wchp=dGLbVlz-zSkAW&_md5=0ebd338d6a7793de8561db53b915effd&focBudTerms=term%20increase&focBudSel=all#clscc16)While the CAA defines a "modification" as any physical or operational change that "increases" emissions, it is silent on how to calculate such "increases" in emissions. [42 U.S.C. § 7411(a)(4)](http://www.lexis.com/research/buttonTFLink?_m=8541fbf7a7f5554ca588059b132acd17&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b367%20U.S.%20App.%20D.C.%203%5d%5d%3e%3c%2fcite%3e&_butType=4&_butStat=0&_butNum=103&_butInline=1&_butinfo=42%20U.S.C.%207411&_fmtstr=FULL&docnum=14&_startdoc=1&wchp=dGLbVlz-zSkAW&_md5=1f89a0e47b1996a5400e8d865d8da08a). According to government petitioners, the lack of a statutory definition does not render the term "increases" ambiguous, but merely compels the court to give the term its "ordinary meaning." See [Engine Mfrs.Ass'nv.S.Coast AirQualityMgmt.Dist., 541 U.S. 246, 124 S. Ct. 1756, 1761, 158 L. Ed. 2d 529(2004)](http://www.lexis.com/research/buttonTFLink?_m=8541fbf7a7f5554ca588059b132acd17&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b367%20U.S.%20App.%20D.C.%203%5d%5d%3e%3c%2fcite%3e&_butType=3&_butStat=2&_butNum=104&_butInline=1&_butinfo=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b541%20U.S.%20246%5d%5d%3e%3c%2fcite%3e&_fmtstr=FULL&docnum=14&_startdoc=1&wchp=dGLbVlz-zSkAW&_md5=48f016ea3eabfdb898b67b348b11662c); [Bluewater Network, 370 F.3d at 13](http://www.lexis.com/research/buttonTFLink?_m=8541fbf7a7f5554ca588059b132acd17&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b367%20U.S.%20App.%20D.C.%203%5d%5d%3e%3c%2fcite%3e&_butType=3&_butStat=2&_butNum=105&_butInline=1&_butinfo=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b370%20F.3d%201%2cat%2013%5d%5d%3e%3c%2fcite%3e&_fmtstr=FULL&docnum=14&_startdoc=1&wchp=dGLbVlz-zSkAW&_md5=78fdfe9d48c7b91d7659b90c0198707e); [Am. Fed'n of Gov't Employees v. Glickman, 342 U.S. App. D.C. 7, 215 F.3d 7, 10 [\*23]  (D.C. Cir. 2000)](http://www.lexis.com/research/buttonTFLink?_m=8541fbf7a7f5554ca588059b132acd17&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b367%20U.S.%20App.%20D.C.%203%5d%5d%3e%3c%2fcite%3e&_butType=3&_butStat=2&_butNum=106&_butInline=1&_butinfo=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b342%20U.S.%20App.%20D.C.%207%5d%5d%3e%3c%2fcite%3e&_fmtstr=FULL&docnum=14&_startdoc=1&wchp=dGLbVlz-zSkAW&_md5=fb18ff0b92931ac00621d88dae997e67). Relying on two "real world" analogies, government petitioners contend that the ordinary meaning of "increases" requires the baseline to be calculated from a period immediately preceding the change. They maintain, for example, that in determining whether a high-pressure weather system "increases" the local temperature, the relevant baseline is the temperature immediately preceding the arrival of the weather system, not the temperature five or ten years ago. Similarly,  [\*\*49]  in determining whether a new engine "increases" the value of a car, the relevant baseline is the value of the car immediately preceding the replacement of the engine, not the value of the car five or ten years ago when the engine was in perfect condition.

#### **Statutory restrictions are statues that prohibit the President from acting**

Barron and Lederman 8 (David J. – Professor of Law, Harvard Law School, and Martin S. – Visiting Professor of Law, Georgetown University Law Center, “THE COMMANDER IN CHIEF AT THE LOWEST EBB - FRAMING THE PROBLEM, DOCTRINE, AND ORIGINAL UNDERSTANDING”, January, 121 Harv. L. Rev. 689, lexis)

2. Congress (Almost) Always Wins Under the Separation of Powers Principle. - We must also consider a related argument for congressional supremacy. This claim is based on the doctrinal test that generally governs separation of powers issues arising from clashes between the President and the Congress in the domestic setting. n149 Under this test, the "real question" the Court asks is whether the statute "impedes the President's ability to perform" his constitutionally assigned functions. n150 And even if such a potential for disruption of executive authority is present, the Court employs a balancing test to "determine whether that impact is justified by an overriding need to promote objectives within the constitutional authority of Congress." n151 Thus, under the general separation of powers principle, even a "serious impact ... on the ability of the Executive Branch to accomplish its assigned mission" might not be enough to render a statute invalid. n152 This approach appears to have a pro-congressional tilt; yet it actually does little more than relocate the dilemma it is impressed to avoid. Even under this deferential test, it is well understood that certain statutes can infringe the President's constitutionally assigned authority to exercise discretion; a statutory restriction on the pardoning of a given category of persons is an obvious example. Nothing in the application of the separation of powers test, then, explains why certain core executive powers (including merely discretionary authorities, rather than obligatory duties) cannot be infringed, even though it is generally understood that such inviolable cores might exist. For this reason, the general separation of powers principle does not actually resolve the question that arises in a Youngstown Category Three case. In all [\*739] events, the question remains whether the President possesses an illimitable reserve of wartime authority. Insofar as the separation of powers principle is thought to provide affirmative support for congressional control, it seems objectionable because it, too, fails to require the analyst to explain why the particular wartime power the President is asserting is not one that Congress can countermand. It simply asserts that it is not.

#### Statutory restrictions prohibit actions by law

Lamont 5 (Michael, Legal Analyst @ Occupational health, "Legal: Staying on the right side of the law," http://www.personneltoday.com/articles/01/04/2005/29005/legal-staying-on-the-right-side-of-the-law.htm#.UgFe\_o3qnoI)

It will be obvious what 'conduct' and 'redundancy' dismissals are. A statutory restriction means that the employee is prevented by law from doing the job - for example, a driver who loses his driving licence. 'Some other substantial reason' means "Parliament can't be expected to think of everything".

#### Restrictions on authority are distinct from conditions

William Conner 78, former federal judge for the United States District Court for the Southern District of New York United States District Court, S. D. New York, CORPORACION VENEZOLANA de FOMENTO v. VINTERO SALES, http://www.leagle.com/decision/19781560452FSupp1108\_11379

Plaintiff next contends that Merban was charged with notice of the restrictions on the authority of plaintiff's officers to execute the guarantees. Properly interpreted, the "conditions" that had been imposed by plaintiff's Board of Directors and by the Venezuelan Cabinet were not "restrictions" or "limitations" upon the authority of plaintiff's agents but rather conditions precedent to the granting of authority. Essentially, then, plaintiff's argument is that Merban should have known that plaintiff's officers were not authorized to act except upon the fulfillment of the specified conditions.

#### **Contractors not armed forces**

Chen 12 -- BC Law Scool (Julia L, 11/26/2012, "Restoring Constitutional Balance: Accommodating the Evolution of War," <http://lawdigitalcommons.bc.edu/cgi/viewcontent.cgi?article=3263&context=bclr>)

The scope of ac tors that fall within the War Powers Consultation proposal should be broadened. 344 The proposal currently is limited to “combat operation[s] b y U.S. armed forces.” 345 The legislation should be m ore expansive, and closer to the reality of modern war fighting, which is conducted by many actors in addition to the military. 346 This change could be accomplished by omitting **the words “armed forc- es.”** 347 Therefore, the scope of the legislation **should be modified** to encompass “an y combat operation by the United States.” 348 This change to the proposed legislation would encompass military, govern- ment civilians, contractors, UAVs, and other technological innovations that act on behalf of the nation. 349

#### Voter for predictable limits –

#### 1. PMC’s – means any civilian that accompanies or works for armed forces is defined as being part of the armed forces – allows affs to regulate specific defense contractors and employees of other executive departments during hostilities – key to preparation and clash

#### 2. Statute – creating new statutes that prohibit actions guarantees us core process ground

### 3

#### Legal restraints motivated by security cement epistemologically suspect juridical warfare---that naturalizes global preemptive violence

Morrissey 11 (John Morrissey, Lecturer in Political and Cultural Geography, National University of Ireland, Galway; has held visiting research fellowships at University College Cork, City University of New York, Virginia Tech and the University of Cambridge. Liberal Lawfare and Biopolitics: US Juridical Warfare in the War on Terror, Geopolitics, Volume 16, Issue 2, 2011)

Foucault’s envisioning of a more governmentalized and securitized modernity, framed by a ubiquitous architecture of security, speaks on various levels to the contemporary US military’s efforts in the war on terror, but I want to mention three specifically, which I draw upon through the course of the paper. First, in the long war in the Middle East and Central Asia, the US military actively seeks to legally facilitate both the ‘circulation’ and ‘conduct’ of a target population: its own troops. This may not be commonly recognized in biopolitical critiques of the war on terror but, as will be seen later, the Judge Advocate General Corps has long been proactive in a ‘juridical’ form of warfare, or lawfare, that sees US troops as ‘technical-biopolitical’ objects of management whose ‘operational capabilities’ on the ground must be legally enabled. Secondly, as I have explored elsewhere, the US military’s ‘grand strategy of security’ in the war on terror — which includes a broad spectrum of tactics and technologies of security, including juridical techniques — has been relentlessly justified by a power/knowledge assemblage in Washington that has successfully scripted a neoliberal political economy argument for its global forward presence.’9 Securitizing economic volatility and threat and regulating a neoliberal world order for the good of the global economy are powerful discursive touchstones registered perennially on multiple forums in Washington — from the Pentagon to the war colleges, from IR and Strategic Studies policy institutes to the House and Senate Armed Services Committees — and the endgame is the legitimization of the military’s geopolitical and biopolitical technologies of power overseas,20 Finally, Foucault’s conceptualization of a ‘society of security’ is marked by an urge to ‘govern by contingency’, to ‘anticipate the aleatory’, to ‘allow for the evental’.2’ It is a ‘security society’ in which the very language of security is promissory, therapeutic and appealing to liberal improvement. The lawfare of the contemporary US military is precisely orientated to plan for the ‘evental’, to anticipate a 4 series of future events in its various ‘security zones’ — what the Pentagon terms ‘Areas of Responsibility’ or ‘AORs’ (see figure 1)•fl These AORs equate, in effect, to what Foucault calls “spaces of security”, comprising “a series of possible events” that must be securitized by inserting both “the temporal” and “the uncertain”. And it is through preemptive juridical securitization ‘beyond the battlefield’ that the US military anticipates and enables the necessary biopolitical modalities of power and management on the ground for any future interventionary action. AORs and the ‘milieu’ of security For CENTCOM Commander General David Petraeus, and the other five US regional commanders across the globe, the population’ of primary concern in their respective AORs is the US military personnel deployed therein. For Petraeus and his fellow commanders, US ground troops present perhaps less a collection of “juridical-political” subjects and more what Foucault calls “technical- political” objects of “management and government”.25 In effect, they are tasked with governing “spaces of security” in which “a series of uncertain elements” can unfold in what Foucault terms the “milieu”.26 What is at stake in the milieu’ is “the problem of circulation and causality”, which must be anticipated and pLanned for in terms of “a series of possible events” that need to “be regulated within a multivalent and transformable framework”.27 And the “technical problem” posed by the eighteenth-century town planners Foucault has in mind is precisely the same technical problem of 5 space, population and regulation that US military strategists and Judge Advocate General Corps (JAG) personnel have in the twenty-first century. For US military JAGs, their endeavours to legally securitize the AORs of their regional commanders are ultimately orientated to “fabricate, organize, and plan a milieu” even before ground troops are deployed (as in the case of the first action in the war on terror, which I return to later: the negotiation by CENTCOM JAGs of a Status of Forces Agreement with Uzbekistan in early October 2OO1).2 JAGs play a key role in legally conditioning the battlefield, in regulating the circulation of troops, in optimizing their operational capacities, and in sanctioning the privilege to kill. The JAG’s milieu is a “field of intervention”, in other words, in which they are seeking to “affect, precisely, a population”.29 To this end, securing the aleatory or the uncertain is key. As Michael Dillon argues, central to the securing of populations are the “sciences of the aleatory or the contingent” in which the “government of population” is achieved by the regulation of “statistics and probability”.30 As he points out elsewhere, you “cannot secure anything unless you know what it is”, and therefore securitization demands that “people, territory, and things are transformed into epistemic objects”.3’ And in planning the milieu of US ground forces overseas, JAGs translate regional AORs into legally-enabled grids upon which US military operations take place. This is part of the production of what Matt Hannah terms “mappable landscapes of expectation”;32 and to this end, the aleatory is anticipated by planning for the ‘evental’ in the promissory language of securitization. The ontology of the event’ has recently garnered wide academic engagement. Randy Martin, for example, has underlined the evental discursive underpinnings of US military strategy in the war on terror; highlighting how the risk of future events results in ‘preemption’ being the tactic of their securitization.33 Naomi Klein has laid bare the powerful event-based logic of disaster capitalism’;34 while others have pointed out how an ascendant logic of premediation’. in which the future is already anticipated and mediated”. is a marked feature of the “post-9/1 I cultural landscape”.35 But it was Foucault who first cited the import of the evental’ in the realm of biopolitics. He points to the “anti-scarcity system” of seventeenth-century Europe as an early exemplar of a new ‘evental’ biopolitics in which “an event that could take place” is prevented before it “becomes a reality”.36 To this end, the figure of ‘population’ becomes both an ‘object’, “on which and towards which mechanisms are directed in order to have a particular effect on it”, but also a ‘subject’, “called upon to conduct itself in such and such a fashion”.37 Echoing Foucault, David Nally usefully argues that the emergence of the “era of bio-power” was facilitated by “the ability of ‘government’ to seize, manage and control individual bodies and whole populations”.38 And this is part of Michael Dillon’s argument about the “very operational heart of the security dispositif of the biopolitics of security”, which seeks to ‘strategize’, ‘secure’. ‘regulate’ and ‘manipulate’ the “circulation of species Iife”.3 For the US military, it is exactly the circulation and regulation of life that is central to its tactics of lawfare to juridically secure the necessary legal geographies and biopolitics of its overseas ground presence.

#### Our alternative is to refuse technical debates about war powers in favor of subjecting the 1ac’s discourse to rigorous democratic scrutiny – politics is the only way to solve – not the law

Rana 12 (Aziz Rana, Assistant Professor of Law, Cornell University Law School; A.B., Harvard College; J.D., Yale Law School; PhD., Harvard University, July 2012, “NATIONAL SECURITY: LEAD ARTICLE: Who Decides on Security?,” 44 Conn. L. Rev. 1417)

But this mode of popular involvement comes at a key cost. Secret information is generally treated as worthy of a higher status than information already present in the public realm—the shared collective information through which ordinary citizens reach conclusions about emergency and defense. Yet, oftentimes, as with the lead up to the Iraq War in 2003, although the actual content of this secret information is flawed,197 its status as secret masks these problems and allows policymakers to cloak their positions in added authority. This reality highlights the importance of approaching security information with far greater collective skepticism; it also means that security judgments may be more ‘Hobbesian’—marked fundamentally by epistemological uncertainty as opposed to verifiable fact—than policymakers admit. If the objective sociological claims at the center of the modern security concept are themselves profoundly contested, what does this meahn for reform efforts that seek to recalibrate the relationship between liberty and security? Above all, it indicates that the central problem with the procedural solutions offered by constitutional scholars-emphasizing new statutory frameworks or greater judicial assertiveness-is that they mistake a question of politics for one of law. In other words, such scholars ignore the extent to which governing practices are the product of background political judgments about threat, democratic knowledge, professional expertise, and the necessity for insulated decision-making. To the extent that Americans are convinced that they face continuous danger from hidden and potentially limitless assailants-danger too complex for the average citizen to comprehend independently-it is inevitable that institutions (regardless of legal reform initiatives) will operate to centralize power in those hands presumed to enjoy military and security expertise. Thus, any systematic effort to challenge the current framing of the relationship between security and liberty must begin by challenging the underlying assumptions about knowledge and security upon which legal and political arrangements rest. Without a sustained and public debate about the validity of security expertise, its supporting institutions, and the broader legitimacy of secret information, there can be no substantive shift in our constitutional politics. The problem at present, however, is that it remains unclear which popular base exists in society to raise these questions. Unless such a base fully emerges, we can expect our prevailing security arrangements to become ever more entrenched.

### 4

#### CP TEXT – The United States Federal Government should restrict the introduction of United States Armed Forces into hostilities by judicially defining high risk activities to be inherently governmental functions.

#### CP is competitive – statutory restrictions on executive war authority means Congress

Fisher 7 (Louis, Specialist, Constitutional Law Law Library, Library of Congress, "The Power of Congress to End a War," 1/30, lexis)

Contemporary Statutory Restrictions¶ Congress has often enacted legislation to restrict and limit military operations by the President, selecting both appropriations bills and authorizing legislation to impose conditions and constraints. The Congressional Research Service recently prepared a lengthy study that lists these statutory provisions. A major cutoff of funds occurred in 1973, when Congress passed legislation to deny funds for the war in Southeast Asia. After President Nixon vetoed the bill, the House effort to override failed on a vote of 241 to 173, or 35 votes short of the necessary two-thirds majority. A lawsuit by Representative Elizabeth Holtzman asked the courts to determine that President Nixon could not engage in combat operations in Cambodia and elsewhere in Indochina in the absence of congressional authorization. A federal district court held that Congress had not authorized the bombing of Cambodia. Its inability to override the veto and the subsequent adoption of an August 15 deadline for the bombing could not be taken as an affirmative grant of legislative authority: "It cannot be the rule that the President needs a vote of only one-third plus one of either House in order to conduct a war, but this would be the consequence of holding that Congress must override a Presidential veto in order to terminate hostilities which it had not authorized." Appellate courts mooted the case because the August 15 compromise settled the dispute between the two branches and terminated funding for the war.¶ Through its power to authorize programs and appropriate funds, Congress can define and limit presidential military actions. Some claim that the power of the purse is an ineffective and impractical method of restraining presidential wars. Senator Jacob Javits said that Congress "can hardly cut off appropriations when 500,000 American troops are fighting for their lives, as in Vietnam." The short answer is that Congress can, and has, used the power of the purse to restrict and terminate presidential wars. If Congress is concerned about the safety of American troops, those lives are not protected by voting additional funds for a war it does not support.¶ A proper and responsible action, when war has declining value or purpose, is to reevaluate the commitment by placing conditions on appropriations, terminating funding, moving U.S troops to a more secure location, and taking other legislative steps. There is one central and overriding question: Is the continued use of military force in the nation's interest? If not, then U.S. soldiers need to be safely withdrawn and redeployed. Answering that difficult question is not helped by speculation about whether congressional action might "embolden the enemy."¶ Other examples of congressional intervention can be cited. In 1976, Congress prohibited the CIA from conducting military or paramilitary operations in Angola and denied any appropriated funds to finance directly or indirectly any type of military assistance to Angola. In 1984, Congress adopted the Boland Amendment to prohibit assistance of any kind to support the Contras in Nicaragua. No constitutional objection to this provision was ever voiced publicly by President Reagan, the White House, the Justice Department, or any other agency of the executive branch.¶ Congress has options other than a continuation of funding or a flat cutoff. In 1986, Congress restricted the President's military role in Central America by stipulating that U.S. personnel "may not provide any training or other service, or otherwise participate directly or indirectly in the provision of any assistance, to the Nicaraguan democratic resistance pursuant to this title within those land areas of Honduras and Costa Rica which are within 20 miles of the border with Nicaragua." In 1991, when Congress authorized President George H. W. Bush to use military force against Iraq, the authority was explicitly linked to UN Security Council Resolution 678, which was adopted to expel Iraq from Kuwait. Thus, the legislation did not authorize any wider action, such as using U.S. forces to invade and occupy Iraq. In 1993, Congress established a deadline for U.S. troops to leave Somalia. No funds could be used for military action after March 31, 1994, unless the President requested an extension from Congress and received prior legislative priority.¶ Conclusions¶ In debating whether to adopt statutory restrictions on the Iraq War, Members of Congress want to be assured that legislative limitations do not jeopardize the safety and security of U.S. forces. Understandably, every Member wants to respect and honor the performance of dedicated American soldiers. However, the overarching issue for lawmakers is always this: Is a military operation in the nation's interest? If not, placing more U.S. soldiers in harm's way is not a proper response. Members of the House and the Senate cannot avoid the question or defer to the President. Lawmakers always decide the scope of military operations, either by accepting the commitment as it is or by altering its direction and purpose. In a democratic republic, that decision legitimately and constitutionally resides in Congress.

#### Judicial restrictions solve and the executive complies

Bradley and Morrison 13 (Curtis and Trevor, Prof of Law @ Duke + Prof of Law @ Columbia, "PRESIDENTIAL POWER, HISTORICAL PRACTICE, AND ¶ LEGAL CONSTRAINT," http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=5451&context=faculty\_scholarship)

Insisting on a sharp distinction between the law governing presidential authority that is subject to judicial review and the law that is not also ¶ takes for granted a phenomenon that merits attention—that Presidents ¶ follow judicial decisions.118 That assumption is generally accurate in the ¶ United States today. To take one relatively recent example, despite disagreeing with the Supreme Court’s determination in Hamdan v. Rumsfeld ¶ that Common Article 3 of the Geneva Conventions applies to the war on ¶ terror, the Bush Administration quickly accepted it.119 But the reason why ¶ Presidents abide by court decisions has a connection to the broader issue¶ of the constraining effect of law. An executive obligation to comply with ¶ judicial decisions is itself part of the practice-based constitutional law of the ¶ United States, so presidential compliance with this obligation may ¶ demonstrate that such law can in fact constrain the President. This is ¶ true, as we explain further in Part III, even if the effect on presidential ¶ behavior is motivated by concerns about external political perceptions ¶ rather than an internal sense of fidelity to law (or judicial review).120¶ A final complication is that, with respect to issues of presidential ¶ power, there are few situations in which the prospect of judicial review is ¶ actually zero. If the Supreme Court can decide Bush v. Gore121 and the war ¶ on terror cases, it can decide a lot.122 Areas of presidential power that ¶ typically see little judicial involvement might become areas of greater ¶ involvement under certain conditions. Moreover, the likelihood of ¶ judicial review is probably affected by the extent to which courts perceive ¶ the President to be stretching traditional legal understandings. As a ¶ result, it might be more accurate to describe the constitutional law of ¶ presidential power as judicially underenforced, rather than unenforceable. Even outside the separation of powers area, there is an extensive ¶ literature on the legal status of underenforced constitutional norms. For ¶ a variety of reasons, including justiciability limitations, immunity ¶ doctrines, and judicial deference to coordinate institutions, it has long ¶ been understood that the Constitution is not fully enforced by the courts. ¶ Nevertheless, courts and scholars commonly accept that judicially ¶ underenforced constitutional norms retain the status of law beyond the ¶ extent of judicial enforcement.123

#### CP avoids politics

Ting 9 (Jan, Professor of Law – Temple University and Former Assistant Commissioner – INS, “Panel: Should Judges Set Immigration Policy?”, June, http://www.cis.org/Transcript/PlenaryPowerPanel)

And to me that’s sort of a backhanded way, and a much more sophisticated way, of arguing for open borders than our friends at Cato and Wall Street Journal, who openly advocate it. I mean, there’s this other view that says, no, we’re not going to openly advocate it – that would be political suicide – but we’re going to keep spending the money but we’re going to have it come through a different way. So again, it’s important that we clarify the plenary powers dispute is premised on the notion we’re going to have a system of limited immigration and someone is going to make rules about who can come in and who can’t and who can stay and who can’t, and then we can talk about who makes the rules. The discussion also assumes that the political branches, the Congress and the executive, actually want to retain plenary powers over immigration. Again, it’s not entirely clear that they do. You know, from the point of view of Congress, it might be a good thing to let this hot potato be resolved by the judges rather than a member of Congress who – as a member once told me that there is a popular notion out there that people run for Congress so that they can vote on the tough issues of the day and have input on the tough issues of the day. And this former member suggested that’s actually not the case, that people don’t really want to vote on the tough issues of the day. They’d much rather vote on non-controversial stuff like naming post offices and Future Farmers of America Week and things like that rather than the tough issues which are going to force them to make a decision and alienate some of their constituents.

### 5

#### CP TEXT – The United States Federal Government should define high risk activities to be inherently governmental functions. The United States Federal Government should make explicit that this issue is unrelated to the President of the United States war powers authority.

#### Congressional statutes restricting executive war powers destroy broader presidential powers

Freeman 7 -- JD @ Yale Law School (Daniel J., 11/1/2007, "The Canons of War," Yale Law Journal 117(280), EBSCO)

Outside the confines of partisan absolutism, determining the scope of executive war power is a delicate balancing act. Contrasting constitutional prerogatives must be evaluated while integrating **framework statutes**, executive orders, and quasi-constitutional custom. The Supreme Court’s preferred abacus is the elegant three-part framework described by Justice Jackson in his concurrence to Youngstown Sheet & Tube Co. v. Sawyer.9 When the President and Congress act in concert, the action harnesses the power of both branches and is unlikely to violate the principle of separation of powers. When Congress has failed either to authorize or to deny authority, the action lurks in a “zone of twilight” of questionable power. **When the President and Congress act in opposition,** the President’s power is “at its lowest ebb,” and the action raises conspicuous concerns over the separation of powers.10 Therein lies the rub. Justice Jackson wrote soon after the tremendous growth of the executive during the New Deal and World War II, but the scope of legislation expanded dramatically in subsequent decades. Congress waged a counteroffensive in the campaign over interbranch supremacy by legislating extensively in the fields of foreign relations and war powers. Particularly in the post-Watergate era, Congress filled nearly every shadowy corner of the zone of twilight with its own imprimatur.11 That is not to say that Congress placed a relentless series of checks on the executive. Rather, Congress strove to establish ground rules, providing a limiting framework such as the War Powers Resolution12 for each effusive authorization like the Patriot Act.13 This leaves Jackson’s second category essentially a dead letter.14 **The most sensitive questions** concerning the **effective distribution of governmental powers** and the **range of permissible executive action are** thereforeproblems of statutory interpretation. The question becomes more complicated still when successive Congresses act in apparent opposition. While recent executives have consistently pushed to expand their authority,15 shifting patterns of political allegiance between Congress and the President yield a hodgepodge of mandates and restraints.16 Whether an action falls into Jackson’s first or third category requires one to parse the complete legislative scheme. This question is most pointed in connection with the execution of authorized war powers. Presidential power in this area is simultaneously subject to enormously broad delegations and exacting statutory limitations, torn between clashing constitutional values regarding the proper balance between branches. On one side lie **authorizations for the use of military force** (AUMFs), statutes empowering the President to “**introduce United States Armed Forces into hostilities** or into situations wherein involvement in hostilities is clearly indicated.”17 On the other side lie framework statutes, enactments **defining the** mechanisms and **boundaries of the execution of those war powers**. Nevertheless, when faced with a conflict between an authorization for the use of military force and a preexisting framework, the Supreme Court must determine the net authorization, synthesizing those statutes while effectuating the underlying constitutional, structural, and historical concerns.

#### It spills over to destabilize all presidential war powers

Heder 10 (Adam, J.D., magna cum laude , J. Reuben Clark Law School, Brigham Young University, “THE POWER TO END WAR: THE EXTENT AND LIMITS OF CONGRESSIONAL POWER,” St. Mary’s Law Journal Vol. 41 No. 3, <http://www.stmaryslawjournal.org/pdfs/Hederreadytogo.pdf>)

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

#### Strong foreign affairs Obama solves warming

Wold 12 (Christopher, Professor of Law & Director, International Environmental Law Project (IELP), Lewis & Clark Law School, “Climate Change, Presidential Power, and Leadership: “We Can’t Wait”)

In 2007, then-Senator Barack Obama wrote, “As the world’s largest producer of greenhouse gases, America has the responsibility to lead.” 1 As President, he has led. At the domestic level, working primarily through the Environmental Protection Agency, President Obama has increased fuel economy standards,2 imposed new limits on greenhouse gas emissions from “major emitting facilities,” 3 and imposed limits on emissions relating to the development of oil and gas,4 among many other things.5 As he has said, he must use his executive power because “We Can’t Wait” for Congress to act on climate change.6 Nonetheless, he must do more. President Obama has pledged to the international community that the United States will reduce its greenhouse gases by 17% of 2005 levels by 2020 and by 83% by 2050.7The President has also set a goal of ensuring that “[b]y 2035 we will generate 80 percent of our electricity from a diverse set of clean energy sources—including renewable energy sources like wind, solar, biomass, and hydropower; nuclear power; efficient natural gas; and clean coal.” 8 None of his actions come close to meeting these goals. Moreover, he must do more to help the international community reach its goal of keeping average global temperatures from increasing 2°C above pre-industrial levels.9 Many scientists argue that the 2°C goal can be met, and the worst impacts of climate change avoided, if we keep carbon dioxide concentrations below 350 parts per million (ppm). 10 As of July 2012, atmospheric concentrations of carbon dioxide exceeded 394 ppm.11 The United States is by far the largest historic contributor to these high levels of atmospheric carbon dioxide, having contributed 28.52% of carbon dioxide from energy.12 As such, the United States must do much more to ensure that the world’s largest historic emitter of greenhouse gases fulfills its moral and perhaps legal obligation to reduce greenhouse gases before we reach climate change tipping points beyond which climate change will be irreversible for millennia to come. And indeed, President Obama can do much more. As described below, the president can use his foreign affairs power to take a more positive role on the international stage, whether that stage is the climate change negotiations, the negotiations concerning other international treaties, or within the World Trade Organization. He can also do more with his executive power, not only by increasing existing standards but also by applying them to existing sources of greenhouse gases, not just new sources. Further, President Obama has so far failed to take advantage of strategies to mitigate emissions of short-term climate forcers such as black carbon that could provide significant climate benefits. Lastly, the approaches adopted so far have not pushed regulated entities or others to develop the transformative technologies that will be needed to deliver sufficient climate change benefits to avert the environmental and economic crisis that lies ahead if we fail to take more aggressive action. Section II of this article summarizes the climate change challenges facing humanity. Section III reviews the major climate-related actions supported and adopted by President Obama. Section IV describes how these actions fall short of what is needed and the additional steps that the President can take. Section V concludes that, while congressional action is preferable to presidential action, the President has many more climate change mitigation opportunities available to him. His failure to pursue them will have grave consequences for the United States and the world.

#### Extinction

Flournoy 12 (Citing Dr. Feng Hsu, a NASA scientist at the Goddard Space Flight Center, in 2012, Don Flournoy, PhD and MA from the University of Texas, Former Dean of the University College @ Ohio University, Former Associate Dean @ State University of New York and Case Institute of Technology, Project Manager for University/Industry Experiments for the NASA ACTS Satellite, Currently Professor of Telecommunications @ Scripps College of Communications @ Ohio University, Citing Dr. "Solar Power Satellites," Chapter 2: What Are the Principal Sunsat Services and Markets?, January, Springer Briefs in Space Development, Book)

In the Online Journal of Space Communication, Dr. Feng Hsu, a NASA scientist at Goddard Space Flight Center, a research center in the forefront of science of space and Earth, writes, “The evidence of global warming is alarming,” noting the potential for a catastrophic planetary climate change is real and troubling (Hsu 2010). Hsu and his NASA colleagues were engaged in monitoring and analyzing cli- mate changes on a global scale, through which they received first-hand scientific information and data relating to global warming issues, including the dynamics of polar ice cap melting. After discussing this research with colleagues who were world experts on the subject, he wrote: I now have no doubt global temperatures are rising, and that global warming is a serious problem confronting all of humanity. No matter whether these trends are due to human interference or to the cosmic cycling of our solar system, there are two basic facts that are crystal clear: (a) there is overwhelming scientific evidence showing positive correlations between the level of CO2 concentrations in Earth’s atmosphere with respect to the historical fluctuations of global temperature changes; and (b) the overwhelming majority of the world’s scientific community is in agreement about the risks of a potential catastrophic global climate change. That is, if we humans continue to ignore this problem and do noth- ing, if we continue dumping huge quantities of greenhouse gases into Earth’s biosphere, humanity will be at dire risk (Hsu 2010). As a technology risk assessment expert, Hsu says he can show with some confi- dence that the planet will face more risk doing nothing to curb its fossil-based energy addictions than it will in making a fundamental shift in its energy supply. “This,” he writes, “is because the risks of a catastrophic anthropogenic climate change can be potentially the extinction of human species, a risk that is simply too high for us to take any chances” (Hsu 2010). It was this NASA scientist’s conclusion that humankind must now embark on the next era of “sustainable energy consumption and re-supply, the most obvious source of which is the mighty energy resource of our Sun” (Hsu 2010) (Fig. 2.1).

#### Lack of crisis containment turns the case – causes mass intervention

Young 13 (Laura Young, Ph.D., Purdue University Associate Fellow, June 2013, Unilateral Presidential Policy Making and the Impact of Crises, Presidential Studies Quarterly, Volume 43, Issue 2)

During periods of crisis, the time available to make decisions is limited. Because the decision-making process is often arduous and slow in the legislative branch, it is not uncommon for the executive branch to receive deference during a crisis because of its ability to make swift decisions. The White House centralizes policies during this time, and presidents seize these opportunities to expand their power to meet policy objectives. Importantly, presidents do so with limited opposition from the public or other branches of government (Howell and Kriner 2008). In fact, despite the opposition presidents often face when centralizing policies, research shows policies formulated via centralized processes during times of crisis receive more support from Congress and the American people (Rudalevige 2002, 148-49). For several reasons, a crisis allows a president to promote his agenda through unilateral action. First, a critical exogenous shock shifts attention and public opinion (Birkland 2004, 179). This shift is a phenomenon known as the “rally round the flag” effect (Mueller 1970). The rally effect occurs because of the public's increase in “its support of the president in times of crisis or during major international events” (Edwards and Swenson 1997, 201). Public support for the president rises because he is the leader and, therefore, the focal point of the country to whom the public can turn for solutions. Additionally, individuals are more willing to support the president unconditionally during such times, hoping a “united front” will increase the chance of success for the country (Edwards and Swenson 1997, 201). As a result, a crisis or focusing event induces an environment that shifts congressional focus, dispels gridlock and partisanship, and increases positive public opinion—each of which is an important determinant for successful expansion of presidential power (Canes-Wrone and Shotts 2004; Howell 2003). In other words, a crisis embodies key elements that the institutional literature deems important for presidential unilateral policy making. The president's ability to focus attention on a particular issue is also of extreme importance if he wishes to secure support for his agenda (Canes-Wrone and Shotts 2004; Edwards and Wood 1999; Howell 2003; Neustadt 1990). The role the media play is pivotal in assisting a president in achieving such a result because of its ability to increase the importance of issues influencing the attention of policy makers and the priorities of viewers. Although it is possible a president can focus media attention on the policies he wishes to pursue through his State of the Union addresses or by calling press conferences, his abilities in this regard are limited, and the media attention he receives is typically short lived (Edwards and Wood 1999, 328-29). High-profile events, on the other hand, are beneficial because they allow the president to gain focus on his agenda. This occurs because the event itself generates attention from the media without presidential intervention. Thus, the ability of crises to set the agenda and shift media and public attention provides another means for overcoming the constraints placed upon the president's ability to act unilaterally. Finally, Rudalevige finds support that a crisis increases the success of presidential unilateral power even if the policy process is centralized. A crisis allows little time to make decisions. As a result, “the president and other elected officials are under pressure to ‘do something’ about the problem at hand” (2002, 89, 148). Because swift action is necessary, presidents rely on in-house advice. As a result, the policy formation process is centralized, and the president receives deference to unilaterally establish policies to resolve the crisis. During a crisis, the president has greater opportunity to guide policy because the event helps him overcome the congressional and judicial obstacles that typically stand in his way.2 This affords the president greater discretion in acting unilaterally (Wildavsky 1966). It is possible the institutional make-up of the government will align so that the president will serve in an environment supportive of his policy decisions. It is also likely a president will have persuasive powers that enable him to gain a great deal of support for his policy agenda. An event with the right characteristics, however, enhances the president's ability to act unilaterally, regardless of the institutional make-up of government or his persuasive abilities.

## On

### Solvency

Presumption goes neg – status quo is always an option – their evidence presumes that PMCs are guilty, not innocent

#### Obama won’t comply with the plan

Lobel 8 (Jules Lobel – Professor of Law @ University of Pittsburgh , “Conflicts Between the Commander in Chief and Congress: Concurrent Power over the Conduct of War,” Ohio State Law Journal, Vol. 69, 2008, pg. 391)

The critical difficulty with a contextual approach is its inherent ambiguity and lack of clarity, which tends to sharply shift the balance of power in favor of a strong President acting in disregard of congressional will. For example, the application of the Feldman and Issacharoff test asking whether the congressional restriction makes realistic sense in the modern world would yield no coherent separation of powers answer if applied to the current Administration’s confrontation with Congress. It would undoubtedly embolden the President to ignore Congress’s strictures. The President’s advisors would argue that the McCain Amendment’s ban on cruel and inhumane treatment, or FISA’s requirement of a warrant, does not make realistic sense in the context of the contemporary realities of the war on terror in which we face a shadowy, ruthless nonstate enemy that has no respect for laws or civilized conduct, a conclusion hotly disputed by those opposed to the President’s policies. Focusing the debate over whether Congress has the power to control the treatment of detainees on the President’s claim that the modern realities of warfare require a particular approach will merge the separation of powers inquiry of who has the power with the political determination of what the policy ought to be. Such an approach is likely to encourage the President to ignore and violate legislative wartime enactments whenever he or she believes that a statute does not make realistic sense—that is, when it conflicts with a policy the President embraces. 53 The contextual approach has a “zone of twilight” quality that Justice Jackson suggested in Youngstown. 54 Often constitutional norms matter less than political realities—wartime reality often favors a strong President who will overwhelm both Congress and the courts. While it is certainly correct— as Jackson noted—that neither the Court nor the Constitution will preserve separation of powers where Congress is too politically weak to assert its authority, a fluid contextual approach is an invitation to Presidents to push beyond the constitutional boundaries of their powers and ignore legislative enactments that seek to restrict their wartime authority. Moreover, another substantial problem with a contextual approach in the war powers context is that the judiciary is unlikely to resolve the dispute. 55 The persistent refusal of the judiciary to adjudicate the constitutionality of the War Powers Resolution strongly suggests that courts will often refuse to intervene to resolve disputes between the President and Congress over the constitutionality of a statute that a President claims impermissibly interferes with her conduct of an ongoing war. 56 This result leaves the political branches to engage in an intractable dispute over the statute’s constitutionality that saps the nation’s energy, diverts focus from the political issues in dispute, and endangers the rule of law. Additionally, in wartime it is often important for issues relating to the exercise of war powers to be resolved quickly. Prompt action is not usually the forte of the judiciary. If, however, a constitutional consensus exists or could be consolidated that Congress has the authority to check the President’s conduct of warfare, that consensus might help embolden future Congresses to assert their power. Such a consensus might also help prevent the crisis, chaos, and stalemate that may result when the two branches assert competing constitutional positions and, as a practical matter, judicial review is unavailable to resolve the dispute. Moreover, the adoption of a contextual, realist approach will undermine rather than aid the cooperation and compromise between the political branches that is so essential to success in wartime. In theory, an unclear, ambiguous division of power between the branches that leaves each branch uncertain of its legal authority could further compromise and cooperation. However, modern social science research suggests that the opposite occurs. 57 Each side in the dispute is likely to grasp onto aspects or factors within the ambiguous or complex reality to support its own self-serving position. This self-serving bias hardens each side’s position and allows the dispute to drag on, as has happened with the ongoing, unresolved dispute over the constitutionality of the War Powers Resolution. Pg. 407-409

#### Specifically true with armed forces

Bell 4 (Lauren Cohen Bell – Professor of Political Science @ Randolph-Macon College , “Following the Leaders or Leading the Followers? The US President's Relations with Congress,” Journal of Legislative Studies, Summer/Autumn, 2004, Vol. 10 Issue 2/3, Pg. 200-202)

As noted ahove. Article I of the Constitution grants to the Congress the sole authority to make declarations of war. However, the president has the power to command US military personnel based on the provisions of Article II. Over the course of US history, the commander-in-chief power has been interpreted to permit presidents to commit troops to areas of conflict even in the absence of a formal declaration of war. Today, formal declarations of war are the exception rather than the rule; separation of powers expert Louis Fisher notes that through 1991 only five wars had ever been declared and that "in only one (the War of 1812) did members of Congress actually debate the merits of entering into hostilities'.'^ As Samuel Kemell and Gary Jacohson note: "[SJince 1989 U.S. armed forces have been almost continuously engaged somewhere in the world.''^ This was not always the case. Fisher points out that there is evidence of presidential restraint with regard to war-making by relating the story of President Grover Cleveland (1885-89; 1893-97), who refused to mobilise troops for a conflict with Cuba despite Congress' intention to declare war. In Fisher's account, Cleveland told the Congress: 'I will not mobilize the army ... I happen to know that we can buy the island of Cuba from Spain for $100,000,000, and a war will cost vastly more than that and will entail another long list of pensioners. It would be an outrage to declare war.''^ Yet, in the modem history of presidential-congressional relations, it is much more frequently the president who has mobilised American troops without consultation with the Congress and in the absence of a formal declaration of war. And it is clear that even when we consider Cleveland's actions, the president has been far more important to the conduct of American foreign policy than the Congress. This circumstance led, in the aftermath of the war in Vietnam, to congressional passage of the War Powers Resolution in 1973. The War Powers Resolution (WPR) was an attempt to constrain presidential discretion with regard to committing troops oversees. Section 3 of the WPR requires that 'The president in every possible instance shall consult with Congress before introducing United States Armed Forces into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances".' Section 4 of the WPR gives the president 48 hours to provide a report to both Chambers of the Congress detailing the reason for committing troops, the authority under which he committed them and his prediction conceming the duration of the troops' engagement abroad.'^ Once the president has informed the Congress of the commitment of troops, and in the event that the Congress does not declare war, the WPR requires the president to end the engagement within 60 days, with the possibility of an additional 30 days' commitment in the event that the president certifies to the Congress that the additional time is necessary.^\*\* According to the Congressional Research Service (CRS), the research branch of the Library of Congress, since the War Powers Resolution was enacted over President Richard M. Nixon's 1973 veto, it has been invoked on 107 occasions (to 23 July 2003).^' Figure 2 illustrates both the absolute number of times as well as the rate of each president's exercise of war powers. As Figure 2 demonstrates, the rate of War Powers Resolution uses has continually increased since it took effect in 1974. A reading of the WPR would seem to clarify the relationship between Congress and the president with regard to the exercise of national war powers. A close reading would also suggest that the president and Congress share war-making power. Yet no president has ever recognised the WPR as a constraint on his ability to move American armed forces around the globe or keep them in place as long as necessary. Moreover, presidents rarely abide by the provisions of the Resolution that require their consultation with the Congress. As CRS researcher Richard F. Grimmett notes, 'there has been very little consultation with Congress under the Resolution when consultation is defined to mean seeking advice prior to a decision to introduce troops'.^" And while the Congress has, from time to time, expressed its sense that troops should be withdrawn from conflicts or engagements abroad, in truth the Congress has relatively few options for dealing with a president that violates the WPR. Indeed, as the late presidency scholar Aaron Wildavsky notes, the Congress is much less likely to challenge presidents" foreign policy actions than it is willing to challenge presidents" domestic policy actions.'^'^ This is because presidents oversee an enormous national security apparatus and because the constituents represented by members of Congress rarely hold strong opinions on matters of foreign policy. As a result, congressional challenges to violations of the WPR consist mostly of holding oversight hearings and passing symbolic resolutions.''\* Moreover, once troops are committed abroad. Congress almost always falls in line with the president’s vision of the scope of the conflict and the need for a military presence. The members of Congress become reluctant to challenge a president who has troops on the ground and typically acquiesce to the president’s wishes when it comes to provisions for support. In this way, the president is able to exercise some leadership over the Congress, whose members generally find it politically expedient to follow the president on matters pertaining to the military or the conduct of America's relations with other countries.

#### **And PMC’s**

Michaels 4 (Jon – Law Clerk to the Honorable Guido Calabresi, U.S. Court of Appeals for the Second Circuit; Law Clerk designate, the Honorable David H. Souter, U.S. Supreme Court; J.D., Yale Law School, “ARTICLE: BEYOND ACCOUNTABILITY: THE CONSTITUTIONAL, DEMOCRATIC, AND STRATEGIC PROBLEMS WITH PRIVATIZING WAR”, 2004, 82 Wash. U. L. Q. 1001, lexis)

As will be explored at length in the course of the discussions in subsequent parts of this Article, privatization expands the horizon of executive policymaking discretion in the context of military affairs. Using privateers, whose legal status differentiates them from regular, U.S. soldiers, could help enable the president to bypass congressional oversight and even international collective security arrangements. Indeed, outsourcing may be undertaken to exploit this legal gap between what is the official state policy (say, non-intervention, limited involvement, or limited troop deployment) and what military goals can actually be accomplished through private channels. If contractors operate within these interstices, the president can presumably satisfy national security aims [\*1041] without expending the time and political capital to secure formal approval at home or internationally. First, pursuant to the U.S. Constitution, customary practice, and statutory framework laws such as the War Powers Resolution, the president shares many warmaking powers with Congress. While retaining exclusive jurisdiction over command decisionmaking, the president must nevertheless seek, inter alia, authorization and funding from Congress to deploy U.S. troops into zones of hostility. But, many of Congress's powers over military affairs are keyed to its Article I authority over the Armed Forces per se. Congress can, for instance, regulate the use and number of servicemen and women abroad, curtail funding for operations, and withhold support for a military engagement. Hence, as it stands, the president must often seek congressional approval in some form or another. If the Executive were, however, to deploy private troops in lieu of U.S. soldiers, it might be able to evade much of Congress's oversight jurisdiction - at least temporarily. Without having to seek authorization and funds from the national legislature, the president can more easily engage in unilateral policymaking and dispatch private contractors who are not part of the regular U.S. military. In so doing, objectives can perhaps be achieved more swiftly and with less political wrangling and opposition. This privatization agenda is discussed further in Part III. Second, an additional - and this time constitutionally exogenous - check on presidential discretion comes by way of the United Nations Security Council. In the post-Cold War era, the Security Council has reemerged as a, if not the, legitimate source for the authorization of military intervention in the name of collective security. Without the endorsement of the Security Council, any one nation's decision to intervene in the affairs of another sovereign state is subject to criticism and charges of illegality and illegitimacy. But although the Security Council attempts to regulate the behavior of nation-states and their national militaries, it (like international law more generally) has comparatively less influence over the activities of private agents. n139 If a country were to utilize the services of private contractors, it could bypass a Security Council vote - or possibly evade an already passed resolution prohibiting intervention by member states. Thus, the use of private troops in lieu of the U.S. military may free the Executive from having to depend on the support of the Security Council in order to initiate [\*1042] a foreign deployment. This privatization agenda is explored at greater length in Part V.

#### **Empirically proven**

Michaels 4 (Jon – Law Clerk to the Honorable Guido Calabresi, U.S. Court of Appeals for the Second Circuit; Law Clerk designate, the Honorable David H. Souter, U.S. Supreme Court; J.D., Yale Law School, “ARTICLE: BEYOND ACCOUNTABILITY: THE CONSTITUTIONAL, DEMOCRATIC, AND STRATEGIC PROBLEMS WITH PRIVATIZING WAR”, 2004, 82 Wash. U. L. Q. 1001, lexis)

In the military context, non-economic status differentials can emerge as all-important in (rather than incident to) decisions to privatize. Private actors qua private actors may be sought - not because they are situated in a more efficient market or even because they command lower market wages, but because legally, politically, and symbolically they are not soldiers. Military privatization can allow the government to achieve national security and even humanitarian ends that would be more difficult, if not impossible, to accomplish using American soldiers. n136 Perhaps, at [\*1039] various times, a desire, however latent, to avoid instituting a draft, to lessen public awareness, to dilute casualty counts, to bypass congressional troop limitations, and/or to evade international arms embargoes, entice policymakers to outsource because private actors are not regulated, controlled, or even mourned to the same extent that public soldiers are. But, if a decision to outsource does reflect "tactical" aims to circumvent political and legal obstacles associated with the conventional deployment of regular, U.S. troops, an entire set of problems for constitutional principles and democratic virtues - independent of any actual, tangible misdeeds that privateers may perpetrate in a zone of conflict - must be anticipated. It is these structural problems, deeper than just accountability concerns, which command my attention. n137 Indeed, these structural problems are so great in the context of military privatization that even absent any express intent by the Executive to leverage or exploit status differentials between contractors and soldiers, many of the chief constitutional and democratic harms would still arise.

#### **Our conflict scenarios cause circumvention**

Michaels 4 (Jon – Law Clerk to the Honorable Guido Calabresi, U.S. Court of Appeals for the Second Circuit; Law Clerk designate, the Honorable David H. Souter, U.S. Supreme Court; J.D., Yale Law School, “ARTICLE: BEYOND ACCOUNTABILITY: THE CONSTITUTIONAL, DEMOCRATIC, AND STRATEGIC PROBLEMS WITH PRIVATIZING WAR”, 2004, 82 Wash. U. L. Q. 1001, lexis)

Economic privatization is, ostensibly speaking, ideologically agnostic. Its advocates may have particular agendas, but efficiency-driven privatization per se mainly creates an alternative process for carrying out government contracts that strive to replicate government provision - only at a fraction of the cost (and perhaps with less government red-tape). On the other hand, "tactical" privatization, which may seek to exploit status differentials, is predicated on substantive rather than administrative or bureaucratic reform. Privatization, in this latter case, could be used to achieve objectives materially different than those that could be - for a number of reasons - achieved within the public sector. For example, a conflict may prompt an outsourced response if it would otherwise be difficult for the president to secure congressional and/or international support to deploy members of the U.S. Armed Forces. In such scenarios, it is not the cheaper price tag, but rather the status of the private actors (as distinct from U.S. military personnel) vis-a-vis congressional oversight, [\*1040] public attention, and international law that may motivate policy planners to hire contractors.

### Adv

#### You don't cause less PMC use – the aff redefines terms in a past law, stating that PMC's and "high risk activities" are now "inherently governmental functions" – this just means that PMC's will be regulated in the same way that the military is, allowing them to congressionally take part in combat-activities – nothing restricts their deployment, just increases meaningless oversight that they haven’t read solvency to

#### Quick version of their solvency card that says 3 things –

**1. They don’t solve – just define them as high-risk, doesn’t say that they can’t be in combat**

**2. Says PMC’s good – plan prevents other countries from kicking them out, you cause more**

**3. Circumvention – DoD will continue to hire PMC’s no matter what**

Tiefer, 2013:

Charles Tiefer. (Commissioner, Commission on Wartime Contracting in Iraq and Afghanistan; Professor, University of Baltimore Law School.) GOVERNMENT OUTSOURCING AND PRIVATIZATION: RESTRAIN "RISKY BUSINESS": TREAT HIGH-RISK PRIVATE SECURITY CONTRACTORS AS INHERENTLY GOVERNMENTAL. Harvard Journal on Legislation, Winter, 2013. 50 Harv. J. on Legis. 209. http://www3.law.harvard.edu/journals/jol/files/2013/09/Tiefer\_Article.pdf

B. Defining, in Terms of "High Risk," Not "Combat," the Scope of "Inherently Governmental" The United States must draw a line regarding "inherently governmental" based on high risk rather than combat. The government must draw the line by keeping front and center that palliative reforms, although welcome, cannot obviate the need for limits on which functions are inherently governmental. Leaving whether to draw a line to State's preferences in Iraq led to planning for virtually a mobile PSC army in Iraq's capital. n132 In future interventions, the United States might find its armed, omnipresent PSC use alienates the local nationals, who see it as stripping them of sovereign self-government. n133 Leaving this to the Army's outsourcing in places of tribal loyalty, like Afghanistan or Somalia, may lead to the continuation of a flow of American funds to the enemy. n134 [\*233] Line-drawing based on different aspects of high risk--in addition just to combat alone--should speak to the diverse functions of PSCs that may present a high risk. The first aspect consists of the potential for seriously alienating local nationals by casualties, fear-inspiring high-visibility presence unleashed from stationary facilities guarding, or otherwise. Only in the contemporary wars in Iraq and Afghanistan has the new extensive use of PSCs for mobile functions in areas of enemy strength and activity brought the lesson home of the high risk from the widespread and intense fear and distrust of the local nationals and their government about PSCs. Apart from the impact of the civilian casualties themselves, other matters multiply this. The United States has never used PSCs on this scale before. In these countries, the gratitude among the population for the United States throwing out their old regimes--the Ba'ath Party and the Taliban--will not last throughout the population in the long term. Local tribal groups may see PSCs as a private armed force intruding on their territory. PSCs serve as a lightning rod for other local discontent and a convenient whipping boy for antagonistic leaders. n135 Today's phone cameras, Internet, and social media propagate vivid images of civilian casualties at an unheard of speed. Well before the population wants the American military presence to depart, **it will want the PSC presence gone**. The war against an insurgency consists in part of a **contest for the hearts and mind of the population**. The vigor of the Iraqi government efforts to reduce the PSC presence during the negotiation of the SOFA and its subsequent expulsion of Blackwater and pressuring of the remaining PSCs bespeaks the population's reactions. Insurgencies in the two wars present a greater problem for the use of PSCs. The mixing of the insurgents and the population means that incidents and casualties from PSCs may occur anywhere, including, dramatically, at the heart of the capital. The population feels itself without protection from PSCs anywhere, by either their own government or the United States government. They feel at the mercy of intimidating for-profit private firms without military discipline and sovereign accountability. Second, agencies should not weigh high-risk use of PSCs as a balance of pros and cons. n136 There are absolute limits, not just balancing tests. For example, even if the Army showed that its efforts required more armed warriors than its own units had, it could not hire PSCs to provide flank protection or reserves for its units moving forward against the enemy. There is a taboo. Inherently governmental lines require line-drawing, not balancing by agencies. The public in an insurgent country must view its own government as a partner with the United States, not just a helpless entity which gives [\*234] over control of territory to what local nationals may see as roving armed foreigners or local fighters without fixed loyalties. Furthermore, the Taliban must know that the kind of armed personnel who move convoys in areas of enemy strength and activity are not open, like some Afghan PSCs, to **bargaining for mutual profit**. n137 Therefore, the United States must apply the criterion of inherently governmental as a matter of its own sovereignty. Additionally, State and DoD have shown that they will strike any balance left to their discretion in favor of hiring PSCs, even for high-risk functions. This is not from ignoble motives. There is no reason to think the State and DoD officials have any disloyalty to their job in their agency in hiring PSCs. The State and DoD officials in the field are dedicated and professional, giving years of their lives to a grueling and dangerous struggle. Rather, DoD wants to save its troops for military missions and State wants to save its personnel for diplomatic missions. Naturally, to them, the agency mission comes first, if any balancing occurs. Both State and DoD can more easily obtain from Congress the money needed for PSCs than the authority to hire additional personnel to insource that security work or to create reserve personnel units for the years to come. The agency and Congress both see adding personnel, as contrasted with merely buying PSC help, as an unwelcome expansion of the government. Because of this, the high risks with hiring PSCs seem acceptable to the agencies. Particularly with respect to local national PSCs in convoys without American personnel, as is standard in Afghanistan, the United States has little visibility and little oversight as to what the PSCs do when their convoys travel through areas without a large United States presence. The United States cannot police the dealings of Afghan PSCs with other armed Afghans. n138 Yet, to have PSCs without local national Afghans would amount to a cure worse than the disease. Afghans know they are good fighters n139 and civilian Afghans trust, relatively, other Afghans (at least those with similar backgrounds, i.e., compatible Pashtuns or Tajiks) more than they would trust third country national PSCs. Even as it is, Afghans resent how little of American contracting dollars trickle down to them. Bringing non-Afghans into the country to take away PSC jobs from Afghans would alienate them further. PSC spokesmen might argue that the government does have oversight mechanisms, including the "Serious Incident Reports" or SIRs. n140 These are [\*235] self-reporting about incidents--reports that the PSCs should fill out when they get in a firefight or even discharge a weapon and engage in shooting. n141 The government touts SIRs as showing it had taken control of the PSC problem after Nisour Square. n142 However, virtually none of the various studies of SIRs find PSCs ever saying they caused a civilian casualty, regardless of how violent various particular fracases might be. n143 Rather, the SIRs tell a one-sided tale of PSCs (properly) resisting dangerous enemy attacks without ever having any such civilian injuries, n144 not even anonymous civilians that the PSCs might unavoidably injure during entirely proper efforts to get who, or what, they were protecting out of an ambush. This type of incident report may well have accuracy for some types of PSCs, but taken as a profession of universal PSC perfection, the SIRs just reflect how little incentive PSCs have to report civilian casualties. Of course, PSCs will **turn in more credible SIRs** when Americans from the Army or the Diplomatic Security Bureau n145 accompany the PSCs, as became the case for State PSDs after Nisour Square. But that arrangement does not appear feasible to do with convoys because the enemy might turn out in strength, and overwhelm the PSCs mainly to kill the Americans. More broadly, apart from the nitty-gritty of these particular examples, they should suggest what may feed into a high-risk function being inherently governmental rather than suitable for PSCs. It matters whether to expect local civilians (say, Afghans) not only to escape from becoming potential casualties, but also to have good channels to complain when they or their families do become casualties. In an incident involving PSCs accompanying convoys, an injured family probably does not know from which base or camp or similar facility the PSCs came. PSCs just may roar through town and exchange fire. The presence in that town of the PSCs may have occurred so momentarily and unexpectedly that the family of the casualties can give very little description of the PSCs. When the family of the casualty tries to obtain official redress, they have the classic lack of clues as in a domestic hit-and-run driver accident. [\*236] Furthermore, PSCs as sub-or sub-subcontractors are remote from government accountability. n146 Moreover, the cloak of uncertainty increases when the convoy went through an area of enemy strength because of tension inhibiting trust and communication. Tension may exist between the civilians and the typically corrupt police, or between the civilians and the nearest United States forces. The occurrence of a firefight with injuries or deaths only **increases the tension**. The Fallujah incident of 2004 shows the **extremes of anger** on both sides. n147 There is a general problem of privatizing functions where the individuals on the "receiving" end, like prisoners, schoolchildren, inmates at mental institutions, and so on do not have the usual channels of complaint that exist in the general population. How much worse that problem becomes in a place where the United States wages war on an armed insurgency.

### Util

#### Extinction outweighs

Bok 88

(Sissela, Professor of Philosophy at Brandeis, Applied Ethics and Ethical Theory, Rosenthal and Shehadi, Ed.)

The same argument can be made for Kant’s other formulations of the Categorical Imperative: “So act as to use humanity, both in your own person and in the person of every other, always at the same time as an end, never simply as a means”; and “So act as if you were always through your actions a law-making member in a universal Kingdom of Ends.” No one with a concern for humanity could consistently will to risk eliminating humanity in the person of himself and every other or to risk the death of all members in a universal Kingdom of Ends for the sake of justice. To risk their collective death for the sake of following one’s conscience would be, as Rawls said, “irrational, crazy.” And to say that one did not intend such a catastrophe, but that one merely failed to stop other persons from bringing it about would be beside the point when the end of the world was at stake. For although it is true that we cannot be held responsible for most of the wrongs that others commit, the Latin maxim presents a case where we would have to take such responsibility seriously – perhaps to the point of deceiving, bribing, even killing an innocent person, in order that the world not perish. To avoid self-contradiction, the Categorical Imperative would, therefore, have to rule against the Latin maxim on account of its cavalier attitude toward the survival of mankind. But the ruling would then produce a rift in the application of the Categorical Imperative. Most often the Imperative would ask us to disregard all unintended but foreseeable consequences, such as the death of innocent persons, whenever concern for such consequences conflicts with concern for acting according to duty. But, in the extreme case, we might have to go against even the strictest moral duty precisely because of the consequences. Acknowledging such a rift would post a strong challenge to the unity and simplicity of Kant’s moral theory.

#### -- Evaluate consequences – allowing violence for the sake of moral purity is evil

Isaac 2 (Jeffrey C., Professor of Political Science – Indiana-Bloomington, Director – Center for the Study of Democracy and Public Life, Ph.D. – Yale, Dissent Magazine, 49(2), “Ends, Means, and Politics”, Spring, Proquest)

As writers such as Niccolo Machiavelli, Max Weber, Reinhold Niebuhr, and Hannah Arendt have taught, an unyielding concern with moral goodness undercuts political responsibility. The concern may be morally laudable, reflecting a kind of personal integrity, but it suffers from three fatal flaws: (1) It fails to see that the purity of one’s intention does not ensure the achievement of what one intends. Abjuring violence or refusing to make common cause with morally compromised parties may seem like the right thing; but if such tactics entail impotence, then it is hard to view them as serving any moral good beyond the **clean conscience** of their supporters; (2) it fails to see that in a world of real violence and injustice, moral purity is not simply a form of powerlessness; it is often a form of complicity in injustice. This is why, from the standpoint of politics--as opposed to religion--pacifism is always a potentially immoral stand. In categorically repudiating violence, it refuses in principle to oppose certain violent injustices with any effect; and (3) it fails to see that politics is as much about **unintended consequences** as it is about intentions; it is the effects of action, rather than the motives of action, that is most significant. Just as the alignment with “good” may engender impotence, it is often the pursuit of “good” that generates evil. This is the lesson of communism in the twentieth century: it is not enough that one’s goals be sincere or idealistic; it is equally important, always, to ask about the effects of pursuing these goals and to judge these effects in pragmatic and historically contextualized ways. Moral absolutism inhibits this judgment. It alienates those who are not true believers. It promotes arrogance. And it undermines political effectiveness.

#### Life has intrinsic and objective value achieved through subjective pleasures---its preservation should be an a priori goal

Amien Kacou 8 WHY EVEN MIND? On The A Priori Value Of “Life”, Cosmos and History: The Journal of Natural and Social Philosophy, Vol 4, No 1-2 (2008) cosmosandhistory.org/index.php/journal/article/view/92/184

Furthermore, that manner of finding things good that is in pleasure can certainly not exist in any world without consciousness (i.e., without “life,” as we now understand the word)—slight analogies put aside. In fact, we can begin to develop a more sophisticated definition of the concept of “pleasure,” in the broadest possible sense of the word, as follows: it is the common psychological element in all psychological experience of goodness (be it in joy, admiration, or whatever else). In this sense, pleasure can always be pictured to “mediate” all awareness or perception or judgment of goodness: there is pleasure in all consciousness of things good; pleasure is the common element of all conscious satisfaction. In short, it is simply the very experience of liking things, or the liking of experience, in general. In this sense, pleasure is, not only uniquely characteristic of life but also, the core expression of goodness in life—the most general sign or phenomenon for favorable conscious valuation, in other words. This does not mean that “good” is absolutely synonymous with “pleasant”—what we value may well go beyond pleasure. (The fact that we value things needs not be reduced to the experience of liking things.) However, what we value beyond pleasure remains a matter of speculation or theory. Moreover, we note that a variety of things that may seem otherwise unrelated are correlated with pleasure—some more strongly than others. In other words, there are many things the experience of which we like. For example: the admiration of others; sex; or rock-paper-scissors. But, again, what they are is irrelevant in an inquiry on a priori value—what gives us pleasure is a matter for empirical investigation.

Thus, we can see now that, in general, something primitively valuable is attainable in living—that is, pleasure itself. And it seems equally clear that we have a priori logical reason to pay attention to the world in any world where pleasure exists. Moreover, we can now also articulate a foundation for a security interest in our life: since the good of pleasure can be found in living (to the extent pleasure remains attainable),[17] and only in living, therefore, a priori, life ought to be continuously (and indefinitely) pursued at least for the sake of preserving the possibility of finding that good.

However, this platitude about the value that can be found in life turns out to be, at this point, insufficient for our purposes. It seems to amount to very little more than recognizing that our subjective desire for life in and of itself shows that life has some objective value. For what difference is there between saying, “living is unique in benefiting something I value (namely, my pleasure); therefore, I should desire to go on living,” and saying, “I have a unique desire to go on living; therefore I should have a desire to go on living,” whereas the latter proposition immediately seems senseless? In other words, “life gives me pleasure,” says little more than, “I like life.” Thus, we seem to have arrived at the conclusion that the fact that we already have some (subjective) desire for life shows life to have some (objective) value. But, if that is the most we can say, then it seems our enterprise of justification was quite superficial, and the subjective/objective distinction was useless—for all we have really done is highlight the correspondence between value and desire. Perhaps, our inquiry should be a bit more complex.

#### **Belief in** life after death causes complacency and paralysis – makes extinction inevitable

David Ray Griffin, Professor of Philosophy of Religion and Theology at Claremont, 1989

God and religion in the postmodern world: essays in postmodern theology

The most contemporary form of the moral objection to belief in life after death is the fifth claim—that belief in life after death **creates complacency about the fate of the earth**, a complacency we can ill afford in this age of environmental pollution and nuclear arsenals. If human souls can live without bodies, at least biological bodies, runs this objection, then they can live without the planet. The destruction of the planet's capacity to support life would therefore be no ultimate tragedy. The complacency produced by this belief is increased by those apocalyptic visions according to which our everlasting life will be preceded by the foreordained destruction of the earth (through nuclear war, many Christians believe), followed by the creation of a new earth. But even without this extreme doctrine, it is felt, belief in life after death **prevents that intense passion to save the earth** which is now needed. If we are to be motivated to engage in the almost superhuman (ask of ridding the planet of nuclear weapons, Jonathan Schell seems to believe," we must be convinced that the destruction of the planet's life would be the ultimate tragedy—the very death of meaning— and this it cannot be if billions of human souls live on in some other realm. This objection, unlike the former ones, does not apply only to a super-naturalistic understanding of life after death. Of course, the apocalyptic vision of the destruction and instantaneous re-creation of the world is su-pernaturalistic to the extreme degree. But the more general charge applies to all views of life after death, insofar as they lead us to think that the planet's death, however tragic, would not be the very death of meaning.

#### Life is a pre-requisite to death’s symbolic value---fearing death doesn’t preclude recognizing life’s finitude and its inevitability---we can still create provisional value in life---individuals should have the option to live

Cara Kalnow 9 A Thesis Submitted for the Degree of MPhil at the University of St. Andrews “WHY DEATH CAN BE BAD AND IMMORTALITY IS WORSE” https://research-repository.st-andrews.ac.uk/bitstream/10023/724/3/Cara%20Kalnow%20MPhil%20thesis.PDF

(PA) also provided us with good reason to reject the Epicurean claim that the finitude of life cannot be bad for us. With (PA), we saw that our lives could accumulate value through the satisfaction of our desires beyond the boundaries of the natural termination of life. But Chapter Four determined that the finitude of life is a necessary condition for the value of life as such and that many of our human values rely on the finite temporal structure of life. I therefore argued that an indefinite life cannot present a desirable alternative to our finite life, because life as such would not be recognized as valuable. In this chapter, I have argued that the finitude of life is instrumentally good as it provides the recognition that life itself is valuable. Although I ultimately agree with the Epicureans that the finitude of life cannot be an evil, this conclusion was not reached from the Epicurean arguments against the badness of death, and I maintain that (HA) and (EA) are insufficient to justify changing our attitudes towards our future deaths and the finitude of life. Nonetheless, the instrumental good of the finitude of life that we arrived at through the consideration of immortality should make us realize that the finitude of life cannot be an evil; it is a necessary condition for the recognition that life as such is valuable. Although my arguments pertaining to the nature of death and its moral implications have yielded several of the Epicurean conclusions, my position still negotiates a middle ground between the Epicureans and Williams, as (PA) accounts for the intuition that it is rational to fear death and regard it as an evil to be avoided. I have therefore reached three of the Epicurean conclusions pertaining to the moral worth of the nature of death: (1) that the state of being dead is nothing to us, (2) death simpliciter is nothing to us, and (3) the finitude of life is a matter for contentment. But against the Epicureans, I have argued that we can rationally fear our future deaths, as categorical desires provide a disutility by which the prospect of death is rationally held as an evil to be avoided. Finally, I also claimed against the Epicureans, that the prospect of death can rationally be regarded as morally good for one if one no longer desires to continue living. 5.3 Conclusion I began this thesis with the suggestion that in part, the Epicureans were right: death—when it occurs—is nothing to us. I went on to defend the Epicurean position against the objections raised by the deprivation theorists and Williams. I argued that the state of being dead, and death simpliciter, cannot be an evil of deprivation or prevention for the person who dies because (once dead), the person—and the grounds for any misfortune—cease to exist. I accounted for the anti-Epicurean intuition 115 that it is rational to fear death and to regard death as an evil to be avoided, not because deathsimpliciter is bad, but rather because the prospect of our deaths may be presented to us as bad for us if our deaths would prevent the satisfaction of our categorical desires. Though we have good reasons to rationally regard the prospect of our own death as an evil for us, the fact that life is finite cannot be an evil and is in fact instrumentally good, because it takes the threat of losing life to recognize that life as such is valuable. In this chapter, I concluded that even though death cannot be of any moral worth for us once it occurs, we can attach two distinct values to death while we are alive: we can attach a value of disutility (or utility) to the prospect of our own individual deaths, and we must attach an instrumentally good value to the fact of death as such. How to decide on the balance of those values is a matter for psychological judgment.

#### Extinction actually is the end of all human consciousness---this arg is dumb

Stenger 92 – Victor J. Stenger, Adjunct Professor of Philosophy, University of Colorado, 1992, “The Myth of Quantum Consciousness,” online: http://www.colorado.edu/philosophy/vstenger/Quantum/QuantumConsciousness.pdf

Quantum mechanics is called on further to argue that the cosmic field, like Newton’s aether, couples to the human mind itself. In Robert Lanza’s view, that field is the universal mind of all humanity - living, dead, and unborn. Ironically, this seemingly profound association between quantum and mind is an artifact, the consequence of unfortunate language used by Bohr, Heisenberg and the others who originally formulated quantum mechanics. In describing the necessary interaction between the observer and what is being observed, and how the state of a system is determined by the act of its measurement, they inadvertently left the impression that human consciousness enters the picture to cause that state come into being. This led many who did not understand the physics, but liked the sound of the words used to describe it, to infer a fundamental human role in what was previously a universe that seemed to have need for neither gods nor humanity.

If Bohr and Heisenberg had spoken of measurements made by inanimate instruments rather than “observers,” perhaps this strained relationship between quantum and mind would not have been drawn. For, nothing in quantum mechanics requires human involvement.

Quantum mechanics does not violate the Copernican principle that the universe cares not a whit about the human race. Long after humanity has disappeared from the scene, matter will still undergo the transitions that we call quantum events. The atoms in stars will radiate photons, and these photons will be absorbed by materials that react to them. Perhaps, after we are gone, some of our machines will remain to analyze these photons. If so, they will do so under the same rules of quantum mechanics that operate today.

### SOP

#### No impact to SOP- Presidents bypass formal constitutional barriers all the time,

Zasloff, Professor of Law, UCLA School of Law, 2004(Jonathan, “Taking Politics Seriously: A Theory of California's Separation of Powers” 51 UCLA L. Rev. 1079, Copyright (c) 2004 The Regents of the University of California)

Presidents break legislative impasses by "solving" pressing problems with unilateral decrees that often go well beyond their formal constitutional authority; rather than protesting, representatives are relieved that they can evade political responsibility for making hard decisions; subsequent presidents use these precedents to expand their decree power further; the emerging practice may even be codified by later constitutional amendments. Increasingly, the house is reduced to a forum for demagogic posturing, while the president makes tough decisions unilaterally without considering the interests and ideologies represented by the leading political parties in Congress. n226 Will this always happen? Of course not. But it has happened frequently - far too frequently to make confident assertions about the necessity of presidentialism to the preservation of liberal democracy. The crucial question then is, what does this finding mean for the process of American constitutional interpretation? It certainly can't mean that judges should take it upon themselves to create parliamentary government in the United States. But it should give us great pause to adhere to rigid separation of powers formalism. Indeed, while the evidence so far clearly points to the conclusion that parliamentarism is superior to presidentialism, all that is necessary for the argument for judicial deference is that it is no worse. And that is unquestionable. Put another way, even if government completely slides down the slippery slope - if the worst-case scenario occurs - it should not be cause for political concern. And thus, it should not be cause for judicial concern.

#### -- No risk of tyranny due to SOP violations

Constitutional Commentary 96 (Winter, p. 343-345)

A second, perhaps more interesting, difficulty with the prophylactic approach is that it may rely on a too judicialocentric view of the workings of government that **exaggerates** the Court's role in the separation-of-powers struggle. Professor Redish's argument rests on the notion that it is vitally important that the Court get its separation-of-powers jurisprudence right. The argument runs something like this: Separation of powers is a bulwark of liberty - without it, the individual protections of the Bill of Rights are nothing but paper. The Court defines separation-of-powers law. If it messes up, then so much for liberty. The Court is bound to mess up if it adopts anything other than a prophylactic approach to separation of powers. It is therefore urgent that the Court adopt this approach. Fortunately, the Framers' design is probably stronger than this argument presupposes. Separation-of-powers gives each branch tools which enable ambition to counteract ambition. The Court gets to decide cases. It justifies its decisions with opinions which the other branches and the citizenry generally follow as authoritative. Thus, although the Court does not have guns or money, it has words. These words are the Court's tools in the separation-of-powers struggle. Any time the Court writes an opinion on separation of powers, it self-consciously uses its particular power to shove the boundaries of branch power - sometimes to profound effect, as a simple hypothetical illustrates. Suppose Chief Justice Marshall had ended Marbury v. Madison with the following paragraph: Then again, Congress has just as much right to interpret the Constitution as I do - perhaps even more, because Congress is the branch closest to the people, and it is the people's Constitution. I was just kidding about that judicial review stuff. History would be very different, partially because such a result in Marbury would have grossly undermined the Court's future ability to compete in the separation-of-powers struggle successfully. On a more general level, Supreme Court opinions on any topic can affect the balance of branch power. For instance, the Supreme Court can undermine its authority by producing poorly reasoned opinions - or, much worse from a realpolitik point of view, unpopular opinions. The power, however, of any given decision to damage a Court staffed by relatively sane Justices is probably limited. This is an institution that has survived Dred Scott and Plessy v. Ferguson. Of course, the other branches also shove at the boundaries of branch power - FDR's Court-packing plan being one notable example of this practice. Sometimes the law of unintended consequences grabs hold. Perhaps the Court-packing plan concentrated the Justices' minds on finding ways to hold New Deal legislation constitutional, but it also blew up in FDR's face politically. At least **for the last two hundred years**, however, no branch has managed to expand its power to the point of delivering an obvious knock-out blow to another branch. Seen from this broader perspective, cases such as Morrison, Bowsher v. Synar, and Mistretta v. United States surely alter the balance of branch power at a given historical moment, but do not change the fundamental and brute fact that the Constitution puts three institutional heavyweights into a ring where they are free to bash each other. Judicialocentrism tends to obscure this obvious point because it causes people to dwell on the hard cases that reach the Supreme Court. The power of separation of powers, however, largely resides in its ability to keep the easy cases from ever occurring. For instance, Congress, although it tries to weaken the President from time to time, has not tried to reduce the President to a ceremonial figurehead a la the Queen of England. Similarly, Congress does not make a habit of trying cases that have been heard by the courts. This list could be continued indefinitely. The Supreme Court has had two hundred years to muck about with separation-of-powers doctrine. Over that time, scores of Justices - each with his or her own somewhat idiosyncratic view of the law - have sat on the bench. Scholars have denounced separation-of-powers jurisprudence as a mess. **But the Republic endures**, at least more or less. These **historical facts** tend to indicate that the Court need not rush to change its approach to separation of powers to prevent a slide into tyranny.

### AT Structural Violence

#### Structural violence is an obscure metaphor. Its use cannot lead to positive changes because it conflates distinct and generally unrelated problems of violence and poverty.

**Boulding ’77** (Kenneth, Faculty – U. Colorado Boulder, Former Pres. American Economic Association, Society for General Systems Research, and American Association for the Advancement of Science, Journal of Peace Research, “Twelve Friendly Quarrels with Johan Galtung”, 14:1, JSTOR)

Finally, we come to the great Galtung metaphors of 'structural violence' 'and 'posi- tive peace'. They are metaphors rather than models, and for that very reason are suspect. Metaphors always imply models and meta- phors have much more persuasive power than models do, for models tend to be the preserve of the specialist. But when a meta- phor implies a bad model it can be very dangerous, for it is both persuasive and wrong. The metaphor of structural violence I would argue falls right into this category. The metaphor is that poverty, deprivation, ill health, low expectations of life, a condi- tion in which more than half the human race lives, is 'like' a thug beating up the victim and 'taking his money away from him in the street, or it is 'like' a conqueror stealing the land of the people and reducing them to slavery. The implication is that poverty and its associated ills are the fault of the thug or the conqueror and the solution is to do away with thugs and conquerors. While there is some truth in the metaphor, in the modern world at least there is not very much. Vio- lence, whether of the streets and the home, or of the guerilla, of the police, or of the armed forces, is a **very different phenome- non from poverty**. **The processes which create and sustain poverty are not at all like the processes which create and sustain violence**, although like everything else in 'the world, everything is somewhat related to every- thing else. There is a very real problem of the struc- tures which lead to violence, but unfortu- nately Galitung's metaphor of structural vio- lence as he has used it has diverted atten- tion from this problem. Violence in the be- havioral sense, that is, somebody actually doing damage to somebody else and trying to make them worse off, is a 'threshold' phenomenon, rather like the boiling over of a pot. The temperature under a pot can rise for a long time without its boiling over, but at some 'threshold boiling over will take place. The study of the structures which un- derlie violence are a very important and much neglected part of peace research and indeed of social science in general. Thresh- old phenomena like violence are difficult to study because they represent 'breaks' in the systenm rather than uniformities. Violence, whether between persons or organizations, occurs when the 'strain' on a system is too great for its 'strength'. The metaphor here is that violence is like what happens when we break a piece of chalk. Strength and strain, however, especially in social systems, are so interwoven historically that it is very difficult to separate them. The diminution of violence involves two possible strategies, or a mixture of the two; one is Ithe increase in the strength of the sys- tem, 'the other is the diminution of the strain. The strength of systems involves habit, cul- ture, taboos, and sanctions, all these 'things which enable a system to stand lincreasing strain without breaking down into violence. The strains on the system 'are largely dy- namic in character, such as arms races, mu- tually stimulated hostility, changes in rela- tive economic position or political power, which are often hard to identify. Conflicts of interest 'are only part 'of the strain on a sys- tem, and not always the most important part. It is very hard for people ito know their in- terests, and misperceptions of 'interest take place mainly through the dynamic processes, not through the structural ones. It is only perceptions of interest which affect people's behavior, not the 'real' interests, whatever these may be, and the gap between percep- ti'on and reality can be very large and re- sistant to change. However, what Galitung calls structural violence (which has been defined 'by one un- kind commenltator as anything that Galitung doesn't like) was originally defined as any unnecessarily low expectation of life, on that assumption that anybody who dies before the allotted span has been killed, however unintentionally and unknowingly, by some- body else. The concept has been expanded to include all 'the problems of poverty, desti- tution, deprivation, and misery. These are enormously real and are a very high priority for research and action, but they belong to systems which are only peripherally related to 'the structures whi'ch produce violence. This is not to say that the cultures of vio- lence and the cultures of poverty are not sometimes related, though not all poverty cultures are cultures of violence, and cer- tainly not all cultures of violence are pover- ty cultures. But **the dynamics lof poverty and the success or failure to rise out of it are of a complexity far beyond anything which the metaphor of structural violence can offer**. While **the metaphor of structural violence** performed a service in calling attention to a problem, it **may have done a disservice in preventing us from finding the answer**.

#### War causes structural violence – not the other way around

**Goldstein 1** (Joshua, Professor of International Relations – American University, War and Gender: How Gender Shapes the War System and Vice Versa, p. 412)

First, peace activists face a dilemma in thinking about causes of war and working for peace. Many peace scholars and activists support the approach, “if you want peace, work for justice.” Then, if one believes that sexism contributes to war one can work for gender justice specifically (perhaps among others) in order to pursue peace. This approach brings strategic allies to the peace movement (women, labor, minorities), but rests on the assumption that injustices cause war. **The evidence** in this book **suggests that causality runs** at least as **strongly the other way**. War is not a product of capitalism, imperialism, gender, innate aggression, or any other single cause, although all of these influence wars’ outbreaks and outcomes. Rather, war has in part fueled and sustained these and other injustices.9 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**.

## 2NC – T, Case

## T

### \*\*T – AT C/I

#### **Don’t say WPA**

#### **Introduction of armed forces into hostilities is not unique to the President – Congress can assign and authorize interventions too that are unrelated to war powers**

Lorber 13 (Eric, J.D. Candidate, University of Pennsylvania Law School, Ph.D Candidate, Duke University Department of Political Science, "COMMENT: Executive Warmaking Authority and Offensive Cyber Operations: Can Existing Legislation Successfully Constrain Presidential Power?," 15 U. Pa. J. Const. L. 961, lexis)

As discussed above, critical to the application of the War Powers Resolution - especially in the context of an offensive cyber operation - are the definitions of key terms, particularly "armed forces," as the relevant provisions of the Act are only triggered if the President "introduc[es armed forces] into hostilities or into situations [of] imminent ... hostilities," n172 or if such forces are introduced "into the territory, airspace, or waters of a foreign nation, while equipped for combat, except for deployments which relate solely to supply, replacement, repair, or training of such forces." n173 The requirements may also be triggered if the United States deploys armed forces "in numbers which substantially enlarge United States Armed Forces equipped for combat already located in a foreign nation." n174 As is evident, the definition of "armed forces" is crucial to deciphering whether the WPR applies in a particular circumstance to provide congressional leverage over executive actions. The definition of "hostilities," which has garnered the majority of scholarly and political attention, n175 particularly in the recent Libyan conflict, n176 will be dealt with secondarily here because it only becomes important if "armed forces" exist in the situation.¶ As is evident from a textual analysis, n177 an examination of the legislative history, n178 and the broad policy purposes behind the creation of the Act, n179 [\*990] "armed forces" refers to U.S. soldiers and members of the armed forces, not weapon systems or capabilities such as offensive cyber weapons. Section 1547 does not specifically define "armed forces," but it states that "the term "introduction of United States Armed Forces' includes the assignment of members of such armed forces to command, coordinate, participate in the movement of, or accompany the regular or irregular military forces of any foreign country or government." n180 While this definition pertains to the broader phrase "introduction of armed forces," the clear implication is that only members of the armed forces count for the purposes of the definition under the WPR. Though not dispositive, the term "member" connotes a human individual who is part of an organization. n181 Thus, it appears that the term "armed forces" means human members of the United States armed forces. However, there exist two potential complications with this reading. First, the language of the statute states that "the term "introduction of United States Armed Forces' includes the assignment of members of such armed forces." n182 By using inclusionary - as opposed to exclusionary - language, one might argue that the term "armed forces" could include more than members. This argument is unconvincing however, given that a core principle of statutory interpretation, expressio unius, suggests that expression of one thing (i.e., members) implies the exclusion of others (such as non-members constituting armed forces). n183 Second, the term "member" does not explicitly reference "humans," and so could arguably refer to individual units and beings that are part of a larger whole (e.g., wolves can be members of a pack). As a result, though a textual analysis suggests that "armed forces" refers to human members of the armed forces, such a conclusion is not determinative.¶ An examination of the legislative history also suggests that Congress clearly conceptualized "armed forces" as human members of the armed forces. For example, disputes over the term "armed forces" revolved around who could be considered members of the armed forces, not what constituted a member. Senator Thomas Eagleton, one of the Resolution's architects, proposed an amendment during the process providing that the Resolution cover military officers on loan to a civilian agency (such as the Central [\*991] Intelligence Agency). n184 This amendment was dropped after encountering pushback, n185 but the debate revolved around whether those military individuals on loan to the civilian agency were still members of the armed forces for the purposes of the WPR, suggesting that Congress considered the term to apply only to soldiers in the armed forces. Further, during the congressional hearings, the question of deployment of "armed forces" centered primarily on past U.S. deployment of troops to combat zones, n186 suggesting that Congress conceptualized "armed forces" to mean U.S. combat troops.¶ The broad purpose of the Resolution aimed to prevent the large-scale but unauthorized deployments of U.S. troops into hostilities. n187 While examining the broad purpose of a legislative act is increasingly relied upon only after examining the text and legislative history, here it provides further support for those two alternate interpretive sources. n188 As one scholar has noted, "the War Powers Resolution, for example, is concerned with sending U.S. troops into harm's way." n189 The historical context of the War Powers Resolution is also important in determining its broad purpose; as the resolutions submitted during the Vietnam War and in the lead-up to the passage of the WPR suggest, Congress was concerned about its ability to effectively regulate the President's deployments of large numbers of U.S. troops to Southeast Asia, n190 as well as prevent the President from authorizing troop incursions into countries in that region. n191 The WPR was a reaction to the President's continued deployments of these troops into combat zones, and as such suggests that Congress's broad purpose was to prevent the unconstrained deployment of U.S. personnel, not weapons, into hostilities.¶ This analysis suggests that, when defining the term "armed forces," Congress meant members of the armed forces who would be placed in [\*992] harm's way (i.e., into hostilities or imminent hostilities). Applied to offensive cyber operations, such a definition leads to the conclusion that the War Powers Resolution likely does not cover such activities. Worms, viruses, and kill switches are clearly not U.S. troops. Therefore, the key question regarding whether the WPR can govern cyber operations is not whether the operation is conducted independently or as part of a kinetic military operation. Rather, the key question is the delivery mechanism. For example, if military forces were deployed to launch the cyberattack, such an activity, if it were related to imminent hostilities with a foreign country, could trigger the WPR. This seems unlikely, however, for two reasons. First, it is unclear whether small-scale deployments where the soldiers are not participating or under threat of harm constitute the introduction of armed forces into hostilities under the War Powers Resolution. n192 Thus, individual operators deployed to plant viruses in particular enemy systems may not constitute armed forces introduced into hostilities or imminent hostilities. Second, such a tactical approach seems unlikely. If the target system is remote access, the military can attack it without placing personnel in harm's way. n193 If it is close access, there exist many other effective ways to target such systems. n194 As a result, unless U.S. troops are introduced into hostilities or imminent hostilities while deploying offensive cyber capabilities - which is highly unlikely - such operations will not trigger the War Powers Resolution.

#### Congress can carry out limited war without a declaration – plan restricts that

Ackerman and Hathaway 11 [Bruce, Sterling Professor of Law and Political Science @ Yale Law School, and Oona, Gerard C. and Bernice Latrobe Smith Professor of International Law, Yale Law School, “LIMITED WAR AND THE CONSTITUTION: IRAQ AND THE CRISIS OF PRESIDENTIAL LEGALITY”, p. 452-454, http://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=4688&context=fss\_papers]

We begin with the text. Congress not only has the power to "declare War" and to "raise and support Armies."6 It also has the power to grant "Letters of Marque and Reprisal." Although this latter power has fallen into disuse (as have formal declarations of war), it does suggest the pervasive character of the congressional role at the time of the Founding. In the eighteenth century, letters of marquee and reprisal enabled Congress to authorize small-scale military actions by privateers-actions which could provoke retaliations that might lead to larger-scale war.'¶ There can be no mistaking, then, the Constitution's broad textual commitment to Congress's key role in the war-making system.9 Congress may declare war, but the president commands the troops. The president may nominate the high command, but the Senate confirms his choices. Congress has the power to raise and support armies-and hence to appropriate funds to support them-but the president directs their expenditure. Congress's power to authorize limited war fits into this larger pattern. Congress self-consciously framed the country's first significant engagement-the undeclared "Quasi War" with France in 1798-as a limited war.' In Bas v. Tingy, Justice Washington explained that this war was not "the perfect kind" in which "one whole nation is at war with another whole nation."" It was an "imperfect war" in which "hostilities ... subsist between two nations more confined in its nature and extent; being limited as to places, persons, and things" in which "those who are authorised to commit hostilities, act under special authority, and can go no farther than to the extent of their¶ commission."I2 Justice Chase joined the unanimous opinion, but wrote sepa-¶ rately to emphasize the point:¶ Congress is empowered to declare a general war, or congress may wage a limited war; limited in place, in objects, and in time. If a general war is declared, its extent and operations are only restricted and regulated by the jus belli, forming a part of the law of nations; but if a partial war is waged, its extent and operation depend on our municipal laws.'¶ In launching its Quasi War with France, Congress had passed four separate acts allowing American vessels "[t]o resist the search of a French public vessel," to "capture any vessel that should attempt, by force, to compel submission to a search," to "re-capture any American vessel seized by a Frenchvessel," and to "capture any Frencharmed vessel wherever found on the high seas."I4 According to the Court, these statutes amounted to a congressional decision to wage a "partial" or "limited" war.1

#### Congress can declare war or authorize military force in the squo – the plan prohibits the congressional war power to authorize military force.

NCC 13 [National Constitution Center, 12/9, “When Congress once used its powers to declare war”, http://blog.constitutioncenter.org/2013/12/when-congress-once-used-its-powers-to-declare-war/]

But it also seems unlikely that an official state of war could be declared in the near future, due to the legal differences between a “state of war” and an “authorization to use military force.”¶ As the CRS explains, a formal war declaration triggers a large number of domestic statutes, like the ones that took place during World War II.¶ “A declaration of war automatically brings into effect a number of statutes that confer special powers on the President and the Executive Branch, especially concerning measures that have domestic effect,” it says.¶ These include granting the President the direct power take over businesses and transportation systems as part of the war effort; the ability to detain foreign nationals; the power to conduct spying without any warrants domestically; and the power to use natural resources on public lands.¶ “An authorization for the use of force does not automatically trigger any of these standby statutory authorities. Some of them can come into effect if a state of war in fact comes into being after an authorization for the use of force is enacted; and the great majority of them, including many of the most sweeping ones, can be activated if the President chooses to issue a proclamation of a national emergency,” says the CRS.

#### Authorizations are legally binding – they constitute a use of armed forces that would be subject to the plan’s restriction.

Epps 13 [Garrett, teaches courses in constitutional law and creative writing for law students at the University of Baltimore, 9/3, The Atlantic, “Yes, Congress Can Authorize War Without Formally 'Declaring' It”, http://www.theatlantic.com/politics/archive/2013/09/yes-congress-can-authorize-war-without-formally-declaring-it/279261/]

In other words, both "declarations of war" and "authorizations" have been a part of American constitutional tradition since the earliest days. If every "undeclared" conflict is a violation of the Constitution, we need retroactive impeachment of Adams, Jefferson, Monroe, Eisenhower, Johnson, Reagan, and both Bushes.¶ A "declaration of war" has always been a specific policy tool -- a blunt one, and one that many presidents, and Congresses, have chosen not to use. "Authorizations," by contrast, permit the two branches to agree on limited war aims. An authorization can lapse without a formal surrender; it can permit military action short of total war. It's a tool that any government needs, and any rational constitution provides.¶ In addition, international law (which is very much part of the Constitution) has changed during the last 115 years. The notion of a "declaration of war" is now both obsolete and meaningless. Under both the Kellogg-Briand Pact of 1928 and the United Nations Charter (1945), war is no longer a lawful tool of national policy. With few exceptions, states may use military force only in self-defense, or with the permission of the U.N. Security Council. Insisting that Congress "declare war" is not just simple-minded, but self-defeating: It is asking the nation to solemnly declare itself to be an international outlaw. ¶ Of course, presidents can sometimes use force without any prior approval by Congress. Both "declarations" and "authorizations" have often come about after the president has committed troops to conflict. But in most cases, that commitment came about because -- as in the Quasi-War with France and in Jefferson's battle with Tripoli and Algiers -- foreign forces had picked a fight with U.S. troops or civilians. No one, I hope, questions that president has the power (and the duty) to defend the nation, its armed forces, and its civilians by force when a "sudden attack" is launched. ¶ More controversial are other occasions when presidents have used force without authorization, arguing that they were obligated to do so under valid treaties. (Treaties are, under Article VI § 2, as much a part of the "supreme law of the land" as the Constitution itself.) ¶ But neither precedent suggests that a president can launch a military campaign against a foreign country in the absence of any attack, treaty obligation, or sudden, peace-threatening emergency requiring an immediate response. Obama insists that he has the authority to launch a Syria strike on his own, but that seems like standard presidential bluff. In Syria, the United States will be launching war from a standing start, and Congress must be involved. ¶ If we really want to understand why, let's do something more than consult old dictionaries about the meaning of "declare war." That language appears in the midst of Article I § 8, the Constitution's epic catalogue of the powers of Congress. It isn't just tucked in there, either. Of the section's 300-plus words laying out specific powers, nearly half concern military matters. (That's true even if we don't conclude, like the brilliant separation-of-powers theorist Louis Fisher, that the power "to regulate commerce with foreign nations" was also "understood as closely related to the war power.") ¶ Congress doesn't just get to "declare war" -- it gets to define and punish piracy, to commission privateers, to create and maintain an army and navy, to call the militia into federal service, and to regulate and govern it even when it is under state command. It has authority over all places acquired by the federal government for "Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings." Under Article II, to be sure, the president commands; but other than that, the text tells me that the military belongs to Congress. If the president wants to use it, he pretty much has to ask permission. Congress can turn most of its power over to the president (by "declaring war"), or give him a more limited "authorization" to use it for specific ends. ¶ So if Congress votes not to authorize a strike on Syria, Obama has no power up his sleeve to allow it. On the other hand, if Congress does authorize the use of force in Syria, the absence of magic words like "declare" won't mean anything. Our nation will be legally committed to the use of force, and it will behoove us all to rally around.

#### The aff restricts presidential AND congressional war powers authority

Yglesias 11 (Matthew, Fellow and Policy Analyst @ Think Progress, "Lack of Congressional Authorization for Use of Force is an Abdication of Responsibility, Not a Power Grab," http://webcache.googleusercontent.com/search?q=cache:wpBP4W02D8sJ:thinkprogress.org/yglesias/2011/03/20/200278/lack-of-congressional-authorization-for-use-of-force-is-an-abdication-of-responsibility-not-a-power-grab/+&cd=4&hl=en&ct=clnk&gl=us)

Given what’s happening in Libya, that’s obviously a form of hypocrisy you can believe in. Then again, it’s not particularly surprising hypocrisy. From Harry Truman on, all presidents have in practice asserted the power to authorize military without congressional approval and I never for a moment believed that Barack Obama would abandon this practice if he became president.\* The fact that the constitution seems to clearly rule this out hasn’t been a barrier to anyone’s practical conduct for decades. But the one observation I would make about this, is that while the trend toward undeclared military incursions is often described as a kind of presidential “power grab” it’s much more accurately described as a congressional abdication of responsibility. Even if you completely leave the declaration of war business aside, congress’ control over the purse strings still gives a determined congressional majority ample latitude to restrain presidential foreign policy. The main reason congress tends, in practice, not to use this authority is that congress rarely wants to. Congressional Democrats didn’t block the “surge” in Iraq, congressional Republicans didn’t block the air war in Kosovo, etc. And for congress, it’s quite convenient to be able to duck these issues. Handling Libya this way means that those members of congress who want to go on cable and complain about the president’s conduct are free to do so, but those who don’t want to talk about Libya can say nothing or stay vague. Nobody’s forced to take a vote that may look bad in retrospect, and nobody in congress needs to take responsibility for the success or failure of the mission. If things work out well in Libya, John McCain will say he presciently urged the White House to act. If things work out poorly in Libya, McCain will say he consistently criticized the White House’s fecklessness. Nobody needs to face a binary “I endorse what Obama’s doing / I oppose what Obama’s doing” choice.¶ Which is all just to say that presidents will go back to accepting congressional authorization for the use of force as a binding constraint when congress starts actually wanting that authority.

#### Plan restricts the congress

**\* Conclusion paragraph of 1ac card \***

**Martin ’11,** Craig Martin, Visiting Assistant Professor, University of Baltimore School of Law, Winter, 2011¶ Brooklyn Law Review¶ 76 Brooklyn L. Rev. 611, ARTICLE: Taking War Seriously: A Model for Constitutional Constraints on the Use of Force in Compliance with In-ternational Law, Lexis

The fourth element of this subsection of the article specifies that any approval to use force enacted by the legislature constitutes a "decision to use force" as contemplated by the provisions of section 1 of the article, thus being subject to the requirements of that section. This means that the legislature too, in deliberating on the question of whether or not to approve the use of force, must sufficiently and demonstrably consider whether the use of force in question is in compliance with the relevant prevailing principles of international law. This is key to the combined operation of the distinct elements of the Model, as it is the mechanism through which the Model effectively causes the deliberative functions of  [\*720]  the legislature to engage the issues of international law compliance, and which causes the criteria of legitimacy under international law to be integrated into the deliberative process of the legislature. It is only by requiring both branches of government to grapple with the question of compliance with international law that the Model can ensure that this perspective will be brought to bear in a meaningful and serious fashion in the decision-making process, and that over time the international law norms will be internalized and subsequently exercise influence, in the manner contemplated by transnational process theory and the ideational strand of the liberal theories of international law compliance.

#### Authorizations on the use of force are BINDING on the president and Congress – recent bill on Syria proves

Kaplan 13 (Fred, the author of The Insurgents and the Edward R. Murrow press fellow at the Council on Foreign Relations, "Obama’s Gamble," http://webcache.googleusercontent.com/search?q=cache:tpVRvvu7NjkJ:www.slate.com/articles/news\_and\_politics/war\_stories/2013/08/obama\_s\_syria\_speech\_his\_decision\_to\_seek\_congressional\_approval\_for\_his.html+&cd=10&hl=en&ct=clnk&gl=us)

An authorization on the use of force binds Congress to Obama’s actions—assuming the measure passes. It will also have the salutary effect of shifting precedents on America’s use of force generally. Maybe the new standard will be that Congress does play a role in any such decision. No more lazy sniping—or hollow rooting—from the sidelines. Those who have long urged Obama to do something about Syria, and then criticized him in recent days for doing something (just because it’s Obama who’s doing it), will now have to step up and take a stand.¶ As Obama walked away from the podium, a reporter asked what he would do if Congress voted down a resolution. He said nothing, but the answer seems pretty clear. If Congress votes no, he won’t launch an attack. The legislators will come to realize this, and will see that this is not a parlor game, and I think that’s why they’ll vote in favor.

### T – Not Private – 2NC Overview

#### Our interpretation is that private military contractors cannot be armed forces – civilians cannot be part of a nations army – that’s best

#### Limits – Including PMC’s means any civilians that accompanies or is employed by the armed forces is defined as part of them. That allows affs to restrict a variety of individuals, weapon systems, and international organizations employed during hostilities that are indirectly related to the armed forces. Affs can pick specific defense contractors, employees of other executive departments, or any group of citizens that work with or help the armed forces during hostilities. Limiting it to only direct components of the armed forces should be particularly important given it’s only one of four core areas and is the most prone to aff proliferation – drawing the line now is important – sets precedent that can deter these affs by the end of the season

#### They add over 700,000 distinct civilians that are topical to restrict

DOD 13 (Department of Defense, “ About the Department of Defense (DOD)”, Accessed 8/23/2013, http://www.defense.gov/about/)

Today, the Department, headed by Secretary of Defense Chuck Hagel, is not only in charge of the military, but it also employs a civilian force of thousands. With over 1.4 million men and women on active duty, and 718,000 civilian personnel, we are the nation's largest employer. Another 1.1 million serve in the National Guard and Reserve forces. More than 2 million military retirees and their family members receive benefits.

#### That includes lots of distinct categories of civilians that work for the military. They allow affs that prevent introduction of engineers, military suppliers, doctors, inspectors, and so on – explodes limits

ACS No Date (Army Civilian Service, “Careers”, Accessed 8/23/2013, http://www.armycivilianservice.com/content/careers)

Army Civilian Service positions generally fall within broad career groups that directly support the overall mission of the United States Army. A career program - like Mathematical Sciences - has a very specialized mission that is supported by professionals with a highly specific skill set. Other careers - like Accounting and Budget - have a much broader mission and hire professionals with a wide range of skills.

If you are determined to find solutions to the challenges we face in the 21st Century, match your skills/education to our careers and apply now.

Career Groups:

Social Science, Psychology, and Welfare

Human Resources Management

General Administrative, Clerical, and Office Services

Natural Resources Management and Biological Sciences

Accounting and Budget

Medical, Hospital, Dental, and Public Health

Veterinary Medical Science

Engineering and Architecture

Legal and Kindred

Information and Arts

Business and Industry

Copyright, Patent, and Trademark

Physical Sciences

Library and Archives

Mathematical Sciences

Equipment, Facilities, and Services

Education

Inspection, Investigation, Enforcement, and Compliance

Quality Assurance, Inspection, and Grading

Supply

Transportation

Information Technology

#### Limits outweigh – they’re the vital access point for any theory impact – its key to fairness – huge research burdens mean we can’t prepare to compete – and its key to education – big topics cause hyper-generics, lack of clash, and shallow debate – and it destroys participation

Rowland 84 (Robert C., Debate Coach – Baylor University, “Topic Selection in Debate”, American Forensics in Perspective, Ed. Parson, p. 53-54)

The first major problem identified by the work group as relating to topic selection is the decline in participation in the National Debate Tournament (NDT) policy debate. As Boman notes: There is a growing dissatisfaction with academic debate that utilizes a policy proposition. Programs which are oriented toward debating the national policy debate proposition, so-called “NDT” programs, are diminishing in scope and size.4 This decline in policy debate is tied, many in the work group believe, to excessively broad topics. The most obvious characteristic of some recent policy debate topics is extreme breath. A resolution calling for regulation of land use literally and figuratively covers a lot of ground. Naitonal debate topics have not always been so broad. Before the late 1960s the topic often specified a particular policy change.5 The move from narrow to broad topics has had, according to some, the effect of limiting the number of students who participate in policy debate. First, the breadth of the topics has all but destroyed novice debate. Paul Gaske argues that because the stock issues of policy debate are clearly defined, it is superior to value debate as a means of introducing students to the debate process.6 Despite this advantage of policy debate, Gaske belives that NDT debate is not the best vehicle for teaching beginners. The problem is that broad policy topics terrify novice debaters, especially those who lack high school debate experience. They are unable to cope with the breadth of the topic and experience “negophobia,”7 the fear of debating negative. As a consequence, the educational advantages associated with teaching novices through policy debate are lost: “Yet all of these benefits fly out the window as rookies in their formative stage quickly experience humiliation at being caugh without evidence or substantive awareness of the issues that confront them at a tournament.”8 The ultimate result is that fewer novices participate in NDT, thus lessening the educational value of the activity and limiting the number of debaters or eventually participate in more advanced divisions of policy debate. In addition to noting the effect on novices, participants argued that broad topics also discourage experienced debaters from continued participation in policy debate. Here, the claim is that it takes so much times and effort to be competitive on a broad topic that students who are concerned with doing more than just debate are forced out of the activity.9 Gaske notes, that “broad topics discourage participation because of insufficient time to do requisite research.”10 The final effect may be that entire programs either cease functioning or shift to value debate as a way to avoid unreasonable research burdens. Boman supports this point: “It is this expanding necessity of evidence, and thereby research, which has created a competitive imbalance between institutions that participate in academic debate.”11 In this view, it is the competitive imbalance resulting from the use of broad topics that has led some small schools to cancel their programs.

#### You shouldn't be allowed to redefine something as being topical -- here's a case-list --

#### They could shift jurisdiction of CIA/DoD

#### Redefine the entire prison-industrial complex as indefinitely detained

#### Say Obama's tweets are OCO's

#### Nuking a country is targeted killing

### More

#### You dropped the second violation -- statutes are the means by which Congressional restrictions are implemented -- to have a net increase, there must be a new statute -- that's Barron

#### You use already existing statute and just apply it to a new category -- no increase in statutory restrictions

#### That means cote neg -- creation of statutes are critical to neg ground -- provide for process CP's like resolution, disads based on signal, etc

### T – Not Private – A2: Reasonability

#### --They aren’t reasonable – the Aff literally explodes the topic and eviscerates ground – they lose under their own standard

#### -- Prefer competing interpretations –

#### A) Only objective standard – reasonability is arbitrary and takes the debate out of the hands of the debaters by encouraging overtly subjective decisions.

#### B) Incentivizes bad debate – Negs would read their worst strategy to prove abuse – don’t punish well-prepared teams.

#### -- Competing interpretations should be judged by both precision and limits – means debate mirrors relevant topic literature with respect to particular resolutional wording – solves race to the bottom

#### It’s arbitrary and undermines research

Resnick 1 Evan- assistant professor of political science – Yeshiva University, “Defining Engagement,” Journal of International Affairs, Vol. 54, Iss. 2

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

## Case

### `2NC Congress – No

#### Congress will stand down. They don’t care about institutional power

Devins 9—Professor of Law and Professor of Government @ College of William and Mary [Neal Devins, “Presidential Unilateralism and Political Polarization: Why Today's Congress Lacks the Will and the Way to Stop Presidential Initiatives,” Willamette Law Review, Vol. 45, Issue 3 (Spring 2009), pp. 395-416]

Unlike the presidency, the individual and institutional interests of members of Congress are often in conflict with one another. While each of Congress's 535 members has some stake in Congress as an institution, parochial interests will overwhelm this collective good. In particular, members of Congress regularly tradeoff their interest in Congress as an institution for their personal interests-most notably, reelection and advancing their (and their constituents') policy agenda. In describing this collective action problem, Moe and Howell note that lawmakers are "trapped in a prisoner's dilemma: all might benefit if they could cooperate in defending or advancing Congress's power, but each has a strong incentive to free ride in favor of the local constituency.

For this reason, lawmakers have no incentive to stop presidential unilateralism simply because the President is expanding his powers vis-A-vis Congress. Consider, for example, the President's use of executive orders to advance favored policies and presidential initiatives to launch military initiatives. Between 1973 and 1998, Presidents issued about 1,000 executive orders. Only 37 of these orders were challenged in Congress and only 3 of these challenges resulted in legislation. 9

Presidential unilateralism in launching military operations is even more striking-because it involves the President's willingness to commit the nation's blood without congressional authorization. Notwithstanding the clear constitutional mandate that Congress play a significant role in triggering military operations, Congress has very little incentive in playing a leadership role. Rather than oppose thePresident on a potential military action, most members of Congress find it more convenient to acquiesce and avoid criticism that they obstructed a necessary military operation. Pg. 400-401

#### Every president—including Obama—has adhered to a constitutional framework that rejects congressional intrusion.

Garrison 12—Professor of Criminal Justice at Kutztown University [Dr. Arthur H. Garrison, “History of Executive Branch Legal Opinions on the Power of the President as Commander-in-Chief from Washington to Obama,” Cumberland Law Review, Vol. 43, Issue 3 (2012-2013), pp. 375-494]

IV. CONCLUSION

Historically the State Department, 388 various Attorneys General, and the OLC, from the Washington through Obama Administrations, have issued formal and informal opinions supporting the broadest interpretation of the Article II Commander in Chief power of the President. Almost from the inception of the Constitution, presidents have been advised that they have plenary, if not exclusive, power over foreign policy and the use of military force with and without prior congressional approval. Historically, Congress has exercised a secondary role in the face of presidential decisionmaking regarding American foreign policy and has never successfully asserted that the power to declare war belonged primarily to the Legislative branch. The power to declare war has been a different power than the power to make war or respond to war inflicted upon the United States.3 From Lincoln to the modern Presidency, all presidents have asserted the power to deploy the military, even if that could entail military combat to protect American interests, and that congressional approval is not constitutionally required for such deployments to be lawful 390 The Obama Administration continued this traditional view and has continued to defend the theory of plenary power in foreign and military affairs as Commander in Chief.39' pg. 478-479

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

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

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

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

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

### Arbitrary

#### The executive will arbitrarily define words, they don’t care

Pollack, 13 -- MSU Guggenheim Fellow and professor of history emeritus [Norman, "Drones, Israel, and the Eclipse of Democracy," Counterpunch, 2-5-13, www.counterpunch.org/2013/02/05/drones-israel-and-the-eclipse-of-democracy/, accessed 9-1-13, mss]

Bisharat first addresses the transmogrification of international law by Israel’s military lawyers. We might call this damage control, were it not more serious. When the Palestinians first sought to join the I.C.C., and then, to receive the UN’s conferral of nonmember status on them, Israel raised fierce opposition. Why? He writes: “Israel’s frantic opposition to the elevation of Palestine’s status at the United Nations was motivated precisely by the fear that it would soon lead to I.C.C. jurisdiction over Palestinian claims of war crimes. Israeli leaders are unnerved for good reason. The I.C.C. could prosecute major international crimes committed on Palestinian soil anytime after the court’s founding on July 1, 2002.” In response to the threat, we see the deliberate reshaping of the law: Since 2000, “the Israel Defense Forces, guided by its military lawyers, have attempted to **remake the laws** of war by consciously violating them and then **creating new legal concepts to provide juridical cover** for their misdeeds.” (Italics, mine) In other words, habituate the law to the existence of atrocities; in the US‘s case, targeted assassination, repeated often enough, seems permissible, indeed clever and wise, as pressure is steadily applied to the laws of war. Even then, “collateral damage” is seen as unintentional, regrettable, but hardly prosecutable, and in the current atmosphere of complicity and desensitization, never a war crime. (**Obama is hardly a novice at** this game of **stretching the law to suit the convenience of**, shall we say, the **national interest**? In order to ensure the distortion in counting civilian casualties, which would bring the number down, as Brennan with a straight face claimed, was “zero,” the Big Lie if ever there was one, placing him in distinguished European company, Obama **redefined the meaning** of “combatant” status to be any male of military age throughout the area (which we) declared a combat zone, which noticeably led to a higher incidence of sadism, because it allowed for “second strikes” on funerals—the assumption that anyone attending must be a terrorist—and first responders, those who went to the aid of the wounded and dying, themselves also certainly terrorists because of their rescue attempts.) These guys play hardball, perhaps no more than in using—by report—the proverbial baseball cards to designate who would be next on the kill list. But funerals and first responders—verified by accredited witnesses–seems overly much, and not a murmur from an adoring public.

### Util Good

#### Extinction outweighs

Bok 88

(Sissela, Professor of Philosophy at Brandeis, Applied Ethics and Ethical Theory, Rosenthal and Shehadi, Ed.)

The same argument can be made for Kant’s other formulations of the Categorical Imperative: “So act as to use humanity, both in your own person and in the person of every other, always at the same time as an end, never simply as a means”; and “So act as if you were always through your actions a law-making member in a universal Kingdom of Ends.” No one with a concern for humanity could consistently will to risk eliminating humanity in the person of himself and every other or to risk the death of all members in a universal Kingdom of Ends for the sake of justice. To risk their collective death for the sake of following one’s conscience would be, as Rawls said, “irrational, crazy.” And to say that one did not intend such a catastrophe, but that one merely failed to stop other persons from bringing it about would be beside the point when the end of the world was at stake. For although it is true that we cannot be held responsible for most of the wrongs that others commit, the Latin maxim presents a case where we would have to take such responsibility seriously – perhaps to the point of deceiving, bribing, even killing an innocent person, in order that the world not perish. To avoid self-contradiction, the Categorical Imperative would, therefore, have to rule against the Latin maxim on account of its cavalier attitude toward the survival of mankind. But the ruling would then produce a rift in the application of the Categorical Imperative. Most often the Imperative would ask us to disregard all unintended but foreseeable consequences, such as the death of innocent persons, whenever concern for such consequences conflicts with concern for acting according to duty. But, in the extreme case, we might have to go against even the strictest moral duty precisely because of the consequences. Acknowledging such a rift would post a strong challenge to the unity and simplicity of Kant’s moral theory.

#### -- Evaluate consequences – allowing violence for the sake of moral purity is evil

Isaac 2 (Jeffrey C., Professor of Political Science – Indiana-Bloomington, Director – Center for the Study of Democracy and Public Life, Ph.D. – Yale, Dissent Magazine, 49(2), “Ends, Means, and Politics”, Spring, Proquest)

As writers such as Niccolo Machiavelli, Max Weber, Reinhold Niebuhr, and Hannah Arendt have taught, an unyielding concern with moral goodness undercuts political responsibility. The concern may be morally laudable, reflecting a kind of personal integrity, but it suffers from three fatal flaws: (1) It fails to see that the purity of one’s intention does not ensure the achievement of what one intends. Abjuring violence or refusing to make common cause with morally compromised parties may seem like the right thing; but if such tactics entail impotence, then it is hard to view them as serving any moral good beyond the **clean conscience** of their supporters; (2) it fails to see that in a world of real violence and injustice, moral purity is not simply a form of powerlessness; it is often a form of complicity in injustice. This is why, from the standpoint of politics--as opposed to religion--pacifism is always a potentially immoral stand. In categorically repudiating violence, it refuses in principle to oppose certain violent injustices with any effect; and (3) it fails to see that politics is as much about **unintended consequences** as it is about intentions; it is the effects of action, rather than the motives of action, that is most significant. Just as the alignment with “good” may engender impotence, it is often the pursuit of “good” that generates evil. This is the lesson of communism in the twentieth century: it is not enough that one’s goals be sincere or idealistic; it is equally important, always, to ask about the effects of pursuing these goals and to judge these effects in pragmatic and historically contextualized ways. Moral absolutism inhibits this judgment. It alienates those who are not true believers. It promotes arrogance. And it undermines political effectiveness.

### A2: No Value to Life

#### Life always has value – even if its reduced, people have some worth – they have families and relationships and hobbies and fun – which should be preserved

Coontz 1 (Phyllis D., School of Public and International Affairs – University of Pittburgh, “Transcending the Suffering of AIDS”, Journal of Community Health Nursing, 18(4), December)

In the 1950s, psychiatrist and theorist Viktor Frankl (1963) described an existentia l theory of purpose and meaning in life. Frankl, a long-time prisoner in a concentration camp, related several instances of transcendent states that he experienced in the midst of that terrible suffering using his own experiences and observations. He believed that these experiences allowed him and others to maintain their sense of dignity and self-worth. Frankl (1969) claimed that transcendence occurs by giving to others, being open to others and the environment, and coming to accept the reality that some situations are unchangeable. He hypothesized that life always has meaning for the individual; a person can always decide how to face adversity. Therefore, self-transcendence provides meaning and enables the discovery of meaning for a person (Frankl, 1963). Expanding Frankl’s work, Reed (1991b) linked self-transcendence with mental health. Through a developmental process individuals gain an increasing understanding of who they are and are able to move out beyond themselves despite the fact that they are experiencing physical and mental pain. This expansion beyond the self occurs through introspection, concern about others and their well-being, and integration of the past and future to strengthen one’s present life (Reed, 1991b).

#### Life has intrinsic value that is unattached to instrumental capacity

Penner 5 (Melinda, Director of Operations – STR, “End of Life Ethics: A Primer”, Stand to Reason, http://www.str.org/site/News2?page=NewsArticle&id=5223)

Intrinsic value is very different. Things with intrinsic value are valued for their own sake. They don’t have to achieve any other goal to be valuable. They are goods in themselves. Beauty, pleasure, and virtue are likely examples. Family and friendship are examples. Something that’s intrinsically valuable might also be instrumentally valuable, but **even if it loses its instrumental value**, its intrinsic value remains. Intrinsic value is what people mean when they use the phrase "the sanctity of life." Now when someone argues that someone doesn’t have "quality of life" they are arguing that life is only valuable as long as it obtains something else with quality, and when it can’t accomplish this, it’s not worth anything anymore. It's only instrumentally valuable. The problem with this view is that it is entirely subjective and changeable with regards to what might give value to life. Value becomes a completely personal matter, and, as we all know, our personal interests change over time. There is no grounding for objective human value and human rights if it’s not intrinsic value. Our legal system is built on the notion that humans have intrinsic value. The Declaration of Independence: "We hold these truths to be self-evident, that all men are created equal, that each person is endowed by his Creator with certain unalienable rights...." If human beings only have instrumental value, then slavery can be justified because there is nothing objectively valuable that requires our respect. There is nothing other than intrinsic value that can ground the unalienable equal rights we recognize because there is nothing about all human beings that is universal and equal. Intrinsic human value is what binds our social contract of rights. So if human life is intrinsically valuable, then it remains valuable even when our capacities are limited. Human life is valuable even with tremendous limitations. Human life remains valuable because its value is not derived from being able to talk, or walk, or feed yourself, or even reason at a certain level. Human beings don’t have value only in virtue of states of being (e.g., happiness) they can experience.

#### Value to life can’t be calculated

Schwartz 2 (Lisa, M.D., Associate Professor of Medicine – Dartmouth College Medical School, et al., Medical Ethics: A Case Based Approach, www.fleshandbones.com/readingroom/pdf/399.pdf)

The first criterion that springs to mind regarding the value of life is usually the quality of the life or lives in question: The quality of life ethic puts the emphasis on the type of life being lived, not upon the fact of life. Lives are not all of one kind; some lives are of great value to the person himself and to others while others are not. What the life means to someone is what is important. Keeping this in mind it is not inappropriate to say that some lives are of greater value than others, that the condition or meaning of life does have much to do with the justification for terminating that life.1 Those who choose to reason on this basis hope that if the quality of a life can be measured then the answer to whether that life has value to the individual can be determined easily. This raises special problems, however, because the idea of quality involves a value judgment, and value judgments are, by their essence, subject to indeterminate relative factors such as preferences and dislikes. Hence, quality of life is difficult to measure and will vary according to individual tastes, preferences and aspirations. As a result, no general rules or principles can be asserted that would simplify decisions about the value of a life based on its quality.

### Death K (Wayne State) – 2AC

#### **Belief in** life after death causes complacency and paralysis – makes extinction inevitable

David Ray Griffin, Professor of Philosophy of Religion and Theology at Claremont, 1989

God and religion in the postmodern world: essays in postmodern theology

The most contemporary form of the moral objection to belief in life after death is the fifth claim—that belief in life after death **creates complacency about the fate of the earth**, a complacency we can ill afford in this age of environmental pollution and nuclear arsenals. If human souls can live without bodies, at least biological bodies, runs this objection, then they can live without the planet. The destruction of the planet's capacity to support life would therefore be no ultimate tragedy. The complacency produced by this belief is increased by those apocalyptic visions according to which our everlasting life will be preceded by the foreordained destruction of the earth (through nuclear war, many Christians believe), followed by the creation of a new earth. But even without this extreme doctrine, it is felt, belief in life after death **prevents that intense passion to save the earth** which is now needed. If we are to be motivated to engage in the almost superhuman (ask of ridding the planet of nuclear weapons, Jonathan Schell seems to believe," we must be convinced that the destruction of the planet's life would be the ultimate tragedy—the very death of meaning— and this it cannot be if billions of human souls live on in some other realm. This objection, unlike the former ones, does not apply only to a super-naturalistic understanding of life after death. Of course, the apocalyptic vision of the destruction and instantaneous re-creation of the world is su-pernaturalistic to the extreme degree. But the more general charge applies to all views of life after death, insofar as they lead us to think that the planet's death, however tragic, would not be the very death of meaning.

#### Nuke war threat is real and o/w racism and invisible violence---their expansion of structural violence to an all-pervasive omnipresence makes preventing war impossible – also answers their value to life claim

Ken Boulding 78 is professor of economics and director, Center for Research on Conflict Resolution, University of Michigan, “Future Directions in Conflict and Peace Studies,” The Journal of Conflict Resolution, Vol. 22, No. 2 (Jun., 1978), pp. 342-354

Galtung is very legitimately interested in problems of world poverty and the failure of development of the really poor. He tried to amalga- mate this interest with the peace research interest in the more narrow sense. Unfortunately, he did this by downgrading the study of inter- national peace, labeling it "negative peace" (it should really have been labeled "negative war") and then developing the concept of "structural violence," which initially meant all those social structures and histories which produced an expectation of life less than that of the richest and longest-lived societies. He argued by analogy that if people died before the age, say, of 70 from avoidable causes, that this was a death in "war"' which could only be remedied by something called "positive peace." Unfortunately, the concept of structural violence was broadened, in the word of one slightly unfriendly critic, to include anything that Galtung did not like. Another factor in this situation was the feeling, certainly in the 1960s and early 1970s, that nuclear deterrence was actually succeeding as deterrence and that the problem of nuclear war had receded into the background. This it seems to me is a most danger- ous illusion and diverted conflict and peace research for ten years or more away from problems of disarmament and stable peace toward a grand, vague study of world developments, for which most of the peace researchers are not particularly well qualified. To my mind, at least, the quality of the research has suffered severely as a result.' The complex nature of the split within the peace research community is reflected in two international peace research organizations. The official one, the International Peace Research Association (IPRA), tends to be dominated by Europeans somewhat to the political left, is rather, hostile to the United States and to the multinational cor- porations, sympathetic to the New International Economic Order and thinks of itself as being interested in justice rather than in peace. The Peace Science Society (International), which used to be called the Peace Research Society (International), is mainly the creation of Walter Isard of the University of Pennsylvania. It conducts meetings all around the world and represents a more peace-oriented, quantitative, science- based enterprise, without much interest in ideology. COPRED, while officially the North American representative of IPRA, has very little active connection with it and contains within itself the same ideological split which, divides the peace research community in general. It has, however, been able to hold together and at least promote a certain amount of interaction between the two points of view. Again representing the "scientific" rather than the "ideological" point of view, we have SIPRI, the Stockholm International Peace Research Institute, very generously (by the usual peace research stand- ards) financed by the Swedish government, which has performed an enormously useful service in the collection and publishing of data on such things as the war industry, technological developments, arma- ments, and the arms trade. The Institute is very largely the creation of Alva Myrdal. In spite of the remarkable work which it has done, how- ever, her last book on disarmament (1976) is almost a cry of despair over the folly and hypocrisy of international policies, the overwhelming power of the military, and the inability of mere information, however good, go change the course of events as we head toward ultimate ca- tastrophe. I do not wholly share her pessimism, but it is hard not to be a little disappointed with the results of this first generation of the peace research movement. Myrdal called attention very dramatically to the appalling danger in which Europe stands, as the major battleground between Europe, the United States, and the Soviet Union if war ever should break out. It may perhaps be a subconscious recognition-and psychological denial-of the sword of Damocles hanging over Europe that has made the European peace research movement retreat from the realities of the international system into what I must unkindly describe as fantasies of justice. But the American peace research community, likewise, has retreated into a somewhat niggling scientism, with sophisticated meth- odologies and not very many new ideas. I must confess that when I first became involved with the peace research enterprise 25 years ago I had hopes that it might produce some- thing like the Keynesian revolution in economics, which was the result of some rather simple ideas that had never really been thought out clearly before (though they had been anticipated by Malthus and others), coupled with a substantial improvement in the information system with the development of national income statistics which rein- forced this new theoretical framework. As a result, we have had in a single generation a very massive change in what might be called the "conventional wisdom" of economic policy, and even though this conventional wisdom is not wholly wise, there is a world of difference between Herbert Hoover and his total failure to deal with the Great Depression, simply because of everybody's ignorance, and the moder- ately skillful handling of the depression which followed the change in oil prices in 1-974, which, compared with the period 1929 to 1932, was little more than a bad cold compared with a galloping pneumonia. In the international system, however, there has been only glacial change in the conventional wisdom. There has been some improvement. Kissinger was an improvement on John Foster Dulles. We have had the beginnings of detente, and at least the possibility on the horizon of stable peace between the United States and the Soviet Union, indeed in the whole temperate zone-even though the tropics still remain uneasy and beset with arms races, wars, and revolutions which we cannot really afford. Nor can we pretend that peace around the temper- ate zone is stable enough so that we do not have to worry about it. The qualitative arms race goes on and could easily take us over the cliff. The record of peace research in the last generation, therefore, is one of very partial success. It has created a discipline and that is something of long-run consequence, most certainly for the good. It has made very little dent on the conventional wisdom of the policy makers anywhere in the world. It has not been able to prevent an arms race, any more, I suppose we might say, than the Keynesian economics has been able to prevent inflation. But whereas inflation is an inconvenience, the arms race may well be another catastrophe. Where, then, do we go from here? Can we see new horizons for peace and conflict research to get it out of the doldrums in which it has been now for almost ten years? The challenge is surely great enough. It still remains true that war, the breakdown of Galtung's "negative peace," remains the greatest clear and present danger to the human race, a danger to human survival far greater than poverty, or injustice, or oppression, desirable and necessary as it is to eliminate these things. Up to the present generation, war has been a cost and an inconven- ience to the human race, but it has rarely been fatal to the process of evolutionary development as a whole. It has probably not absorbed more than 5% of human time, effort, and resources. Even in the twenti- eth century, with its two world wars and innumerable smaller ones, it has probably not acounted for more than 5% of deaths, though of course a larger proportion of premature deaths. Now, however, ad- vancing technology is creating a situation where in the first place we are developing a single world system that does not have the redundancy of the many isolated systems of the past and in which therefore if any- thing goes wrong everything goes wrong. The Mayan civilization could collapse in 900 A.D., and collapse almost irretrievably without Europe or China even being aware of the fact. When we had a number of iso- lated systems, the catastrophe in one was ultimately recoverable by migration from the surviving systems. The one-world system, therefore, which science, transportation, and communication are rapidly giving us, is inherently more precarious than the many-world system of the past. It is all the more important, therefore, to make it internally robust and capable only of recoverable catastrophes. The necessity for stable peace, therefore, increases with every improvement in technology, either of war or of peacex

#### This is true at a fundamental and ontological level

Paterson 3 Craig, Department of Philosophy, Providence College, Rhode Island “A Life Not Worth Living?”, Studies in Christian Ethics, <http://sce.sagepub.com>

Contrary to those accounts, I would argue that it is death per se that is really the objective evil for us, not because it deprives us of a prospective future of overall good judged better than the alter- native of non-being. It cannot be about harm to a former person who has ceased to exist, for no person actually suffers from the sub-sequent non-participation. Rather, death in itself is an evil to us because it ontologically destroys the current existent subject — it is the ultimate in metaphysical lightening strikes.80 The evil of death is truly an ontological evil borne by the person who already exists, independently of calculations about better or worse possible lives. Such an evil need not be consciously experienced in order to be an evil for the kind of being a human person is. Death is an evil because of the change in kind it brings about, a change that is destructive of the type of entity that we essentially are. Anything, whether caused naturally or caused by human intervention (intentional or unintentional) that drastically interferes in the process of maintaining the person in existence is an objective evil for the person. What is crucially at stake here, and is dialectically supportive of the self-evidency of the basic good of human life, is that death is a radical interference with the current life process of the kind of being that we are. In consequence, death itself can be credibly thought of as a ‘primitive evil’ for all persons, regardless of the extent to which they are currently or prospectively capable of participating in a full array of the goods of life.81

In conclusion, concerning willed human actions, it is justifiable to state that any intentional rejection of human life itself cannot therefore be warranted since it is an expression of an ultimate disvalue for the subject, namely, the destruction of the present person; a radical ontological good that we cannot begin to weigh objectively against the travails of life in a rational manner. To deal with the sources of disvalue (pain, suffering, etc.) we should not seek to irrationally destroy the person, the very source and condition of all human possibility.82

#### Choice is key --- they are serial killers

Paterson 3 Craig, Department of Philosophy, Providence College, Rhode Island “A Life Not Worth Living?”, Studies in Christian Ethics, <http://sce.sagepub.com>

In determining whether a life is worth living or not, attention should be focused upon an array of ‘interests’ of the person, and these, for the competent patient at least, are going to vary considerably, since they will be informed by the patient’s underlying dispositions, and, for the incompetent, by a minimal quality threshold. It follows that for competent patients, a broad-ranging assessment of quality of life concerns is the trump card as to whether or not life continues to be worthwhile. Different patients may well decide differently. That is the prerogative of the patient, for the only unpalatable alternative is to force a patient to stay alive. For Harris, life can be judged valuable or not when the person assessing his or her own life determines it to be so. If a person values his or her own life, then that life is valuable**,** precisely to the extent that he or she values it. Without any real capacity to value, there can be no value. As Harris states, ‘. . . the value of our lives is the value we give to our lives’. It follows that the primary injustice done to a person is to deprive the person of a life he or she may think valuable. Objectivity in the value of human life, for Harris, essentially becomes one of negative classification (ruling certain people out of consideration for value), allied positively to a broad range of ‘critical interests’; interests worthy of pursuing — friendships, family, life goals, etc. — which are subjected to de facto self-assessment for the further determination of meaningful value. Suicide, assisted suicide, and voluntary euthanasia, can therefore be justified, on the grounds that once the competent nature of the person making the decision has been established, the thoroughgoing commensuration between different values, in the form of interests or preferences, is essentially left up to the individual to determine for himself or herself.

#### Extinction actually is the end of all human consciousness---this arg is dumb

Stenger 92 – Victor J. Stenger, Adjunct Professor of Philosophy, University of Colorado, 1992, “The Myth of Quantum Consciousness,” online: http://www.colorado.edu/philosophy/vstenger/Quantum/QuantumConsciousness.pdf

Quantum mechanics is called on further to argue that the cosmic field, like Newton’s aether, couples to the human mind itself. In Robert Lanza’s view, that field is the universal mind of all humanity - living, dead, and unborn. Ironically, this seemingly profound association between quantum and mind is an artifact, the consequence of unfortunate language used by Bohr, Heisenberg and the others who originally formulated quantum mechanics. In describing the necessary interaction between the observer and what is being observed, and how the state of a system is determined by the act of its measurement, they inadvertently left the impression that human consciousness enters the picture to cause that state come into being. This led many who did not understand the physics, but liked the sound of the words used to describe it, to infer a fundamental human role in what was previously a universe that seemed to have need for neither gods nor humanity.

If Bohr and Heisenberg had spoken of measurements made by inanimate instruments rather than “observers,” perhaps this strained relationship between quantum and mind would not have been drawn. For, nothing in quantum mechanics requires human involvement.

Quantum mechanics does not violate the Copernican principle that the universe cares not a whit about the human race. Long after humanity has disappeared from the scene, matter will still undergo the transitions that we call quantum events. The atoms in stars will radiate photons, and these photons will be absorbed by materials that react to them. Perhaps, after we are gone, some of our machines will remain to analyze these photons. If so, they will do so under the same rules of quantum mechanics that operate today.

#### Death is not a social phenomenon – it is strictly a biological one that represents the end of all biological functions

Bernat 9 (James – Neurology Department, M.D., Dartmouth-Hitchcock Medical Center, “Contemporary controversies in the definition of death”, 2009, Progress in Brain Research Volume 177, 2009, Pages 21–31, ScienceDirect)

The definition and criterion of death To better understand the need to analyze the definition and criterion of death before physicians can design tests to determine death, let us consider the findings in a typical case of a brain-dead patient. A 44-year-old man suffered a spontaneous massive subarachnoid hemorrhage from a ruptured cerebral aneurysm. His intracranial pressure exceeded systolic blood pressure for over 12 h. Neurological examination showed a complete absence of all clinical brain functions. He had apnea, absence of all brain stem reflexes, and complete unresponsiveness to any stimuli. He had diabetes insipidus and profound systemic hypotension requiring vasopressor drugs to maintain his blood pressure. Brain MRI showed marked cerebral edema with bilateral uncal herniation. Intracranial blood flow was entirely absent by intravenous radionuclide angiography. While on the ventilator, his heart continued to beat, blood continued to perfuse visceral organs (but not his brain), his kidneys made urine, and his gastrointestinal tract absorbed nutrients provided medically through a nasogastric tube. Was he alive or dead? He had some findings traditionally present in dead patients: he was apneic, motionless, utterly unresponsive, had no pupillary reflexes to light, and had no neuroendocrine homeostatic control mechanisms. But he also had some findings seen in living patients: he had heartbeat and visceral organ circulation and functioning. But a physician's determination of whether he should be considered as alive or dead cannot be made until there is conceptual agreement on what it means to be dead when technology successfully supports some of his vital subsystems. In the pretechnological era, when one system vital to life stopped (heartbeat/circulation, respiration, or brain functions) the others stopped within minutes, so we did not have to address the question of whether a person was dead when only brain functions stopped. Now, technology has created cases in which brain functions can cease irreversibly but circulation and respiration can be mechanically supported. Now, we must analyze the nature of death to resolve the ambiguity of whether the “brain dead” person described in this case is truly dead. In the earliest description of brain-dead patients, Mollaret and Goulon (1959) intuited that they were actually dead, claiming that they were in a state beyond coma (le coma dépassé). In the classic Harvard Medical School Ad Hoc Committee report that publicized the concept and established the term “brain death” (1968), the authors asserted that the patients were dead and therefore represented suitable organ donors. The first rigorous conceptual arguments showing why brain-dead patients should be considered dead were not offered until a decade later (Korein, 1978; Capron and Kass, 1978) and were refined and expanded further over the next several years ( Bernat, Culver, & Gert (1981) and Bernat, Culver, & Gert (1982); President's Commission, 1981). Jurisdictions within the United States began to incorporate brain death determination into death statutes in 1970 (Curran, 1971), even before a firm philosophical foundation justified doing so. The analyses of death that have gained the greatest acceptance by other scholars begin conceptually with the meaning of death and progress to tangible and measurable criteria. Korein (1978) and Capron and Kass (1978) pointed out that agreement on a concept of death must precede the development of tests to determine it. My colleagues, Charles Culver and Bernard Gert, and I further developed their idea of hierarchies of analysis by fashioning a rigorous sequential analysis that incorporated the paradigm, definition, criterion, and tests of death (Bernat, Culver, & Gert (1981) and Bernat, Culver, & Gert (1982)). I refined this analysis in subsequent articles that I summarize here (Bernat (1998), Bernat (2002) and Bernat (2006a)). This analysis is frequently regarded as the standard defense that brain death represents human death, even among those who disagree with it (Shewmon, 2009). The first stage of analysis is to state and defend the preconditions of the argument or “paradigm” of death: that set of assumptions that frame the analysis by clarifying the goal and boundaries of the analysis. Agreement on these conditions is a prerequisite for further discussion. Much of the disagreement by other scholars with this account results from failure to accept one or more of the seven conditions of the paradigm. 1. The word “death” is a nontechnical word that we use correctly in ordinary conversation to refer to the cessation of life of a human being. The goal in an analysis should not be to redefine “death” by contriving a new or different meaning but to make explicit the implicit meaning of death that we all accept in our usage of “death” that has been made ambiguous by advances in life-support technology. 2. Death is a biological phenomenon. We all agree that life is a biological phenomenon; thus its cessation also is fundamentally biological. Death is an immutable and objective biological fact and is not a social contrivance. The focus of analyzing the definition and criterion of death is the ontology of death and not its normative aspects. 3. We restrict the analysis to the death of higher vertebrate species for whom death is univocal. We refer to the same phenomenon of “death” when we say our cousin died as we do when we say our dog died. 4. “Death” should be applied directly and categorically only to organisms. All living organisms must die and only living organisms can die. When we say “a person died,” we refer to the death of the living organism that embodied the person, not that their organism continues to live but has ceased to have the attributes of personhood. 5. A higher organism can reside in only one of two states, alive or dead: no organism can be in both states simultaneously or in neither. 6. Death is most accurately represented as an event and not a process. If there are only two mutually exclusive underlying states of an organism (alive and dead), the transition from one state to the other, at least in theory, must be sudden and discontinuous, because there is no intervening state. However, because of technical limitations, the event of death may be determinable only in retrospect. Death is conceptualized most accurately as the event separating the true biological processes of dying and bodily disintegration. 7. Death is irreversible. If the event of death were reversible it would not be death but rather incipient dying that was interrupted and reversed. A definition of death must reflect the concept that something fundamental and essential about the organism has changed irreversibly. We do not require the cessation of function of every cell, tissue, or organ to intuit death. The life and growth of some of a formerly living person's cells in a cell culture dish does not imply that she remains alive although part of her undoubtedly does. Similarly, the functioning of a single organ outside the body, such as a donated kidney that is being mechanically perfused and oxygenated awaiting transplantation, is not indicative of life of the organism. Respiration and circulation that are supported technologically after the brain has been destroyed allow many organs to continue functioning despite the loss of the life force driving them as well as the cessation of the overall interrelatedness and unity of the body. Such a preparation of mechanically functioning but nonintegrated bodily subsystems constitutes life of part of the organism but does not represent life of the overall organism any more than does the isolated functioning of its individual cells, tissue, or organs. An adequate definition of death is the cessation of the critical functions of the organism as a whole. The biologist Jacques Loeb (1916) explained the concept of the organism as a whole. This concept does not refer to the whole organism (the sum of its parts) but to the integrated functioning and interrelatedness of its parts that create the unity of the organism. Contemporary biophilosophers use the mechanism of emergent functions to explain this concept more precisely (Mahner and Bunge, 1997). An emergent function is a property of a whole that is not possessed by any of its component parts, and that cannot be reduced to one or more of its component parts. A function is called an emergent function because it emerges spontaneously from the sum of its parts given the condition that the necessary parts (subsystems) are in place and functioning normally. The ineffable phenomenon of human consciousness is the most exquisite example of an emergent function. The organism as a whole is the set of critical emergent functions of the organism. The irreversible loss of the organism's critical emergent functions produces loss of the functioning of the organism as a whole and represents the death of the organism. The organism's individual subsystems that remain functioning as a result of mechanical support do not represent life of the organism because their interrelatedness, wholeness, and unity have ceased forever. The cessation of the organism as a whole is the most precise conceptualization of death in our technological era in which physicians are capable of providing visceral organ support, transplantation, and advanced critical care. The criterion of death best satisfying this definition is the irreversible cessation of all clinical brain functions. This criterion is known as the “whole-brain” criterion of death because it requires cessation of all clinically measurable brain functions including those executed by the brain stem, diencephalon, thalamus, and cerebral hemispheres. The functions generated and organized within these structures are necessary and sufficient for the critical emergent functions of the organism and thus are necessary and sufficient for the organism as a whole. Death of the organism requires their irreversible cessation. In past analyses of the unity and interrelatedness of the subsystems of the organism, my colleagues and I stressed that functions of the whole brain provided the integration of the parts that created the whole. Subsequently, critics pointed out that the brain was not the only organ responsible for integration, and that structures such as the spinal cord contributed significantly to the organism's integration of its parts into a whole (Shewmon, 2004). In their recent report, the President's Council on Bioethics (2009) accepted the coherence of the formulation of whole brain death but concluded that Shewmon's integration criticism was justified. As a result, they proposed an alternative explanation of why brain death satisfies the definition of death as the loss of the organism as a whole. They concluded that the cessation of clinical brain functions caused “the inability of the organism to conduct its self-preserving work.” This conceptualization emphasized the cessation of the organism's principal functions that made it an organism. Shewmon recently analyzed the President's Council's alternative justification and found it wanting (Shewmon, 2009). Physicians have devised tests to show that the criterion of death has been fulfilled. Two sets of tests for death reflect the two basic clinical circumstances: resuscitation or no resuscitation. If positive-pressure ventilation is not used or planned, physicians can use the permanent cessation of circulation and respiration to declare death because the brain will be destroyed by ischemic infarction within a sort time once its circulation has ceased. If positive-pressure ventilation is being used, physicians must directly measure brain functions to assess death (“brain death”). Bedside clinical and laboratory tests to determine brain death have been standardized and subjected to evidence-based analysis. Their description is clinically crucial but is beyond the scope of this article. These tests and procedures have been critically reviewed (Wijdicks, 2001; Bernat, 2009). Alternative formulations of death Critics of either the whole-brain criterion of death or of all brain-based concepts of death have offered alternative analyses. The earliest criticism accepted the theory of brain death but argued that criterion of death should not be cessation of all clinical functions of the entire brain but only those of the cerebral hemispheres. This argument holds that the cerebrum imparts the characteristics that distinguish humans from other species and the more primitive brain structures that are shared with other species are not relevant. Robert Veatch claimed that death should be defined uniquely for human beings as “the irreversible loss of that which is considered to be essentially significant to the nature of man.” He rejected the idea that death should be related to an organism's loss of the capacity to integrate bodily function” because “man is, after all, something more than a sophisticated computer” (Veatch (1975) and Veatch (1993)). A reasonable application of the higher brain formulation would define as dead patients who had irreversibly lost consciousness such as those in a vegetative state. Several other scholars concurred with this concept that became known as the higher brain formulation of death (Gervais, 1986). The higher brain formulation is an inadequate construct of death because it violates the first principle of the paradigm by not attempting to make explicit the ordinary concept of death. Instead, it redefines death by declaring as dead brain-damaged patients who are universally regarded as alive. A clear example of a patient satisfying the higher brain formulation would be a patient in an irreversible vegetative state. Despite loss of awareness and many features of personhood, these patients are regarded as alive throughout the world (Bernat, 2006b). Because many people would prefer to die if they were ever in such a state, the proper place of the higher brain formulation is in determining grounds to permit cessation of life-sustaining therapy. Another critique of the criterion of whole-brain death is the British formulation of brain stem death. Under the intellectual leadership of Christopher Pallis, the practice of brain stem death in the United Kingdom requires the cessation of only brain stem functions (Pallis, 1995). In these cases, examiners cannot test cerebral hemispheric function and cannot use confirmatory tests showing cessation of intracranial blood flow (Kosteljanetz et al., 1988). This circumstance creates the possibility of retained awareness despite other evidence of brain stem failure (Ferbert et al., 1988). This serious flaw is uncompensated for by any unique benefit of the brain stem formulation. Yet, because most whole-brain functions can be shown to be absent when all brain stem functions are absent, the whole-brain and brain stem formulations usually yield the same results. The sole exception is the case of a primary brain stem catastrophe in which the patient could be declared dead in the brain stem formulation but not in the higher brain formulation. Several scholars have argued that no single criterion of death can be determined because death is not a discrete event but rather is an ineluctable process within which it is arbitrary to stipulate the moment that death has occurred. Linda Emanuel (1995) made this argument and offered a scenario of a patient gradually dying over many months from progressive multi-organ failure. Although this claim appears plausible in some cases of gradual dying, it errs by confusing the state of an underlying organism with our technical ability to determine that state. Simply because we may not always be able to detect the moment the organism changes from alive to dead, or we may be able to detect the transition only in retrospect — as in a brain death determination — does not necessarily mean that the point of death does not exist or is arbitrary. Death is not a process but is the event separating the process of dying from the process of bodily disintegration. Other scholars argue that alive and dead are not always distinctly separable states and that some organisms (such as brain-dead patients) can reside in an in-between state that is neither alive nor dead but has elements of both. Halevy and Brody (1993) made this argument employing the mathematical theory of fuzzy sets. They claimed that physical or biological phenomena do not always divide themselves neatly into sets and their complements. They asserted that the event of death is such an example and therefore it is impossible to identify a unitary criterion of death. However, this claim confuses our ability to identify an organism's biological state and the nature of that underlying state. The paradigm made clear that life and death are the only two underlying states of an organism and there can be no in-between state because the transition from one state to the other must be sudden and discontinuous. Using the terminology of fuzzy set theory, it is most accurate biologically to view alive and dead as mutually exclusive (nonoverlapping) and jointly exhaustive (no other) sets thereby permitting a unitary criterion of death. Some scholars claim that death is not an immutable biological event but is a social contrivance that varies among societies and cultures (Miles, 1999). The most libertarian among them go so far as to claim that because death is a socially determined event, individuals in a free society should be permitted to stipulate their own criterion of death based on their personal values (Veatch, 1999). These claims err in rejecting the paradigm requirement that death (like life) is fundamentally a biological, not a social, phenomenon. We all agree that customs surrounding death and dying have important and cherished social, legal, religious, and cultural aspects, which vary among societies. But Veatch and Miles err by failing to restrict their philosophical consideration to the ontogeny of death rather than to its normative issues. A few philosophers argue that there are two kinds of death: death of the human organism and death of the person (McMahan, 1995; Lizza, 2005). These scholars claim that they are not using “person” metaphorically and assert that the death of a person is separate from that of the death of the human organism embodying the person. This nonbiological dichotomy and dualism violates the paradigm requirement that death is fundamentally a biological phenomenon that refers to the demise of the human organism that embodied a person.

#### Precautionary Principle- act if death is real because you don’t want to take a risk. All of our evidence is written about a world in which death may be real and the potential consequences of.

#### Preventing premature death is vital to maximize temporal and spiritual existence – they preclude the possibility for people to confront the meaning of life on their own terms

Tallis 97 (Raymond, Professor of Medicine – University of Manchester, Enemies of Hope: A Critique of Contemporary Pessimism, p. 400-402)

At any rate, we may anticipate that the future progress in medical science will make possible only finite additions to lifespan, palliating rahter than curing our transcience. This raises the question of what (finite) additions to a finite lifespan are worthwhile? The answer will change our perceptions of the curve of life are altered by medical and social advances; in particular the definition of premature, 'tragically early', death will be revised upwards. Nietzsche’s Zarathustra recommended that, since we cannot live for ever, we should at least die at the right time. When is the right time to die? According to Paul Valery's M. Teste. It is said that there are two kinds of death, the natural (complete) and the ordinary - giving back to the world nothing but a corpse empty of its possible consciousness. The ordinary is the ordinary dead man (and on his features, the expression of a man surprised and slightly shocked, impolitely interrupted by some trifle in an interesting conversation). The natural of true death would be the total exhaustion of the possibilities of the system of an individual [person]man. All the inner combinations of his capacities, incomplete in themselves, would be exhausted. He has told himself everything he knew. This seems an unlikely prospect and we may assume that all human beings will leave much unfinished business behind when they die and death will remain as poignant. Does not the Utopian dream of progress, therefore distract from this fundamental certainty and so render us spiritually more shallow? I don't think so; indeed, I would argue the reverse: life and death in Utopia will be more, not less, metaphysical. With more effective ways of retarding the onset of diseases and limiting their adverse effects, it seems likely that 'old age' will come to play a bigger role in limiting the quality and duration of life. The distinction between disease and ageing is not as clear-cut as has been suggested by those who have been appropriately anxious that woes in older people should not be dismissed as (untreatable) 'ageing' and oppurtunities for improving (treatable) illness lost. Even, however, supposing ageing and disease were clearly separable, they would still interact and converge, having a common ultimate outcomes - death - and a common pathway to that outcome - homoestatic failure. The question that then concerns us is whether death purely or predominantly by ageing would be an advance over death by clearly defined disease. Death in old age will, of course, seem more appropriate (or less inappropiate) that ht edeath in youth; but, beyond this, death from old age may be less unpleasant, not being associated with intrusive symptoms such as pain, nauses, shortness of breath and gross disability. Instead, we may envisage a subtle and progressive reduction in life-space associated withan increased probability of a demise that is more easily achieved - as if the distance to be traversed between life and death has been abbreviated. The image of death by ageing as the end-result of gradual but harmonious failure of all organs is attractive. It is compatible with the current conceptions of ageing in the absence of clearly defined disease, which suggest a picture of progressive, roughly synchronous decline in function of many different organs. Such a death would seem to be likely to be more conscious more metaphysical, than death typically is at present. Do not go gentle into that good night. No; but do not go kicking and screaming, either instead proceed by a series of grey-scale gradations of evening to oblivion. The tragedy is not blunted, but purified of the kind of distraction that dominate decline and death at present. Physical suffering is not necessarily a more translucent metaphysical window than painless decline quite the reverse; to suffer is to be nailed to the particular to endure an involuntary narrowing of an attention made almost absolute. Utopia and Utopian medicine will not therefore cure transcience but may permit a death that is more in keeping with the possibilities of man the metaphysical anumal. It is absurd, therefore to see progress towards Utopia as being a means by which humankind is made shallower; on the contrary it may be the means by which human beings come nearer to fulfilling the mysterious potential within them to become ever more richly and complex aware of themselves and of the world around them.

#### Death is inevitable – they can’t get any offense. Everyone dies at some point, it’s just a question of whether people can maximize their life.

#### We don’t link to Baudrillard. We don’t deprive people of death. If people want to die, they can go ahead and kill themselves. If anyone person doesn’t want to die, then you should vote aff because it proves all our args that that people enjoy life and want to maximize it. Squo proves some people like life like you.

#### Life always has value – even if its reduced, people have some worth – they have families and relationships and hobbies and fun – which should be preserved

Coontz 1 (Phyllis D., School of Public and International Affairs – University of Pittburgh, “Transcending the Suffering of AIDS”, Journal of Community Health Nursing, 18(4), December)

In the 1950s, psychiatrist and theorist Viktor Frankl (1963) described an existentia l theory of purpose and meaning in life. Frankl, a long-time prisoner in a concentration camp, related several instances of transcendent states that he experienced in the midst of that terrible suffering using his own experiences and observations. He believed that these experiences allowed him and others to maintain their sense of dignity and self-worth. Frankl (1969) claimed that transcendence occurs by giving to others, being open to others and the environment, and coming to accept the reality that some situations are unchangeable. He hypothesized that life always has meaning for the individual; a person can always decide how to face adversity. Therefore, self-transcendence provides meaning and enables the discovery of meaning for a person (Frankl, 1963). Expanding Frankl’s work, Reed (1991b) linked self-transcendence with mental health. Through a developmental process individuals gain an increasing understanding of who they are and are able to move out beyond themselves despite the fact that they are experiencing physical and mental pain. This expansion beyond the self occurs through introspection, concern about others and their well-being, and integration of the past and future to strengthen one’s present life (Reed, 1991b).

#### Value to life can’t be calculated

Schwartz 2 (Lisa, M.D., Associate Professor of Medicine – Dartmouth College Medical School, et al., Medical Ethics: A Case Based Approach, www.fleshandbones.com/readingroom/pdf/399.pdf)

The first criterion that springs to mind regarding the value of life is usually the quality of the life or lives in question: The quality of life ethic puts the emphasis on the type of life being lived, not upon the fact of life. Lives are not all of one kind; some lives are of great value to the person himself and to others while others are not. What the life means to someone is what is important. Keeping this in mind it is not inappropriate to say that some lives are of greater value than others, that the condition or meaning of life does have much to do with the justification for terminating that life.1 Those who choose to reason on this basis hope that if the quality of a life can be measured then the answer to whether that life has value to the individual can be determined easily. This raises special problems, however, because the idea of quality involves a value judgment, and value judgments are, by their essence, subject to indeterminate relative factors such as preferences and dislikes. Hence, quality of life is difficult to measure and will vary according to individual tastes, preferences and aspirations. As a result, no general rules or principles can be asserted that would simplify decisions about the value of a life based on its quality.

#### Fear of death enhances the value to life – recognizing death allows us to create a world of meaning and love

Kelsang 99 (Geshe, Internationally Renowned Teacher of Buddhism, “Dealing With Fear”, http://www.dealingwithfear.org/fear-of-death.htm/)

A healthy fear of death would be the fear of dying unprepared, as this is a fear we can do something about, a danger we can avert. If we have this realistic fear, this sense of danger, we are encouraged to prepare for a peaceful and successful death and are also **inspired to make the most of our very precious human life instead of wasting it**. This "sense of danger" inspires us to make preparations so that we are no longer in the danger we are in now, for example by practicing moral discipline, purifying our negative karma, and accumulating as much merit, or good karma, as possible. We put on a seat belt out of a sense of danger of the unseen dangers of traffic on the road, and that seat belt protects us from going through the windshield. We can do nothing about other traffic, but we can do something about whether or not we go through the windscreen if someone crashes into us. Similarly, we can do nothing about the fact of death, but we can seize control over how we prepare for death and how we die. Eventually, through [Tantric](http://www.tharpa.com/background/about-tantra.htm) spiritual practice, we can even attain a deathless body. In [Living Meaningfully, Dying Joyfully](http://www.tharpa.com/lmdj.htm), Geshe Kelsang says: Dying with regrets is not at all unusual. **To avoid a sad and meaningless end to our life we need to remember continually that we too must die**. Contemplating our own death will inspire us to use our life wisely by developing the inner refuge of spiritual realizations; otherwise we shall have no ability to protect ourself from the sufferings of death and what lies beyond. Moreover, when someone close to us is dying, such as a parent or friend, we shall be powerless to help them because we shall not know how; and we shall experience sadness and frustration at our inability to be of genuine help. Preparing for death is one of the kindest and wisest things we can do both for ourself and others. The fact of the matter is that this world is not our home. We are travelers, passing through. We came from our previous life, and in a few years, or a few days, we shall move on to our next life. We entered this world empty-handed and alone, and we shall leave empty-handed and alone. Everything we have accumulated in this life, including our very body, will be left behind. All that we can take with us from one life to the next are the imprints of the positive and negative actions we have created. **If we ignore death we shall waste our life** working for things that we shall only have to leave behind, creating many negative actions in the process, and having to travel on to our next life with nothing but a heavy burden of negative karma. On the other hand, if we base our life on a realistic awareness of our mortality, we shall regard our spiritual development as far more important than the attainments of this world, and we shall view our time in this world principally as an opportunity to cultivate positive minds such as patience, love, compassion, and wisdom. Motivated by these virtuous minds we shall perform many positive actions, thereby creating the cause for future happiness.

#### -- Perm – Do the Aff and [Insert part of Alt text]

#### -- No Impact – their authors aren’t qualified and don’t cite empirical data – they’re just making wild assertions. Prefer our specific scenarios and solvency claims. Doing the Aff is necessary to solve extinction, and survival is a prerequisite to forming alternative social relationships.

#### The Aff’s a prerequisite to the Alt – only innovative responses to tech-induced environmental destruction enable reconceptualization of technology as more than an instrument. The Alt’s passive refusal leaves prevailing worldviews intact.

Feenberg 7 (Andrew, Canada Research Chair in the Philosophy of Technology in the School of Communication at Simon Fraser University, Danish Yearbook of Philosophy, Volume 42, “Between Reason and Experience,” p. 24-27, http://www.sfu.ca/~andrewf/books/Between\_Reason\_and\_Experience\_DYP42.pdf)

As I reformulate this social version of the technical revealing, it has political consequences. Political protests arise as feedback from disastrous technical projects and designs reaches those excluded from the original networks of control. These protests are often based on scientific knowledge of the devastation caused by technology designed in indifference to human needs. This is the point at which objective facts enter experience as motives for distrust and fear of technology and technical authority. The subjects become aware of the contingency of the technically structured world on choices and decisions that do not proceed from a supposedly pure rationality. The lifeworld reacts back on technology through the objective contents of knowledge of its side effects. There have been many attempts to articulate the implications of this new situation. My approach is closest to that of Ulrich Beck. Like him I argue that we are entering a new phase of technological development in which the externalities associated with the prevailing technologies threaten the survival of the industrial system (Beck, 1992). This threat has begun to force redesign of many technologies and changes in the disciplines and training underlying the technical professions. Beck explains the transition from a capitalism based on distinct spheres with little interaction, to a “reflexive modernity” in which interaction between spheres becomes the norm. Multiple approaches and cross disciplinary conceptions increasingly shape the design process in response. He develops the social consequences of the resultant changes while I have focused primarily on the technological dimension of the new phase. In this phase, what Gilbert Simondon calls “concretizing” innovations emerge designed to accommodate a wider range of social influences and contextual factors.12 As design is pulled in different directions by actors attempting to impose their differing functional requirements on devices, the winning design strategies are often those that reconcile multiple functions in simple and elegant structures capable of serving them all. Examples abound: hybrid engines in automobiles, refrigerants and propellants that do not damage the ozone layer, substitutes for lead in consumer products, and so on. In the process of developing these technologies environmental, medical and other concerns are brought to bear on design by new actors excluded from the original technological regime. Of course, no small refinements such as these can resolve the environmental crisis, but the fact that they are possible at all removes the threat of technological regression as a major alibi for doing nothing. The emergence of a radically new technical politics requires us to rethink the basic concept of rationality that has supplied the existing industrial society with its highest philosophical sanction. Heidegger and Marcuse help us to understand the limitations of the prevailing concept. They remind us that the hypostatization of a reason fragmented into specializations and differentiated from a broader cultural and normative context is not inevitable but belongs to a specific historical era, an era that may well be approaching its end. A new understanding of rationality is possible based not on a return to a teleological worldview in which we can no longer believe but on recognition of the complexity of experiences that have been cast in artificially narrow instrumental schemas. Concrete experience is thus the touchstone of this ontology because it is only there that the world reveals itself in its multifarious and unpredictable connections and potentialities. From this new standpoint specialization and differentiation will not disappear, but they will be treated as methodologically useful rather than as ontologically fundamental. The resultant breaching of the boundaries between disciplines and between the technical realm and the lifeworld responds to the crisis of industrial society. We may learn to bound the cosmos in modern forms by attending to the limits that emerge from the unintended interactions of domains touched by powerful modern technologies. This is the form in which the lived world we have discovered in the thought of Heidegger and Marcuse becomes active in the structure of a rationality that still has for its mission the explanation of objective nature. The discovery of a limit reveals the significance of that which is threatened beyond it. This dialectic of limitation is most obvious in the case of threats to human health or species survival. On the one side, the experienced world gains a ground in respect for an object, in this case the human body or a threatened species. On the other side, a concrete technical response is solicited employing the means at hand in new combinations or inventing new ones. From this standpoint no return to a qualitative science is possible or necessary. Modern science objectifies and reifies by its very nature but it could operate within limits standing in for the lost essences of antiquity and like them referring us to an irreducible truth of experience. As we encounter this truth we are reminded of the necessity of restraint. This must be a productive restraint leading to a process of transformation, not a passive refusal of a reified system. The forward looking Janus face is fundamental and grants hope not by rejecting scientific-technical achievements but by revealing their essential nature as processes in which human action can intervene.13 Innovative responses to the new limits can serve in the reconstruction of both technical disciplines and technology. To be sure, the process character and full complexity of reality cannot be reflected immediately in the scientific-technical disciplines, but the disciplines can be deployed in fluid combinations that reflect the complexity of reality as it enters experience through humanly provoked disasters of all sorts and through the consciousness of new threats of which we ourselves are the ultimate source. The goal is not merely to survive but to reconstruct modern technology around a new model of wealth that is environmentally compatible and that draws on human capacities suppressed or ignored in the present dispensation. Marcuse interpreted this in terms of the surrealist “hazard objectif,” the rather fantastic notion of an aesthetically formed world in which “human faculties and desires ... appear as part of the objective determinism of nature – coincidence of causality through nature and causality through freedom” (Marcuse, 1969: 31).

#### -- Evaluate consequences – allowing violence for the sake of moral purity is evil

Isaac 2 (Jeffrey C., Professor of Political Science – Indiana-Bloomington, Director – Center for the Study of Democracy and Public Life, Ph.D. – Yale, Dissent Magazine, 49(2), “Ends, Means, and Politics”, Spring, Proquest)

As writers such as Niccolo Machiavelli, Max Weber, Reinhold Niebuhr, and Hannah Arendt have taught, an unyielding concern with moral goodness undercuts political responsibility. The concern may be morally laudable, reflecting a kind of personal integrity, but it suffers from three fatal flaws: (1) It fails to see that the purity of one’s intention does not ensure the achievement of what one intends. Abjuring violence or refusing to make common cause with morally compromised parties may seem like the right thing; but if such tactics entail impotence, then it is hard to view them as serving any moral good beyond the **clean conscience** of their supporters; (2) it fails to see that in a world of real violence and injustice, moral purity is not simply a form of powerlessness; it is often a form of complicity in injustice. This is why, from the standpoint of politics--as opposed to religion--pacifism is always a potentially immoral stand. In categorically repudiating violence, it refuses in principle to oppose certain violent injustices with any effect; and (3) it fails to see that politics is as much about **unintended consequences** as it is about intentions; it is the effects of action, rather than the motives of action, that is most significant. Just as the alignment with “good” may engender impotence, it is often the pursuit of “good” that generates evil. This is the lesson of communism in the twentieth century: it is not enough that one’s goals be sincere or idealistic; it is equally important, always, to ask about the effects of pursuing these goals and to judge these effects in pragmatic and historically contextualized ways. Moral absolutism inhibits this judgment. It alienates those who are not true believers. It promotes arrogance. And it undermines political effectiveness.

#### The alt creates a political void filled by elites – locking in oppression

Cook 92 (Anthony, Associate Professor – Georgetown Law, New England Law Review, Spring, 26 New Eng.L. Rev. 751, Lexis)

The effect of deconstructing the power of the author to impose a fixed meaning on the text or offer a continuous narrative is both debilitating and liberating. It is debilitating in that any attempt to say what should be done within even our insular Foucaultian preoccupations may be oppositionalized and deconstructed as an illegitimate privileging of one term, value, perspective or narrative over another. The struggle over meaning might continue ad infinitum. That is, if a deconstructionist is theoretically consistent and sees deconstruction not as a political tool but as a philosophical orientation, political action is impossible, because such action requires a degree of closure that deconstruction, as a theoretical matter, does not permit. Moreover, the approach is debilitating because deconstruction without material rootedness, without goals and vision, **creates a political** and spiritual **void** into which the socially real power we theoretically deconstruct steps and **steps on** the disempowered and dispossessed.  [\*762]  To those dying from AIDS, stifled by poverty, dehumanized by sexism and racism, crippled by drugs and brutalized by the many forms of physical, political and economic violence that characterizes our narcissistic culture, power hardly seems a matter of illegitimate theoretical privileging. When vision, social theory and political struggle do not accompany critique, the **void will be filled** by the rich, the powerful and the charismatic, those who influence us through their eloquence, prestige, wealth and power.

#### The impact is extinction

Rorty 98 (Richard, Professor of Comparative Literature – Stanford University, Achieving Our Country: Leftist Thought in Twentieth-Century America, p. 89-94)

At that point, something will crack. The nonsuburban electorate will decide that the system has failed and start looking around for a strongman to vote for someone willing to assure them that, once he is elected, the smug bureaucrats, tricky lawyers, overpaid bond salesmen, and postmodernist professors will no longer be calling the shots. A scenario like that of Sinclair Lewis’ novel It Can’t Happen Here may then be played out. For once such a strongman takes office, nobody can predict what will happen. In 1932, most of the predictions made about what would happen if Hindenburg named Hitler chancellor were **wildly overoptimistic**. One thing that is very likely to happen is that **the gains made in the past forty years** by black and brown Americans, and by homosexuals, **will be wiped out**. Jocular contempt for women will come back into fashion. The words "nigger" and "kike" will once again be heard in the workplace. **All the sadism** which the academic Left has tried to make unaccept­able to its students will come flooding back. All the resent­ment which badly educated Americans feel about having their manners dictated to them by college graduates will find an outlet. But such a renewal of sadism will not alter the effects of selfishness. For after my imagined strongman takes charge, he will quickly make his peace with the international super­rich, just as Hitler made his with the German industrialists. He will invoke the glorious memory of the Gulf War to **pro­voke military adventures which will** generate short-term prosperity. He will be a disaster for the country and the world. People will wonder why there was so little resistance to his evitable rise. Where, they will ask, was the American Left? Why was it only rightists like Buchanan who spoke to the workers about the consequences of globalization? Why could not the Left channel the mounting rage of the newly dispossessed? It is often said that we Americans, at the end of the twenti­eth century, no longer have a Left. Since nobody denies the existence of what I have called the cultural Left, this amounts to an admission that that Left is unable to engage in national politics. It is not the sort of Left which can be asked to deal with the consequences of globalization. To get the country to deal with those consequences, the present cultural Left would have to transform itself by opening relations with the residue of the old reformist Left, and in particular with the labor unions. It would have to talk much more about money, even at the cost of talking less about stigma. I have two suggestions about how to effect this transition. The first is that the Left should put a moratorium on theory. It should try to kick its philosophy habit. The second is that the Left should try to mobilize what remains of our pride in being Americans. It should ask the public to consider how the country of Lincoln and Whitman might be achieved. In support of my first suggestion, let me cite a passage from Dewey's Reconstruction in Philosophy in which he ex­presses his exasperation with the sort of sterile debate now going on under the rubric of "individualism versus commu­nitarianism." Dewey thought that all discussions which took this dichotomy seriously suffer from a common defect. They are all committed to the logic of general notions under which specific situa­tions are to be brought. What we want is light upon this or that group of individuals, this or that concrete human being, this or that special institution or social arrangement. For such a logic of inquiry, the tradition­ally accepted logic substitutes discussion of the mean­ing of concepts and their dialectical relationships with one another. Dewey was right to be exasperated by sociopolitical theory conducted at this level of abstraction. He was wrong when he went on to say that ascending to this level is typically a right­ist maneuver, one which supplies "the apparatus for intellec­tual justifications of the established order. "9 For such ascents are now more common on the Left than on the Right. The contemporary academic Left seems to think that the higher your level of abstraction, the more subversive of the estab­lished order you can be. The more sweeping and novel your conceptual apparatus, the more radical your critique. When one of today's academic leftists says that some topic has been "inadequately theorized," you can be pretty certain that he or she is going to drag in either philosophy of lan­guage, or Lacanian psychoanalysis, or some neo-Marxist ver­sion of economic determinism. Theorists of the Left think that dissolving political agents into plays of differential sub­jectivity, or political initiatives into pursuits of Lacan's im­possible object of desire, helps to subvert the established order. Such subversion, they say, is accomplished by "problematizing familiar concepts." Recent attempts to subvert social institutions by prob­lematizing concepts have produced a few very good books. They have also produced many thousands of books which represent scholastic philosophizing at its worst. The authors of these purportedly "subversive" books honestly believe that they are serving human liberty. But it is almost impossi­ble to clamber back down from their books to a level of ab­straction on which one might discuss the merits of a law, a treaty, a candidate, or a political strategy. Even though what these authors "theorize" is often something very concrete and near at hand-a current TV show, a media celebrity, a re­cent scandal-they offer the most abstract and barren expla­nations imaginable. These futile attempts to philosophize one's way into polit­ical relevance are a symptom of what happens when a Left re­treats from activism and adopts a spectatorial approach to the problems of its country. Disengagement from practice pro­duces **theoretical hallucinations**. These result in an intellec­tual environment which is, as Mark Edmundson says in his book Nightmare on Main Street, Gothic. The cultural Left is haunted by ubiquitous specters, the most frightening of which is called "power." This is the name of what Edmund­son calls Foucault's "haunting agency, which is everywhere and nowhere, as evanescent and insistent as a resourceful spook."10

#### Alternative fails – critical theory has no mechanism to translate theory into practice

**Jones 99** (Richard Wyn, Lecturer in the Department of International Politics – University of Wales, Security, Strategy, and Critical Theory, CIAO, http://www.ciaonet.org/book/wynjones/wynjones06.html)

Because emancipatory political practice is central to the claims of critical theory, one might expect that proponents of a critical approach to the study of international relations would be reflexive about the relationship between theory and practice. Yet their thinking on this issue thus far does not seem to have progressed much beyond **grandiose statements of intent**. There have been no systematic considerations of how critical international theory can help generate, support, or sustain emancipatory politics beyond the seminar room or conference hotel. Robert Cox, for example, has described the task of critical theorists as providing “a guide to strategic action for bringing about an alternative order” (R. Cox 1981: 130). Although he has also gone on to identify possible agents for change and has outlined the nature and structure of some feasible alternative orders, he has not explicitly indicated whom he regards as the addressee of critical theory (i.e., who is being guided) and thus how the theory can hope to become a part of the political process (see R. Cox 1981, 1983, 1996). Similarly, Andrew Linklater has argued that “a critical theory of international relations must regard the practical project of extending community beyond the nation–state as its most important problem” (Linklater 1990b: 171). However, he has little to say about the role of theory in the realization of this “practical project.” Indeed, his main point is to suggest that the role of critical theory “is not to offer instructions on how to act but to reveal the existence of unrealised possibilities” (Linklater 1990b: 172). But the question still remains, reveal to whom? Is the audience enlightened politicians? Particular social classes? Particular social movements? Or particular (and presumably particularized) communities? In light of Linklater’s primary concern with emancipation, one might expect more guidance as to whom he believes might do the emancipating and how critical theory can impinge upon the emancipatory process. There is, likewise, little enlightenment to be gleaned from Mark Hoffman’s otherwise important contribution. He argues that critical international theory seeks not simply to reproduce society via description, but to understand society and change it. It is both descriptive and constructive in its theoretical intent: it is both an intellectual and a social act. It is not merely an expression of the concrete realities of the historical situation, but also a force for change within those conditions. (M. Hoffman 1987: 233) Despite this very ambitious declaration, once again, Hoffman gives no suggestion as to how this “force for change” should be operationalized and what concrete role critical theorizing might play in changing society. Thus, although the critical international theorists’ critique of the role that more conventional approaches to the study of world politics play in reproducing the contemporary world order may be persuasive, their account of the relationship between their own work and emancipatory political practice is unconvincing. Given the centrality of practice to the claims of critical theory, this is a very significant weakness. Without some plausible account of the **mechanisms** by which they hope to aid in the achievement of their emancipatory goals, proponents of critical international theory are hardly in a position to justify the assertion that “it represents the next stage in the development of International Relations theory” (M. Hoffman 1987: 244). Indeed, without a more convincing conceptualization of the theory–practice nexus, one can argue that critical international theory, by its own terms, has no way of redeeming some of its central epistemological and methodological claims and thus that it is a **fatally flawed** enterprise.

#### Perm – do the plan and non-mutually exclusive parts of the alternative

#### Death isn’t the *sole* consideration of the Aff. The advantage is also about *making life better*. If they advocate a different relationship with death, we can permute. If their argument is that we should *never* talk about death, that’s worse because it creates amnesia that destroys ethical relationships with the dead

1. Sontag 3 (Susan, Peace Prize Recipient, Human Rights Activist And Internationally Renowned Author, Regarding the Pain of Others, p. 114-116)

To designate a hell is not, of course, to tell us anything about how to extract people from that hell, how to moderate hell's flames. Still, it seems a good in it­self to acknowledge, to have enlarged, one's sense of how much suffering caused by human wickedness there is in the world we share with others. Someone who is perennially surprised that depravity exists, who continues to feel disillusioned (even incredulous) when confronted with ev­idence of what humans are capable of inflicting in the way of gruesome, hands-on cruelties upon other humans, has not reached moral or psychological adulthood. No one after a certain age has the right to this kind of innocence, of superficiality, to this degree of ignorance, or amnesia. There now exists a vast repository of images that make it harder to maintain this kind of moral defectiveness. Let the atrocious images haunt us. Even if they are only to­kens, and cannot possibly encompass most of the reality to which they refer, they still perform a vital function. The images say: This is what human beings are capable of doing-may volunteer to do, enthusiastically, self-righteously. Don't forget. This is not quite the same as asking people to remember a particularly monstrous bout of evil. ("Never forget.") Perhaps too much value is assigned to memory, not enough to thinking. Remembering is an ethical act, has ethical value in and of itself. Memory is, achingly, the only relation we can have with the dead. So the belief that remembering is an ethical act is deep in our natures as humans, who know we are going to die, and who mourn those who in the normal course of things die before us-grandparents, parents, teachers, and older friends. Heartlessness and amnesia seem to go together. But history gives contradictory signals about the value of remembering in the much longer span of a collective his­tory. There is simply too much injustice in the world. And too much remembering (of ancient grievances: Serbs, Irish) embitters. To make peace is to forget. To reconcile, it is necessary that memory be faulty and limited. If the goal is having some space in which to live one's own life, then it is desirable that the account of specific injustices dissolve into a more general understanding that human beings everywhere do terrible things to one another.

#### Their impact is a theoretical fabrication

Jarvis 00 (Darryl, Senior Lecturer in International Relations – University of Sydney, International Relations and the Challenge of Postmodernism, p. 128)

Perhaps more alarming though is the outright violence Ashley recommends in response to what at best seem trite, if not imagined, injustices. Inculpating modernity, positivism, technical rationality, or realism with violence, racism, war, and countless other crimes not only smacks of anthropomorphism but, as demonstrated by Ashley’s torturous prose and reasoning, requires a dubious logic to make such connections in the first place. Are we really to believe that ethereal entities like positivism, modernism, or realism emanate a “violence” that marginalizes dissidents? Indeed, where is this violence, repression, and marginalization? As self-professed dissidents supposedly exiled from the discipline, Ashley and Walker appear remarkably well integrated into the academy—vocal, published, and at the center of the Third Debate and the forefront of theoretical research. Likewise, is Ashley seriously suggesting that, on the basis of this largely imaged violence, global transformation (perhaps even revolutionary violence) is a necessary, let alone desirable, response? Has the rationale for emancipation or the fight for justice been reduced to such vacuous revolutionary slogans as “Down with positivism and rationality”? The point is surely trite. Apart from members of the academy, who has heard of positivism and who for a moment imagines that they need to be emancipated from it, or from modernity, rationality, or realism for that matter? In an era of unprecedented change and turmoil, of new political and military configurations, of war in the Balkans and ethnic cleansing, is Ashley really suggesting that some of the greatest threats facing humankind or some of the great moments of history rest on such **innocuous** and largely unknown **nonrealities** like positivism and realism? These are **imagined and fictitious enemies**, **theoretical fabrications** that represent arcane, self-serving debates superfluous to the lives of most people and, arguably, to most issues of importance in international relations.

#### Democratic structures check the impact

Dickinson 4 (Edward Ross, University of Cincinnati, “Biopolitics, Fascism, Democracy: Some Reflections on Our Discourse About ‘Modernity’”, Central European History, 37(1), p. 18-19)

In an important programmatic statement of 1996 Geoff Eley celebrated the fact that Foucault’s ideas have “fundamentally directed attention away from institutionally centered conceptions of government and the state . . . and toward a dispersed and decentered notion of power and its ‘microphysics.’”48 The “broader, deeper, and less visible ideological consensus” on “technocratic reason and the ethical unboundedness of science” was the focus of his interest.49 But the “power-producing effects in Foucault’s ‘microphysical’ sense” (Eley) of the construction of social bureaucracies and social knowledge, of “an entire institutional apparatus and system of practice” ( Jean Quataert), simply do not explain Nazi policy.50 The destructive dynamic of Nazism was a product not so much of a particular modern set of ideas as of a particular modern political structure, one that could realize the disastrous potential of those ideas. What was critical was not the expansion of the instruments and disciplines of biopolitics, which occurred everywhere in Europe. Instead, it was the principles that guided how those instruments and disciplines were organized and used, and the external constraints on them. In National Socialism, biopolitics was shaped by a totalitarian conception of social management focused on the power and ubiquity of the völkisch state. In democratic societies, biopolitics has historically been constrained by a rights-based strategy of social management. This is a point to which I will return shortly. For now, the point is that what was decisive was actually politics at the level of the state. A comparative framework can help us to clarify this point. Other states passed compulsory sterilization laws in the 1930s — indeed, individual states in the United States had already begun doing so in 1907. Yet they **did not proceed** **to** the next steps adopted by National Socialism — mass sterilization, mass “eugenic” abortion and **murder** of the “defective.” Individual figures in, for example, the U.S. did make such suggestions. But neither the political structures of democratic states nor their legal and political principles permitted such policies actually being enacted. Nor did the scale of forcible sterilization in other countries match that of the Nazi program. I do not mean to suggest that such programs were not horrible; but in a democratic political context they did not develop the dynamic of constant radicalization and escalation that characterized Nazi policies.

#### The alt creates a political void filled by elites – locking in oppression

Cook 92 (Anthony, Associate Professor – Georgetown Law, New England Law Review, Spring, 26 New Eng.L. Rev. 751, Lexis)

The effect of deconstructing the power of the author to impose a fixed meaning on the text or offer a continuous narrative is both debilitating and liberating. It is debilitating in that any attempt to say what should be done within even our insular Foucaultian preoccupations may be oppositionalized and deconstructed as an illegitimate privileging of one term, value, perspective or narrative over another. The struggle over meaning might continue ad infinitum. That is, if a deconstructionist is theoretically consistent and sees deconstruction not as a political tool but as a philosophical orientation, political action is impossible, because such action requires a degree of closure that deconstruction, as a theoretical matter, does not permit. Moreover, the approach is debilitating because deconstruction without material rootedness, without goals and vision, **creates a political** and spiritual **void** into which the socially real power we theoretically deconstruct steps and **steps on** the disempowered and dispossessed.  [\*762]  To those dying from AIDS, stifled by poverty, dehumanized by sexism and racism, crippled by drugs and brutalized by the many forms of physical, political and economic violence that characterizes our narcissistic culture, power hardly seems a matter of illegitimate theoretical privileging. When vision, social theory and political struggle do not accompany critique, the **void will be filled** by the rich, the powerful and the charismatic, those who influence us through their eloquence, prestige, wealth and power.

#### The impact is extinction

Rorty 98 (Richard, Professor of Comparative Literature – Stanford University, Achieving Our Country: Leftist Thought in Twentieth-Century America, p. 89-94)

At that point, something will crack. The nonsuburban electorate will decide that the system has failed and start looking around for a strongman to vote for someone willing to assure them that, once he is elected, the smug bureaucrats, tricky lawyers, overpaid bond salesmen, and postmodernist professors will no longer be calling the shots. A scenario like that of Sinclair Lewis’ novel It Can’t Happen Here may then be played out. For once such a strongman takes office, nobody can predict what will happen. In 1932, most of the predictions made about what would happen if Hindenburg named Hitler chancellor were **wildly overoptimistic**. One thing that is very likely to happen is that **the gains made in the past forty years** by black and brown Americans, and by homosexuals, **will be wiped out**. Jocular contempt for women will come back into fashion. The words "nigger" and "kike" will once again be heard in the workplace. **All the sadism** which the academic Left has tried to make unaccept­able to its students will come flooding back. All the resent­ment which badly educated Americans feel about having their manners dictated to them by college graduates will find an outlet. But such a renewal of sadism will not alter the effects of selfishness. For after my imagined strongman takes charge, he will quickly make his peace with the international super­rich, just as Hitler made his with the German industrialists. He will invoke the glorious memory of the Gulf War to **pro­voke military adventures which will** generate short-term prosperity. He will be a disaster for the country and the world. People will wonder why there was so little resistance to his evitable rise. Where, they will ask, was the American Left? Why was it only rightists like Buchanan who spoke to the workers about the consequences of globalization? Why could not the Left channel the mounting rage of the newly dispossessed? It is often said that we Americans, at the end of the twenti­eth century, no longer have a Left. Since nobody denies the existence of what I have called the cultural Left, this amounts to an admission that that Left is unable to engage in national politics. It is not the sort of Left which can be asked to deal with the consequences of globalization. To get the country to deal with those consequences, the present cultural Left would have to transform itself by opening relations with the residue of the old reformist Left, and in particular with the labor unions. It would have to talk much more about money, even at the cost of talking less about stigma. I have two suggestions about how to effect this transition. The first is that the Left should put a moratorium on theory. It should try to kick its philosophy habit. The second is that the Left should try to mobilize what remains of our pride in being Americans. It should ask the public to consider how the country of Lincoln and Whitman might be achieved. In support of my first suggestion, let me cite a passage from Dewey's Reconstruction in Philosophy in which he ex­presses his exasperation with the sort of sterile debate now going on under the rubric of "individualism versus commu­nitarianism." Dewey thought that all discussions which took this dichotomy seriously suffer from a common defect. They are all committed to the logic of general notions under which specific situa­tions are to be brought. What we want is light upon this or that group of individuals, this or that concrete human being, this or that special institution or social arrangement. For such a logic of inquiry, the tradition­ally accepted logic substitutes discussion of the mean­ing of concepts and their dialectical relationships with one another. Dewey was right to be exasperated by sociopolitical theory conducted at this level of abstraction. He was wrong when he went on to say that ascending to this level is typically a right­ist maneuver, one which supplies "the apparatus for intellec­tual justifications of the established order. "9 For such ascents are now more common on the Left than on the Right. The contemporary academic Left seems to think that the higher your level of abstraction, the more subversive of the estab­lished order you can be. The more sweeping and novel your conceptual apparatus, the more radical your critique. When one of today's academic leftists says that some topic has been "inadequately theorized," you can be pretty certain that he or she is going to drag in either philosophy of lan­guage, or Lacanian psychoanalysis, or some neo-Marxist ver­sion of economic determinism. Theorists of the Left think that dissolving political agents into plays of differential sub­jectivity, or political initiatives into pursuits of Lacan's im­possible object of desire, helps to subvert the established order. Such subversion, they say, is accomplished by "problematizing familiar concepts." Recent attempts to subvert social institutions by prob­lematizing concepts have produced a few very good books. They have also produced many thousands of books which represent scholastic philosophizing at its worst. The authors of these purportedly "subversive" books honestly believe that they are serving human liberty. But it is almost impossi­ble to clamber back down from their books to a level of ab­straction on which one might discuss the merits of a law, a treaty, a candidate, or a political strategy. Even though what these authors "theorize" is often something very concrete and near at hand-a current TV show, a media celebrity, a re­cent scandal-they offer the most abstract and barren expla­nations imaginable. These futile attempts to philosophize one's way into polit­ical relevance are a symptom of what happens when a Left re­treats from activism and adopts a spectatorial approach to the problems of its country. Disengagement from practice pro­duces **theoretical hallucinations**. These result in an intellec­tual environment which is, as Mark Edmundson says in his book Nightmare on Main Street, Gothic. The cultural Left is haunted by ubiquitous specters, the most frightening of which is called "power." This is the name of what Edmund­son calls Foucault's "haunting agency, which is everywhere and nowhere, as evanescent and insistent as a resourceful spook."10

#### Agentless alternatives are bad –

#### A) Crushes Aff ground – the whole debate hinges on the actor – whether it's the judge, the USFG, or whole world makes a huge difference – voter for fairness

#### B) Means it can’t solve

Booth 97 (Kenneth, Professor of International Politics – University of Wales, Aberystwyth, Critical Security Studies: Concepts and Cases, Ed. Krause and Williams, p. 114)

Security is concerned with how people live. An interest in practice (policy relevance) is surely part of what is involved in being a security specialist. The study of security can benefit from a range of perspectives, but not from those who would refuse to engage with the problems of those, at this minute, who are being starved, oppressed, or shot. It is therefore legitimate to ask what any theory that purports to belong to world politics has to say about Bosnia or nuclear deterrence. Thinking about thinking is important, but, more urgently, so is thinking about doing. For those who believe that we live in a humanly constituted world, the distinction between theory and practice dissolves: theory is a form of practice, and practice is a form of theory. **Abstract** **ideas about emancipation will not suffice**: it is important for critical security studies to **engage with the real by suggesting** policies, **agents**, and sites **for change**, to help humankind, in whole and in part, to move away from its structural wrongs.

#### Alternative fails – critical theory has no mechanism to translate theory into practice

**Jones 99** (Richard Wyn, Lecturer in the Department of International Politics – University of Wales, Security, Strategy, and Critical Theory, CIAO, http://www.ciaonet.org/book/wynjones/wynjones06.html)

Because emancipatory political practice is central to the claims of critical theory, one might expect that proponents of a critical approach to the study of international relations would be reflexive about the relationship between theory and practice. Yet their thinking on this issue thus far does not seem to have progressed much beyond **grandiose statements of intent**. There have been no systematic considerations of how critical international theory can help generate, support, or sustain emancipatory politics beyond the seminar room or conference hotel. Robert Cox, for example, has described the task of critical theorists as providing “a guide to strategic action for bringing about an alternative order” (R. Cox 1981: 130). Although he has also gone on to identify possible agents for change and has outlined the nature and structure of some feasible alternative orders, he has not explicitly indicated whom he regards as the addressee of critical theory (i.e., who is being guided) and thus how the theory can hope to become a part of the political process (see R. Cox 1981, 1983, 1996). Similarly, Andrew Linklater has argued that “a critical theory of international relations must regard the practical project of extending community beyond the nation–state as its most important problem” (Linklater 1990b: 171). However, he has little to say about the role of theory in the realization of this “practical project.” Indeed, his main point is to suggest that the role of critical theory “is not to offer instructions on how to act but to reveal the existence of unrealised possibilities” (Linklater 1990b: 172). But the question still remains, reveal to whom? Is the audience enlightened politicians? Particular social classes? Particular social movements? Or particular (and presumably particularized) communities? In light of Linklater’s primary concern with emancipation, one might expect more guidance as to whom he believes might do the emancipating and how critical theory can impinge upon the emancipatory process. There is, likewise, little enlightenment to be gleaned from Mark Hoffman’s otherwise important contribution. He argues that critical international theory seeks not simply to reproduce society via description, but to understand society and change it. It is both descriptive and constructive in its theoretical intent: it is both an intellectual and a social act. It is not merely an expression of the concrete realities of the historical situation, but also a force for change within those conditions. (M. Hoffman 1987: 233) Despite this very ambitious declaration, once again, Hoffman gives no suggestion as to how this “force for change” should be operationalized and what concrete role critical theorizing might play in changing society. Thus, although the critical international theorists’ critique of the role that more conventional approaches to the study of world politics play in reproducing the contemporary world order may be persuasive, their account of the relationship between their own work and emancipatory political practice is unconvincing. Given the centrality of practice to the claims of critical theory, this is a very significant weakness. Without some plausible account of the **mechanisms** by which they hope to aid in the achievement of their emancipatory goals, proponents of critical international theory are hardly in a position to justify the assertion that “it represents the next stage in the development of International Relations theory” (M. Hoffman 1987: 244). Indeed, without a more convincing conceptualization of the theory–practice nexus, one can argue that critical international theory, by its own terms, has no way of redeeming some of its central epistemological and methodological claims and thus that it is a **fatally flawed** enterprise.

#### The alt is vague – it \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

#### Voting issue – destroys 2AC time and strategy by allowing the Neg to shift and avoid our best arguments.

#### The alt disables effective critical inquiry – its too pessimistic and nihilistic

Kellner 4 (Dr. Douglas, Philosophy of Education Chair – UCLA, “Jean Baudrillard and Art”, http://www.gseis.ucla.edu/faculty/kellner/essays/baudrillardandart.pdf)

In the postmodern media and consumer society, everything becomes an image, a sign, a spectacle, a transaesthetic object -- just as everything also becomes trans-economic, -political, and -sexual. This "materialization of aesthetics" is accompanied by a desperate attempt to simulate art, to replicate and mix previous artistic forms and styles, and to produce ever more images and artistic objects. But this "dizzying eclecticism" of forms and pleasures produces a situation in which art is no longer art in classical or modernist senses but is merely image, artifact, object, simulation, or commodity (Baudrillard is aware of increasingly exorbitant prices for art works, but takes this as evidence that art has become something else in the orbital hyperspace of value, an ecstasy of skyrocketing values in "a kind of space opera" [p. 19]). And so Baudrillard emerges as a prophet of the end of art, whose Gallic world-weariness and pessimism, his obsessive repetition of previous ideas, and his nihilistic evacuation of value ends up disabling critical thought and inquiry. Consequently, I would argue that although art and aesthetics are definitely changing in response to the mass media, new technologies, and innovative cultural forms, it is precisely these changes which require fresh theories and analyses. From this perspective, Baudrillard's dismissal of art and aesthetics blocks the necessary work that needs to be done. While his analyses are certainly a provocation to new thinking and practice, one must go beyond Baudrillard to make his insights productive for aesthetic theory and practice today.

#### We should just focus on our own lives.

**Bishop 3** (Department of German – University of Glasgow, “Social critique and aesthetics in Schopenhauer,” Science Direct, http://www.sciencedirect.com/science?\_ob=ArticleURL&\_udi=B6V9C-48XCCHC-1&\_user=10&\_rdoc=1&\_fmt=&\_orig=search&\_sort=d&\_docanchor=&view=c&\_searchStrId=1073456085&\_rerunOrigin=google&\_acct=C000050221&\_version=1&\_urlVersion=0&\_userid=10&md5=2e0c353ca0673ae05b39605811bf0c26)

Although Schopenhauer is usually described as a philosopher of pessimism, this article examines the extent to which The World as Will and Representation is concerned, not only with metaphysics, but also with social critique; and the positive, indeed ‘optimistic’, implications such a reading might have for an understanding of Schopenhauer's aesthetics. Schopenhauer's philosophy contains a moral or ethical element, which means that, even if he regarded life as ‘an unpleasant business’, it would be wrong to conclude that he had no appreciation of the world as a locus for practical activity. Thanks to the cultural impact of Weimar Classicism and its controversy with the Romanticism of Jena and elsewhere, as well as through his personal acquaintance with Goethe, Schopenhauer inevitably came into contact with Schiller's aesthetic theories, which provide an indispensable background to understanding what is at stake in Schopenhauer's own aesthetics. Schopenhauer's emphasis on the impermanency of pleasure can be seen to underscore the ethical imperative to pay attention to our own life, and to question, in the most concrete, down-to-earth terms, our representation of our life and what, in life, we will.

#### Be skeptical of all their evidence that says death isn’t real – no way they can know because no one has traversed death. Voting aff is important to avoid taking a risk to an unknown that we don’t understand.

#### Thinking about death is necessary to enjoy life

Christine **Overall**, Associate Dean of Arts and Sciences at Queen’s University, Kingston, PhD in Philosophy from the University of Toronto, **2003**, Aging, Death and Human Longevity: A Philosophical Inquiry, p. 2-3

I believe it is neither immature nor irresponsible to dwell on human mortality. Indeed, it is contrary to the history and spirit of the philosophical enterprise to declare a topic off limits for philosophical thought—even, or maybe especially, if thinking about it causes negative emotions. In Muriel Spark’s novel *Memento Mori*, the characters repeatedly receive anonymous phone messages, conveyed in different voices, saying “Remember you must die.” One character, Henry Mortimer, believes much can be learned from these unidentified callers. He remarks to the other characters: If I had my life over again I should form the habit of nightly composing myself to thoughts of death. I would practise, as it were, the remembrance of death. There is no other practise which so intensifies life. Death, when it approaches, ought not to take one by surprise. It should be part of the full expectancy of life. Without an ever-present sense of death life is insipid. You might as well live on the whites of eggs…. Now, one factor is constant in all your reports. The words, “Remember you must die.” It is, you know, an excellent thing to remember this, for it is nothing more than the truth. To remember one’s death is, in short, a way of life. (Spark 1959, 150-151) To keep directly before one’s mind the observation that human beings are mortal, that most obvious and banal fact of human existence, and to further remind oneself that one is included within that most dreadful generalization, is a stimulus to ongoing reflection about the nature and purpose of one’s life. It is a reminder that, whatever apparent security medical science and technology may offer, our lives are fragile and our connection to a personal future only tenuous. Although thoughts of death can at times produce depression and lassitude, such feelings are a signal of the significance of the topic and do not therefore show that it ought not to be contemplated. Moreover, if they are handled carefully, these feelings are not necessarily an impediment to creative inquiry. It seems unlikely that philosophical thinking about mortality is a waste of time, unless it should turn out that it is impossible to say anything of value on the subject—an outcome that I hope the succeeding chapters will obviate. Indeed, one theme of this book is that thinking about mortality and longevity may give new life to perennial philosophical questions about human purposes and values.

#### Only focusing on death allows us to truly follow our dreams and live life to our full potential

Steve **Jobs**, CEO of Apple Computers, June 12, **2005** http://news-service.stanford.edu/news/2005/june15/jobs-061505

My third story is about death. When I was 17, I read a quote that went something like: "If you live each day as if it was your last, someday you'll most certainly be right." It made an impression on me, and since then, for the past 33 years, I have looked in the mirror every morning and asked myself: "If today were the last day of my life, would I want to do what I am about to do today?" And whenever the answer has been "No" for too many days in a row, I know I need to change something. Remembering that I'll be dead soon is the most important tool I've ever encountered to help me make the big choices in life. Because almost everything – all external expectations, all pride, all fear of embarrassment or failure - these things just fall away in the face of death, leaving only what is truly important. Remembering that you are going to die is the best way I know to avoid the trap of thinking you have something to lose. You are already naked. There is no reason not to follow your heart. About a year ago I was diagnosed with cancer. I had a scan at 7:30 in the morning, and it clearly showed a tumor on my pancreas. I didn't even know what a pancreas was. The doctors told me this was almost certainly a type of cancer that is incurable, and that I should expect to live no longer than three to six months. My doctor advised me to go home and get my affairs in order, which is doctor's code for prepare to die. It means to try to tell your kids everything you thought you'd have the next 10 years to tell them in just a few months. It means to make sure everything is buttoned up so that it will be as easy as possible for your family. It means to say your goodbyes. I lived with that diagnosis all day. Later that evening I had a biopsy, where they stuck an endoscope down my throat, through my stomach and into my intestines, put a needle into my pancreas and got a few cells from the tumor. I was sedated, but my wife, who was there, told me that when they viewed the cells under a microscope the doctors started crying because it turned out to be a very rare form of pancreatic cancer that is curable with surgery. I had the surgery and I'm fine now. This was the closest I've been to facing death, and I hope its the closest I get for a few more decades. Having lived through it, I can now say this to you with a bit more certainty than when death was a useful but purely intellectual concept: No one wants to die. Even people who want to go to heaven don't want to die to get there. And yet death is the destination we all share. No one has ever escaped it. And that is as it should be, because Death is very likely the single best invention of Life. It is Life's change agent. It clears out the old to make way for the new. Right now the new is you, but someday not too long from now, you will gradually become the old and be cleared away. Sorry to be so dramatic, but it is quite true. Your time is limited, so don't waste it living someone else's life. Don't be trapped by dogma - which is living with the results of other people's thinking. Don't let the noise of other's opinions drown out your own inner voice. And most important, have the courage to follow your heart and intuition. They somehow already know what you truly want to become. Everything else is secondary.

#### Reducing suffering doesn’t consume all existence – it can be balanced and is an extension of life – only they enable complete self-denial

Conway 99 (David, Middlesex University, “Nietzsche's Revaluation of Schopenhauer as Educator”, http://www.bu.edu/wcp/Papers/MPsy/MPsyConw.htm)

Nonetheless, Nietzsche was mistaken in supposing that it was contrary to the interests of an individual who is otherwise free from suffering to feel sympathy and pity for those who do suffer (through no fault of their own). Pity is not the baneful emotion which Nietzsche claims it to be. This verdict leaves unresolved the ultimate issue. In a world which does as a matter of fact contain the enormous amount of suffering that ours contains, is not an individual who is open through sympathetic identification to this suffering bound like Schopenhauer says to be revolted by the world to the point of revulsion with it? Nietzsche, of course, thought the strong can and should disengage their sympathies from the suffering of the weak. I think this is a mistake. One's world is impoverished by such disengagement of sympathies. Yet how can one continue to affirm the will when one feels with all the suffering there is? Nietzsche is correct that existence could only be tolerable if we were able to live without being constantly affected by the suffering of others. However, it was wrong to think that in order to achieve this enviable state, pity should be condemned and avoided. No, on this matter I think we are entitled to place more trust in life itself than did Nietzsche. The fact is that there are strict psychological limits on our susceptibility to feel pity. Pity is in part a function of our attention. To what we attend is a function of our will. Our sentiments very largely determine to what we attend. Consequently, it is only where people have disengaged themselves from pursuit of personal projects, like appreciating and producing art or caring for loved ones, and so on , that there can be scope for a degree of pity of the sort that alone can give rise to denial of will. Where denial of will becomes psychologically possible, therefore, it can hardly be thought of as unwarranted. Nietzsche himself spoke approvingly of taking leave of life at the time before one became a burden and life lost its point. Surely, he would not have wished to frown on Sannyasis who give up all attachments at that stage in life after they have made their way through it. In conclusion, therefore, I wish to say that their are elements of truth and error in both Schopenhauer and Nietzsche on the matter of greatest divide between them. Schopenhauer is right to see denial of will where it occurs in such figures as religious recluses as a legitimate response to the suffering of the world. Nietzsche is right to see denial of the will as not always a legitimate response to the world's suffering. Nietzsche is right that life need not contain suffering of the magnitude Schopenhauer claims is integral to it. Schopenhauer is right that an attitude of sympathy for all suffering creatures is a benefit and not a bane to the person who has the attitude.

#### Denying the will to live leads to internal conflict and strife

**Schroeder 6 (William R.,** Associate Professor of Philosophy – University of Illinois at Urbana-Champaign, Review of Julian Young’s Schopenhauer, Notre Dame Philosophical Reviews, 9-7, http://ndpr.nd.edu/review.cfm?id=7583)

Finally, Young argues that Schopenhauer’s ethics fails to transcend egoism because one’s care for others is only an extension of one’s care for oneself. At the deepest level, self and others are not distinct; thus, Schopenhauer’s view provides no respect for others as such (182-4). Schopenhauer might reply that standard conceptions of ethics presuppose the principle of individuation that he rejects. Schopenhauer is trying to show how ethical responsiveness is possible given his metaphysics, even if he rejects the classical presuppositions of ethics. To Young’s core objection that Schopenhauer never succeeds in showing how the atemporal thing-in-itself becomes temporal, some interpreters might reply by emphasizing his “double-aspect” theory of the Will. (The universal atemporal Will is one aspect while the individual temporal instantiations of the Will is its other aspect.) Though Young acknowledges the double-aspect theory (60-1; 78-9), he notes that this does not render any more intelligible how an atemporal entity and temporal ones can be mirror-aspects of each other. Elaborating several of Young’s criticisms, I would argue that Schopenhauer never did render his empiricist aspirations coherent with his metaphysical goals. Also, I would suggest that a single fundamental choice that would bind persons to their characters is insufficient to explain the continued experience of responsibility most people feel for their specific faults or failures. Would they even have any consciousness of such a basic choice? I agree with Young that Schopenhauer simply failed to see the potentially stimulating effects of suffering; it can certainly be taken as a challenge to greater efforts and more intense self-development. This is one of Nietzsche’s many departures from Schopenhauer, and it allows Nietzsche to adopt a life-affirming orientation toward life that sharply contrasts with Schopenhauer’s life-negation. Nietzsche retained Schopenhauer’s goal of a kind of Dionysian, mystical merging with ultimate reality, but he believed that the this-worldly life-process constituted that ultimate reality. Schopenhauer’s salvation allegedly helps individuals transcend death, but all that “survives” is the atemporal Will (or the more basic thing-in-itself); nothing of individuality survives. Nietzsche took similar solace in the eternity of the this-worldly life-process, but at least individuals might contribute to--and even reshape--that process, and its existence is far more certain. Schopenhauer is an extreme example of one path within philosophy--accepting a transcendent reality and construing freedom or salvation as dissociation from the perceived world and any interest in it. A quite different path takes the perceived world to be primary, rejecting any escape to some alternate, hidden reality; it also insists that freedom requires a sense of being expressed by this-worldly actions. Withdrawal from and indifference to the world of human affairs, from this perspective, seems like a desperate form of egoism. Moreover, it fails to achieve the peace Schopenhauer valued because denying the will to live can only lead to endless internal conflict and strife. Suffering and strife thus penetrate the most refined efforts to achieve salvation[3]. Schopenhauer’s metaphysics seems to undermine, rather than reinforce, his aim of achieving peace. Young’s book acknowledges the grandeur of Schopenhauer’s effort, but it also demonstrates the many ways it remains inadequate.

(NOTE – Young is Julian Young, Professor of Philosophy at the University of Auckland)

#### Dying makes celebration of life impossible – suffering will consume existence and obliterate reflection

Nussbaum 94 (Martha, David Benedict Professor, Professor of Philosophy and Classics, and Adjunct Professor of Comparative Literature at Brown University, Nietzsche, Genealogy, Morality: Essays on Nietzsche’s On the Genealogy of Morals, ed. Richard Schacht, p. 158-59)

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 loneli­ness. Who are his ascetic philosophers? “Heraclitus, Plato, Descartes, Spi­noza, 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 does 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 from 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 does 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 impov­erished and hungry people. We might say, simplifying things a bit, that there are two sorts of vulnerability: what we might call bourgeois vulnerabil­ity—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, focus­ing on the first sort of vulnerability, holds that it is not so bad; it may even be good for the philosopher.49 The second sort, I claim, he simply ne­glects—believing, apparently, that even a beggar can be a Stoic hero, if only socialism does not inspire him with weakness.

## 1NR – DA, Clean-up

## Case

### Case

#### Death debate:

#### Choice is key --- they are serial killers

Paterson 3 Craig, Department of Philosophy, Providence College, Rhode Island “A Life Not Worth Living?”, Studies in Christian Ethics, <http://sce.sagepub.com>

In determining whether a life is worth living or not, attention should be focused upon an array of ‘interests’ of the person, and these, for the competent patient at least, are going to vary considerably, since they will be informed by the patient’s underlying dispositions, and, for the incompetent, by a minimal quality threshold. It follows that for competent patients, a broad-ranging assessment of quality of life concerns is the trump card as to whether or not life continues to be worthwhile. Different patients may well decide differently. That is the prerogative of the patient, for the only unpalatable alternative is to force a patient to stay alive. For Harris, life can be judged valuable or not when the person assessing his or her own life determines it to be so. If a person values his or her own life, then that life is valuable**,** precisely to the extent that he or she values it. Without any real capacity to value, there can be no value. As Harris states, ‘. . . the value of our lives is the value we give to our lives’. It follows that the primary injustice done to a person is to deprive the person of a life he or she may think valuable. Objectivity in the value of human life, for Harris, essentially becomes one of negative classification (ruling certain people out of consideration for value), allied positively to a broad range of ‘critical interests’; interests worthy of pursuing — friendships, family, life goals, etc. — which are subjected to de facto self-assessment for the further determination of meaningful value. Suicide, assisted suicide, and voluntary euthanasia, can therefore be justified, on the grounds that once the competent nature of the person making the decision has been established, the thoroughgoing commensuration between different values, in the form of interests or preferences, is essentially left up to the individual to determine for himself or herself.

#### Extinction actually is the end of all human consciousness---this arg is dumb

Stenger 92 – Victor J. Stenger, Adjunct Professor of Philosophy, University of Colorado, 1992, “The Myth of Quantum Consciousness,” online: http://www.colorado.edu/philosophy/vstenger/Quantum/QuantumConsciousness.pdf

Quantum mechanics is called on further to argue that the cosmic field, like Newton’s aether, couples to the human mind itself. In Robert Lanza’s view, that field is the universal mind of all humanity - living, dead, and unborn. Ironically, this seemingly profound association between quantum and mind is an artifact, the consequence of unfortunate language used by Bohr, Heisenberg and the others who originally formulated quantum mechanics. In describing the necessary interaction between the observer and what is being observed, and how the state of a system is determined by the act of its measurement, they inadvertently left the impression that human consciousness enters the picture to cause that state come into being. This led many who did not understand the physics, but liked the sound of the words used to describe it, to infer a fundamental human role in what was previously a universe that seemed to have need for neither gods nor humanity.

If Bohr and Heisenberg had spoken of measurements made by inanimate instruments rather than “observers,” perhaps this strained relationship between quantum and mind would not have been drawn. For, nothing in quantum mechanics requires human involvement.

Quantum mechanics does not violate the Copernican principle that the universe cares not a whit about the human race. Long after humanity has disappeared from the scene, matter will still undergo the transitions that we call quantum events. The atoms in stars will radiate photons, and these photons will be absorbed by materials that react to them. Perhaps, after we are gone, some of our machines will remain to analyze these photons. If so, they will do so under the same rules of quantum mechanics that operate today.

#### Their impact framing justifies terrible things ot happen and CX proves this – mean shtat things like oppression of certain groups can continue to occur which kills individual choice – rape was the great example in CX – that a woman or man shouldn’t try to fight if its not in their physical control because it would cause “ressentiment” – obviously a terrible standard for evaluating impacts and also links back to our death offense

### K

#### Democracy peace justifies democratic war – erasing competing ideologies is the only option

Litsas 12 -- Assistant Professor of International Relations Theory at the Department of International and European Studies, University of Macedonia; Ph.D in International Relations from the University of Durham (Spyridon N., 2012, "DEMOCRATIC PEACE THEORY AND MILITARISM: THE UNRELATED CONNECTIVITY," Civitas Gentium 2(1), http://cg.turkmas.uoa.gr/~tcgweb/ojs/index.php/cg/article/view/31/45)

Islam is not simply a world religion. It is primarily a collective ideology with a rather developed political and doctrinal theory concerning social organization. The indisputable dominance of Islam at the centre of the Muslim world eliminates any attempt at domestic ideological and political pluralism, or of harmonious co-existence with contrasting socio-political models such as liberal democracy. The entire process of democratizing the two aforementioned Islamic states goes beyond the utopian ideal of voluntarily acceptance of Western values, an idealistic point of view that vividly resembles the Catholic Church’s arguments at the time of the discovery of the New World. The unwillingness of these Islamic states to voluntarily accept democracy makes war the only realistic option for the U.S. to impose power. In reality, no one can really support the view that the NATO attack against the Taliban regime was an irrational action. The Taliban is one of the most totalitarian regimes that humanity has ever witnessed and had almost identical methods of imposing its political presence as the notorious Khmer Rouge. Nevertheless, the NATO invasion of Afghanistan was not a humanitarian venture, but was motivated by the Taliban’s alliance with Al Qaeda terrorists. In order for this radical regime to be defeated, an ordinary military invasion was not sufficient. The primary objective for NATO and, in particular, the United States was the complete reformation of Afghanistan’s socio-ideological and political foundations. The situation is similar in Iraq. The objective in Iraq was not solely the overthrow of the Baathic regime of Sadam Hussein, nor was it control of Iraq’s oil deposits by Western companies. The primary objective, rather, was to install basic western socio-political values in Iraq. This would lead Iraq in an entirely different direction in the sub-system of the Middle East. On both occasions, the United States chose to wage war. On a primary level, the goal was to eliminate the political risks to Western interests. However, on a secondary level, the main goal was transformed into an undisguised attempt at altering the domestic structure of the aforementioned states in accordance with U.S. preference. War, in the second case, abandons the self-restraining Clausewitzian logic as an alternative way of achieving political goals. The very essence of the aforementioned dimension of war eliminates any form of rational application and, as a result, leads directly to military action. Therefore, it can be clearly supported that the D.P.T, on one hand, and militarism, on the other, develop a close ideological and empirical connection since neither is addressed directly in American foreign policy [55]. From the above it can be said that the D.P.T is a political weapon used by a Great Power, to accomplish its hegemonic objectives. This qualitative course of action promoted by the U.S. since the Cold War ended has been the primary source of militarism in the 21st century, as the wars in the Balkans and the Middle East clearly show. Inevitably, Democratic Peace leads to Democratic War and constitutes the ultimate attempt at imposing radical changes in the domestic socio-political structure of a state. As Geis et al argue: ‘As long as democracy is promoted by peaceful means of cooperation and voluntary assistance, one might not object to such a foreign policy strategy. If regime change is to be achieved by force as in the Iraq war 2003, however, the “flip side” of the democratic peace, namely a “democratic war” becomes obvious. Unfortunately, the notion of a democratic peace lends itself to being employed as an ideological underpinning for liberal- expansionist policies. Under the guise of promoting a seemingly “universalist” idea of democracy and freedom, some of the powerful Western democracies arrogate to themselves the right to pursue a “liberal mission.’’ [56]

#### Democracy is a means of US dominance and intervention – destroys states’ ontological existence in favor of global homogeneity

Litsas 12 -- Assistant Professor of International Relations Theory at the Department of International and European Studies, University of Macedonia; Ph.D in International Relations from the University of Durham (Spyridon N., 2012, "DEMOCRATIC PEACE THEORY AND MILITARISM: THE UNRELATED CONNECTIVITY," Civitas Gentium 2(1), http://cg.turkmas.uoa.gr/~tcgweb/ojs/index.php/cg/article/view/31/45)

Since the war phenomenon is not the outcome of domestic political developments and socio-political ideologies, how then can D.P.T generate its pacifistic objectives? If there is agreement that the governing system could begin or prevent war, then we should ask ourselves why a war between Britain and Germany, for example, did not break out in 1933 when Adolf Hitler and his party rose up in power with the declared political objective of abolishing the Weimar Republic. Additionally, if we assume that the governing system of a state is the driving force behind the formation of friendly or unfriendly relations among the states [35] then we should also question the Sino-American rapprochement during the Cold War era. Finally, if we embrace the view that the governing system can function as a corner stone for the formation of an alliance, then we should wonder how it is possible for Saudi Arabia, a state that promotes Islamic theocracy from the Sunni doctrinal point of view and bases its sovereignty on Sharia Law, to be the closest ally of the United States inside the Arab World [36]. From the aforementioned, there is a general conclusion that should be considered as a crucial methodological boundary between the disciplines of political science and International Relations theory. It is indisputable that the governing system of a state has the ability to determine its own bureaucratic system and deeply influence the social structure, economic capabilities, and domestic political stability, among other things. On the international level, however, the governing system cannot surpass the systemic limitations of the anarchic structure of the International arena and the antagonistic state of affairs that prevail between the states. The main reason for this inability has to do with the different nature of the implementing policies on the domestic and international level of analysis, respectively. In this case, the governing system emerges as a key factor in formulating international relation. This is a clear and perilous attempt to destroy the ontological existence of the state and it evolves into a revolutionary objective for the establishment of a global homogeneity, according to the well-known revolutionary tradition analysis of Martin Wight [37]. It is both an empirical and theoretical fact that the governing system cannot affect the economic interdependency among states. This is based solely on the reinforcement of national interest and does not take into account either political ideologies [38] or the notion of collective security, which is mainly based on a state’s capacity to obtain hard power [39]. More specifically, the governing system of a state cannot substitute, or serve as an alternative for the most important aims of a nation–state in the international arena. Those aims are the acquisition of power and the guaranteed survival of the state. At this point, it is important to open a parenthesis in order to note the impressive reappearance of the term ‘national interest’ in the western political vocabulary of the 21st century. In spite of various constructivist efforts to argue that national interest is of no importance in 21st century international politics, during the current international economic recession, leaders of powerful Western states have contradicted these constructivist views and have made use of theoretical arguments from the realist approach. For example, in a 2009 New York Times interview, German Chancellor Angela Merkel stated that: ‘International policy is, for all the friendship and commonality, always also about representing the interests of one’s own country.’[40] From a theoretical perspective, D.P.T seems incompatible not only with the systemic features of the international arena but also with the structural functioning of states. However, in a case where a Great Power applies this theory as foreign policy doctrine, then D.P.T is no longer a mere theoretical fallacy, but a political instrument used to maximize influence within the international arena. This form of implementation can be achieved by one of the two following ways: either a state will voluntarily adopt D.P.T theory, as a direct result of the implementation of a bandwagoning policy or as the product of a violent coercion coming from the side of the powerful element towards the less powerful one. This is the ultimate manifestation of a revisionist political agenda that pits a more powerful faction against a weaker one. In this second example we come across an apparent case of animus dominandi which shapes the behaviour of every state in the international arena, while it also dictates the international political agenda of every Great Power accordingly [41]. We have already mentioned that the D.P.T. is an invention primarily developed by American I.R. theorists. Throughout its history, the United States has made extensive use of moral arguments to create a sense of idealistic superiority from the rest of the international system. Henry Kissinger’s view concerning the way in which the United States understands its presence in the International System offers a good example. He states that the United States’ foreign policy is characterised by idealistic interventionism that appears as an ethical crusade for the enforcement of American values throughout the world [42]. At this point it is vital to mention that efforts to construct a framework of moral superiority in the collective conscience are not an American innovation. Almost every hegemonic power developed a similar stance, both as an instrument to achieve domestic political legitimization for their expansionist aspirations, and as a moralistic ploy to diminish any possible reaction toward their aspirations from the international sphere. For instance, Napoleon’s France projected the ideology of anti-aristocracy in order to justify the advancement of the French army in the European continent [43]. Britain projected the conviction of being the global civilizer and a fair ruler by insisting that all its colonial subjects enjoyed a protected and prosperous life. This was done to justify and then maintain an imperial status on which the sun never sets [44]. Nazi Germany projected the horrendous ideology of Aryan superiority in order to veil German aspirations for global domination [45]. Last but not least, the Soviet Union promoted the ideological myth of the ‘social harmony’ of the proletariat in order to justify expansion into the Caucasus after the overthrow of the Tsarist regime in Russia. This same ideology was also promoted by the Soviet Union in Central Europe after World War II [46]. D.P.T represents the American version of those attempts. Nevertheless, it is necessary to differentiate the theoretical approach of American academia from that of the American politicians. For example Bruce Russet and John Oneal argue that Liberal Democracy, interdependence[47] and international organizations promote the peaceful co-existence between the states [48]. However, American politicians, primarily during Clinton’s and George Walker Bush’s administrations, argue that global peace and prosperity can be established only through the spread of liberal democracy all over the world. Nevertheless, moralistic arguments cannot disguise the genuine political objectives of the United States. The U.S. is the undisputed western peripheral hegemonic power and it aspires to expand its dominance throughout the International System. This, as we have already mentioned before, does not constitute an innovative course of action, or reveal a unique American egocentrism. It is rather a typical function of a Great Power in order to achieve its upgraded role in the international arena and, at the same time, confront any kind of threat to its peripheral primacy. As it can be understood, the main objective of Democratic Peace is not the radical modernization of the International System through a crusade for the establishment of democracy, but rather through the decisive elimination of any kind of opposition or threat to its hegemonic might, without, however, facing the risk of being accused of being a ruthless and immoral despot. It could be seen that D.P.T. is the Trojan Horse of the 21st century used by the United States, not only for conquering the enemy’s castle, but also for preserving the archetypal image that the U.S. has projected within the Western world since the nation’s birth on July 4, 1776. The veiling of the United States’ hegemonic objectives under the moralistic guise of the D.P.T could initially be perceived as unnecessary. Why, after all, does the superpower feel the need to cover its hegemonic objectives under such a utopian theory? This question can be answered by observing the structural function of the International System. A clearly revisionist endeavour can generate serious reactions, both within the western world and in the rest of the International system, which would place the United States at the mercy of such upheaval. This could occur either by the creation of counter balancing anti-hegemonic coalitions, or by the gradual disintegration of NATO into a marginal alliance with limited capabilities of intervention. In other words, the U.S. would plainly reveal its political agenda and its idealistic facade would be demolished. This, in turn, would jeopardize the position of the U.S. on the International scale of power and would force longtime and traditional allies to take opposing positions against the U.S. [49]. As a result, it can be concluded that D.P.T cannot possibly exceed the systemic limitations of the international system. No hegemony has ever managed to bypass the anarchic and antagonistic structure of the international system and become a supreme global imperium. Nevertheless, even in a limited geographical area, where a peripheral hegemony has succeeded to impose its dominance, there have been disputes; either in the form of social revolts against the ruling administration, or in the form of national claims by ethnic groups for their independence or self-determination. Consequently, the elimination of the war phenomenon is not the main precondition for D.P.T to function properly. Certainly war can be a source of destruction for any state, regardless of its size or capacity for power. However, war is a human invention and a direct result of the structure of the international system. Therefore, it is clear that when a Great Power aspires to establish the D.P.T, then its fundamental objective cannot be the elimination of the war phenomenon but, rather, the decisive invalidation of the International System as a mechanism for international relations. The pivotal objective of the D.P.T. is not to establish liberal democracy as the ultimate element that connects states so that they do not wage war o one another. Such an objective is utopian and cannot eradicate the central role of national interest in the political designs of every state. If this was the case, in order for the war phenomenon t be eliminated, national interests would have to cease to exist as well. Consequently, the international system would cease to exist as well, since a nation-state without the will and ability to safeguard its national interests be- comes like the Flying Dutchman, a ghost ship that can never make port. It no longer resembles the Westphalia paradigm of the modern era. The International System would be abolished, then the hegemonic power would be able to elevate its power from the sub-systemic to the global level, since the systemic limitations would no longer exist. Therefore, we can now fully support the view that Democratic Peace is a qualitative political method that seeks to eradicate the states’ ontological existence and replaces it with a new homogenized global structure. Today, D.P.T is considered to be a descendant of international cosmopolitanism, which some scholars link with so-called progressive ideological beliefs [50]. The aforementioned illusion, that humanity will be better off without the cultural and political diversity of the westphalian system, is based on a crucial misconception that war, as a phenomenon, will cease to exist if the anarchic and antagonistic nature of the international system is abolished. Nevertheless, if we overcome the dubious utopianism of the D.P.T and focus on the selected methodology concerning its implementation, we will understand that D.P.T is the main source of militarism in the 21st century. Not only because it is almost impossible to modify a state’s international behaviour by making considerable changes to domestic policies but also because democracies are war-prone [51].

### DA

**Presidential war powers are key to solve warming – Obama is an example and is specifically using flexible powers to create warming norms globally – they haven’t contended that internal link**

**Warming causes extinction - temperature increases causes sea level rise and extreme weather conditions - ensures ecosystem collapse - existential risk now**

**And it means war is inevitable - things like crop failure would cause escalating resource wars**

**I’ll answer their impact defense here – first – it only talks about biodiversity and warming – our impact evidence talks about many more things – second – history in warming debates is a bad standard – doesn’t assume the newest evidence and doesn’t rely on consensus**

**Plus this evidence would just link back to their calculation arguments if they go for it**

#### Causes extinction—4 degree projections trigger a laundry list of extinction scenarios

Roberts 13—citing the World Bank Review’s compilation of climate studies

- 4 degree projected warming, can’t adapt

- heat wave related deaths, forest fires, crop production, water wars, ocean acidity, sea level rise, climate migrants, biodiversity loss

David, “If you aren’t alarmed about climate, you aren’t paying attention” [http://grist.org/climate-energy/climate-alarmism-the-idea-is-surreal/] January 10 //mtc

We know we’ve raised global average temperatures around 0.8 degrees C so far. We know that 2 degrees C is where most scientists predict catastrophic and irreversible impacts. And we know that we are currently on a trajectory that will push temperatures up 4 degrees or more by the end of the century. What would 4 degrees look like? A recent World Bank review of the science reminds us. First, it’ll get hot: Projections for a 4°C world show a dramatic increase in the intensity and frequency of high-temperature extremes. Recent extreme heat waves such as in Russia in 2010 are likely to become the new normal summer in a 4°C world. Tropical South America, central Africa, and all tropical islands in the Pacific are likely to regularly experience heat waves of unprecedented magnitude and duration. In this new high-temperature climate regime, the coolest months are likely to be substantially warmer than the warmest months at the end of the 20th century. In regions such as the Mediterranean, North Africa, the Middle East, and the Tibetan plateau, almost all summer months are likely to be warmer than the most extreme heat waves presently experienced. For example, the warmest July in the Mediterranean region could be 9°C warmer than today’s warmest July. Extreme heat waves in recent years have had severe impacts, causing heat-related deaths, forest fires, and harvest losses. The impacts of the extreme heat waves projected for a 4°C world have not been evaluated, but they could be expected to vastly exceed the consequences experienced to date and potentially exceed the adaptive capacities of many societies and natural systems. [my emphasis] Warming to 4 degrees would also lead to “an increase of about 150 percent in acidity of the ocean,” leading to levels of acidity “unparalleled in Earth’s history.” That’s bad news for, say, coral reefs: The combination of thermally induced bleaching events, ocean acidification, and sea-level rise threatens large fractions of coral reefs even at 1.5°C global warming. The regional extinction of entire coral reef ecosystems, which could occur well before 4°C is reached, would have profound consequences for their dependent species and for the people who depend on them for food, income, tourism, and shoreline protection. It will also “likely lead to a sea-level rise of 0.5 to 1 meter, and possibly more, by 2100, with several meters more to be realized in the coming centuries.” That rise won’t be spread evenly, even within regions and countries — regions close to the equator will see even higher seas. There are also indications that it would “significantly exacerbate existing water scarcity in many regions, particularly northern and eastern Africa, the Middle East, and South Asia, while additional countries in Africa would be newly confronted with water scarcity on a national scale due to population growth.” Also, more extreme weather events: Ecosystems will be affected by more frequent extreme weather events, such as forest loss due to droughts and wildfire exacerbated by land use and agricultural expansion. In Amazonia, forest fires could as much as double by 2050 with warming of approximately 1.5°C to 2°C above preindustrial levels. Changes would be expected to be even more severe in a 4°C world. Also loss of biodiversity and ecosystem services: In a 4°C world, climate change seems likely to become the dominant driver of ecosystem shifts, surpassing habitat destruction as the greatest threat to biodiversity. Recent research suggests that large-scale loss of biodiversity is likely to occur in a 4°C world, with climate change and high CO2 concentration driving a transition of the Earth’s ecosystems into a state unknown in human experience. Ecosystem damage would be expected to dramatically reduce the provision of ecosystem services on which society depends (for example, fisheries and protection of coastline afforded by coral reefs and mangroves.) New research also indicates a “rapidly rising risk of crop yield reductions as the world warms.” So food will be tough. All this will add up to “large-scale displacement of populations and have adverse consequences for human security and economic and trade systems.” Given the uncertainties and long-tail risks involved, “there is no certainty that adaptation to a 4°C world is possible.” There’s a small but non-trivial chance of advanced civilization breaking down entirely. Now ponder the fact that some scenarios show us going up to 6 degrees by the end of the century, a level of devastation we have not studied and barely know how to conceive. Ponder the fact that somewhere along the line, though we don’t know exactly where, enough self-reinforcing feedback loops will be running to make climate change unstoppable and irreversible for centuries to come. That would mean handing our grandchildren and their grandchildren not only a burned, chaotic, denuded world, but a world that is inexorably more inhospitable with every passing decade.

#### And Lack of crisis containment turns the case – causes mass intervention

Young 13 (Laura Young, Ph.D., Purdue University Associate Fellow, June 2013, Unilateral Presidential Policy Making and the Impact of Crises, Presidential Studies Quarterly, Volume 43, Issue 2)

During periods of crisis, the time available to make decisions is limited. Because the decision-making process is often arduous and slow in the legislative branch, it is not uncommon for the executive branch to receive deference during a crisis because of its ability to make swift decisions. The White House centralizes policies during this time, and presidents seize these opportunities to expand their power to meet policy objectives. Importantly, presidents do so with limited opposition from the public or other branches of government (Howell and Kriner 2008). In fact, despite the opposition presidents often face when centralizing policies, research shows policies formulated via centralized processes during times of crisis receive more support from Congress and the American people (Rudalevige 2002, 148-49). For several reasons, a crisis allows a president to promote his agenda through unilateral action. First, a critical exogenous shock shifts attention and public opinion (Birkland 2004, 179). This shift is a phenomenon known as the “rally round the flag” effect (Mueller 1970). The rally effect occurs because of the public's increase in “its support of the president in times of crisis or during major international events” (Edwards and Swenson 1997, 201). Public support for the president rises because he is the leader and, therefore, the focal point of the country to whom the public can turn for solutions. Additionally, individuals are more willing to support the president unconditionally during such times, hoping a “united front” will increase the chance of success for the country (Edwards and Swenson 1997, 201). As a result, a crisis or focusing event induces an environment that shifts congressional focus, dispels gridlock and partisanship, and increases positive public opinion—each of which is an important determinant for successful expansion of presidential power (Canes-Wrone and Shotts 2004; Howell 2003). In other words, a crisis embodies key elements that the institutional literature deems important for presidential unilateral policy making. The president's ability to focus attention on a particular issue is also of extreme importance if he wishes to secure support for his agenda (Canes-Wrone and Shotts 2004; Edwards and Wood 1999; Howell 2003; Neustadt 1990). The role the media play is pivotal in assisting a president in achieving such a result because of its ability to increase the importance of issues influencing the attention of policy makers and the priorities of viewers. Although it is possible a president can focus media attention on the policies he wishes to pursue through his State of the Union addresses or by calling press conferences, his abilities in this regard are limited, and the media attention he receives is typically short lived (Edwards and Wood 1999, 328-29). High-profile events, on the other hand, are beneficial because they allow the president to gain focus on his agenda. This occurs because the event itself generates attention from the media without presidential intervention. Thus, the ability of crises to set the agenda and shift media and public attention provides another means for overcoming the constraints placed upon the president's ability to act unilaterally. Finally, Rudalevige finds support that a crisis increases the success of presidential unilateral power even if the policy process is centralized. A crisis allows little time to make decisions. As a result, “the president and other elected officials are under pressure to ‘do something’ about the problem at hand” (2002, 89, 148). Because swift action is necessary, presidents rely on in-house advice. As a result, the policy formation process is centralized, and the president receives deference to unilaterally establish policies to resolve the crisis. During a crisis, the president has greater opportunity to guide policy because the event helps him overcome the congressional and judicial obstacles that typically stand in his way.2 This affords the president greater discretion in acting unilaterally (Wildavsky 1966). It is possible the institutional make-up of the government will align so that the president will serve in an environment supportive of his policy decisions. It is also likely a president will have persuasive powers that enable him to gain a great deal of support for his policy agenda. An event with the right characteristics, however, enhances the president's ability to act unilaterally, regardless of the institutional make-up of government or his persuasive abilities.

#### Only one other answer that assumes the DA itself

#### Tehir only other answers are that PMCs cause war and the plan solves oversight, which isn’t even an impact – their PMC evidence just says threatens peace – not a terminal impact and doesn’t take out the impact

#### The aff turns the tide in war powers authority --- prevents continued expansion of executive power

FCNL 8, Friends Committee on National Legislation, the 501(c)(4) lobbying organization of the Religion Society of Friends (Quakers), October, “Reclaiming the Balance of Power: An Agenda for the 111th Congress,” Washington Newsletter No. 731, http://fcnl.org/assets/pubs/newsletter/2008/October.pdf

Pendulums swing by their nature, but sometimes they swing too far in one direction and need a push to return to balance. For several decades, the pendulum of power in the federal government has been swinging toward the president; in the past eight years, the president’s powers have reached unprecedented heights. The last two presidents have taken more power for themselves, but Congress has also ceded significant power to the executive branch. The 111th Congress has the opportunity to restore the balance. When members take their seats in January, reclaiming their constitutionally granted power to check the executive should be at the top of the agenda. Power Balanced by Design The framers of the Constitution had balance of power on their minds when they designed the U.S. government. They had recently rebelled against a monarchy with near total power over the people. Based on this experience, the framers limited specific government powers, such as compelling citizens to house soldiers in their homes, searching and seizing private property, and imposing taxes without a democratic process. The framers also structured the U.S. government to catch and prevent these kinds of abuses. They gave independent powers to the three branches of government — executive, legislative, and judicial — but they instituted mechanisms allowing the other branches to limit and balance these powers. In the first three words of the Constitution, “We the People,” the framers recognized a fourth branch of government to check the other three: the civil society. Unlike monarchs, U.S. presidents cannot act alone to commit their countries to war, empty their national treasuries, and impose new taxes on the citizenry to finance military adventures. Presidents can make treaties with other nations, and in time of war a president serves as commander in chief of the armed forces. Constitutionally, only Congress can formally declare war, “raise and support armies,” and increase taxes or otherwise fund a war. Maintaining these divisions is not easy. In the past 200 years, presidents have committed troops to military combat dozens of times without a formal declaration of war, and Congress has voted to cut off funding for war on only a few occasions. In the past eight years, Congress has failed to exercise adequate oversight of executive actions and uphold the Constitution in several areas. Most recently, President George W. Bush has defended the torture of prisoners held by the United States, denied prisoners the right to appeal their detention, and permitted spying on people in the United States without a warrant. Congress has turned a blind eye or acquiesced to the president’s requests to legalize his administration’s actions. The 111th Congress should reclaim its power on our behalf. In the mid-1970s, Congress passed laws to correct a pendulum of power that had swung too far toward the executive. The Congress that takes office in 2009 should do the same.

#### Congressional action now prevents Obama’s consolidation of Executive authority

Ackerman 11 (Bruce Ackerman 11, Professor of Law @ Yale, and Oona Hathaway, Professor of I-Law @ Yale, “Limited War and The Constitution: Iraq and the Crisis of Presidential Legality,” Michigan Law Review, 109:447, http://www.michiganlawreview.org/assets/pdfs/109/4/ackermanhathaway.pdf)

We live in an age of limited war. Yet the legal structure for authorizing and overseeing war has failed to address this modern reality. Nowhere is this failure more clear than in the recent U.S. conflict in Iraq. Congress self-consciously restricted the war’s aims to narrow purposes—expressly authorizing a limited war. But the Bush Administration evaded these constitutional limits and transformed a well-defined and limited war into an open-ended conflict operating beyond constitutional boundaries. President Obama has thus far failed to repudiate these acts of presidential unilateralism. If he continues on this course, he will consolidate the precedents set by his predecessor’s exercises in institutional aggrandizement. The presidency is not solely responsible for this unconstitutional escalation. Congress has failed to check this abuse because it has failed to adapt its central power over the use of military force—the power of the purse—to the distinctive problem of limited war. Our proposal restores Congress to its rightful role in our system of checks and balances. We suggest that the House and Senate adopt new “Rules for Limited War” that would create a presumption that any authorization of military force will expire after two years, unless Congress specifies a different deadline. The congressional time limit would be enforced by a prohibition on future war appro- priations after the deadline, except for money necessary to wind down the mission.

#### The aff sets a precedent against expansive war powers --- it’ll last for generations

Maya Schenwar 9, Executive Director @ Truthout, 1/14, “Congress Aims to Take Back Constitutional War Powers,” http://www.truth-out.org/archive/item/82004:congress-aims-to-take-back-constitutional-war-powers

Congress took little initiative to rein in Bush's excesses throughout his administration, and now, some members worry that his vast expansion of executive powers could set a dangerous precedent for generations to come. Unless Congress formally rejects Bush's generous interpretation of the role of the president, they say, the system of checks and balances could be permanently disrupted. Foremost on the list is one of Bush's most blatant unilateral actions: his recent signing, with Iraqi Prime Minister Nouri al Maliki, of the US-Iraq security pact without consulting Congress. The pact could keep US troops in Iraq until the end of 2011.

#### Reasserting Congressional war powers reverses the precedent of unfettered Executive authority

Webb 13 (Jim Webb 13, former U.S. senator from Virginia and Secretary of the Navy in the Reagan administration, March 1, “Congressional Abdication,” The National Interest, http://nationalinterest.org/article/congressional-abdication-8138?page=4)

The inaction (some of it deliberate) of key congressional leaders during this period has ensured that the president’s actions now constitute a troubling precedent. Under the objectively undefinable rubric of “humanitarian intervention,” President Obama has arguably established the authority of the president to intervene militarily virtually anywhere without the consent or the approval of Congress, at his own discretion and for as long as he wishes. It is not hyperbole to say that the president himself can now bomb a country with which we maintain diplomatic relations, in support of loosely aligned opposition groups that do not represent any coalition that we actually recognize as an alternative. We know he can do it because he already has done it. Few leaders in the legislative branch even asked for a formal debate over this exercise of unilateral presidential power, and in the Senate any legislation pertaining to the issue was prevented from reaching the floor. One can only wonder at what point these leaders or their successors might believe it is their constitutional duty to counter unchecked executive power exercised on behalf of overseas military action. AT BOTTOM, what we have witnessed in these instances, as with many others, is a breakdown of our constitutional process. Opinions will surely vary as to the merits of the actual solution that was reached in each case, but this sort of disagreement, which in and of itself forms the basis of our form of government, is the precise reason why each one of these cases, and others, should have been properly debated and voted on by Congress. In none of these situations was the consideration of time or emergency so great as to have precluded congressional deliberation. In each, we can be certain that Congress was deliberately ignored or successfully circumvented, while being viewed by some members of the executive branch as more of a nuisance than an equal constitutional partner. And there is no doubt that some key congressional leaders were reluctant, at best, to assert the authority that forms the basis of our governmental structure. When it comes to the long-term commitments that our country makes in the international arena, ours can be a complicated and sometimes frustrating process. But our Founding Fathers deliberately placed checks and counterchecks into our constitutional system for exactly that purpose. The congressional “nuisance factor” is supposed to act as a valuable tool to ensure that our leaders—and especially our commander in chief—do not succumb to the emotions of the moment or the persuasions of a very few. One hopes Congress—both Republicans and Democrats—can regain the wisdom to reassert the authority that was so wisely given to it so many years ago.

# Rd 4 vs. Kentucky GR

## 1NC

## Off

### 1

#### A. Interpretation – Restrictions are prohibitions --- the aff is distinct

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

3. The ordinary definition of the term "restrictions" also does not include the reporting and monitoring or supervising terms and conditions that are included in the 2001 Stipulation.

Black's Law Dictionary, 'fifth edition,(1979) defines "restriction" as;

A limitation often imposed in a deed or lease respecting the use to which the property may be put. The term "restrict' is also cross referenced with the term "restrain." Restrain is defined as; To limit, confine, abridge, narrow down, restrict, obstruct, impede, hinder, stay, destroy. To prohibit from action; to put compulsion on; to restrict; to hold or press back. To keep in check; to hold back from acting, proceeding, or advancing, either by physical or moral force, or by interposing obstacle, to repress or suppress, to curb.

In contrast, the terms "supervise" and "supervisor" are defined as; To have general oversight over, to superintend or to inspect. See Supervisor. A surveyor or overseer. . . In a broad sense, one having authority over others, to superintend and direct. The term "supervisor" means an individual having authority, in the interest of the employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but required the use of independent judgment.

Comparing the above definitions, it is clear that the definition of "restriction" is very different from the definition of "supervision"-very few of the same words are used to explain or define the different terms. In his 2001 stipulation, Mr. Kincheloe essentially agreed to some supervision conditions, but he did not agree to restrict his license.

#### Restrictions on authority are distinct from conditions

William Conner 78, former federal judge for the United States District Court for the Southern District of New York United States District Court, S. D. New York, CORPORACION VENEZOLANA de FOMENTO v. VINTERO SALES, http://www.leagle.com/decision/19781560452FSupp1108\_11379

Plaintiff next contends that Merban was charged with notice of the restrictions on the authority of plaintiff's officers to execute the guarantees. Properly interpreted, the "conditions" that had been imposed by plaintiff's Board of Directors and by the Venezuelan Cabinet were not "restrictions" or "limitations" upon the authority of plaintiff's agents but rather conditions precedent to the granting of authority. Essentially, then, plaintiff's argument is that Merban should have known that plaintiff's officers were not authorized to act except upon the fulfillment of the specified conditions.

#### President’s war powers authority is to authority to act

Lobel 8 (Jules – Professor of Law, University of Pittsburgh Law School, “Conflicts Between the Commander in Chief and Congress: Concurrent Power over the Conduct of War”, 2008, Ohio State Law Journal, 69 Ohio St. L.J. 391, lexis)

Separation of powers doctrine generally operates on what has been termed a horizontal axis to draw subject matter lines to separate and demarcate the proper boundaries between legislative, executive, and judicial authority. n23 The powers of Congress and the President to control the conduct of a war authorized by Congress is best understood, however, if viewed sequentially, not horizontally. Rather than drawing a boundary between legislative and executive power based on subject matter or some other normative principle, the two branches have concurrent constitutional power over the conduct of authorized warfare. Those powers are divided in practice by timing, not subject matter. The President has the power of initiative, the ability and authority to act quickly in the face of rapidly changing wartime realities in the theater of action. Congress, on the other hand, has a more deliberative, reflective power, allowing it to check and limit presidential initiative both before and after the Executive acts.

#### Authority is power delegated to an agent by a principle

Kelly 3 Judge for the State of Michigan, JOSEPH ELEZOVIC, Plaintiff, and LULA ELEZOVIC, Plaintiff-Appellant/Cross-Appellee, v. FORD MOTOR COMPANY and DANIEL P. BENNETT, Defendants-Appellees/Cross-Appellants., No. 236749, COURT OF APPEALS OF MICHIGAN, 259 Mich. App. 187; 673 N.W.2d 776; 2003 Mich. App. LEXIS 2649; 93 Fair Empl. Prac. Cas. (BNA) 244; 92 Fair Empl. Prac. Cas. (BNA) 1557, lexis

Applying agency principles, a principal is responsible for the acts of its agents done within the scope of the agent's authority, "even though acting contrary to instructions." [Dick Loehr's, Inc v Secretary of State, 180 Mich. App. 165, 168; 446 N.W.2d 624 (1989)](https://www.lexis.com/research/buttonTFLink?_m=6cbcd97524abff5644c0987b135f7517&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b259%20Mich.%20App.%20187%5d%5d%3e%3c%2fcite%3e&_butType=3&_butStat=2&_origin=TOASHLX&_butNum=115&_butInline=1&_butinfo=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b180%20Mich.%20App.%20165%2cat%20168%5d%5d%3e%3c%2fcite%3e&_fmtstr=FULL&docnum=136&_startdoc=101&wchp=dGLbVtb-zSkAk&_md5=708331d40466e4347936b73e103c82fb). This is because, in part, an agency relationship arises where the principal [\*\*\*36]  has the right to control the conduct of the agent. [St Clair Intermediate School Dist v Intermediate Ed Ass'n/Michigan Ed Ass'n, 458 Mich. 540, 558 n 18; 581 N.W.2d 707 (1998)](https://www.lexis.com/research/buttonTFLink?_m=6cbcd97524abff5644c0987b135f7517&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b259%20Mich.%20App.%20187%5d%5d%3e%3c%2fcite%3e&_butType=3&_butStat=2&_origin=TOASHLX&_butNum=116&_butInline=1&_butinfo=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b458%20Mich.%20540%2cat%20558%5d%5d%3e%3c%2fcite%3e&_fmtstr=FULL&docnum=136&_startdoc=101&wchp=dGLbVtb-zSkAk&_md5=c0a63a81a484a6ce53be229bc2290a07) (citations omitted). The employer is also liable for the torts of his employee if "'the servant purported to act or to speak on behalf of the principal and there was reliance upon apparent authority, or he was aided in accomplishing the tort by the existence of the agency relation,'" [McCann v Michigan, 398 Mich. 65, 71; 247 N.W.2d 521 (1976)](https://www.lexis.com/research/buttonTFLink?_m=6cbcd97524abff5644c0987b135f7517&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b259%20Mich.%20App.%20187%5d%5d%3e%3c%2fcite%3e&_butType=3&_butStat=2&_origin=TOASHLX&_butNum=117&_butInline=1&_butinfo=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b398%20Mich.%2065%2cat%2071%5d%5d%3e%3c%2fcite%3e&_fmtstr=FULL&docnum=136&_startdoc=101&wchp=dGLbVtb-zSkAk&_md5=5219d53b6a7119254f8041c911d87fd2), quoting [Restatement of Agency, 2d § 219(2)(d)](https://www.lexis.com/research/buttonTFLink?_m=6cbcd97524abff5644c0987b135f7517&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b259%20Mich.%20App.%20187%5d%5d%3e%3c%2fcite%3e&_butType=4&_butStat=0&_origin=TOASHLX&_butNum=118&_butInline=1&_butinfo=AGENCY%20SECOND%20219&_fmtstr=FULL&docnum=136&_startdoc=101&wchp=dGLbVtb-zSkAk&_md5=71c1bf8c001fe5ae1153be4268b8e9e9), p 481; see also [Champion v Nation Wide Security, Inc, 450 Mich. 702, 704, 712; 545 N.W.2d 596 (1996)](https://www.lexis.com/research/buttonTFLink?_m=6cbcd97524abff5644c0987b135f7517&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b259%20Mich.%20App.%20187%5d%5d%3e%3c%2fcite%3e&_butType=3&_butStat=2&_origin=TOASHLX&_butNum=119&_butInline=1&_butinfo=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b450%20Mich.%20702%2cat%20704%5d%5d%3e%3c%2fcite%3e&_fmtstr=FULL&docnum=136&_startdoc=101&wchp=dGLbVtb-zSkAk&_md5=3d1841dc7f4fb90804d8adb6349a6fae), citing [Restatement of Agency, 2d § 219(2)(d)](https://www.lexis.com/research/buttonTFLink?_m=6cbcd97524abff5644c0987b135f7517&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b259%20Mich.%20App.%20187%5d%5d%3e%3c%2fcite%3e&_butType=4&_butStat=0&_origin=TOASHLX&_butNum=120&_butInline=1&_butinfo=AGENCY%20SECOND%20219&_fmtstr=FULL&docnum=136&_startdoc=101&wchp=dGLbVtb-zSkAk&_md5=c1927abf5bf3954a85d211c044ada141), p 481 ("the master is liable for the tort of his servant if the servant 'was aided in accomplishing the tort by the existence of the agency relation'"). In [Backus v  [\*213]  Kauffman (On Rehearing), 238 Mich. App. 402, 409; 605 N.W.2d 690 (1999)](https://www.lexis.com/research/buttonTFLink?_m=6cbcd97524abff5644c0987b135f7517&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b259%20Mich.%20App.%20187%5d%5d%3e%3c%2fcite%3e&_butType=3&_butStat=2&_origin=TOASHLX&_butNum=121&_butInline=1&_butinfo=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b238%20Mich.%20App.%20402%2cat%20409%5d%5d%3e%3c%2fcite%3e&_fmtstr=FULL&docnum=136&_startdoc=101&wchp=dGLbVtb-zSkAk&_md5=d9947545fee151274d489cbc14123160), this Court stated: The term "authority" is defined by Black's Law Dictionary to include "the power delegated by a principal to an agent." Black's Law Dictionary (7th ed), p [\*\*\*37]  127. "Scope of authority" is defined in the following manner: "The reasonable power that an agent has been delegated or might foreseeably be delegated in carrying out the principal's business." Id. at 1348.

#### B. Violation – Ex-post review only determines whether particular targeted killings exceeded authority the government already had---that doesn’t affect the legality of targeted killings at all

Vladeck 13 (Steve Vladeck, professor of law and the associate dean for scholarship at American University Washington College of Law, 2/5/13, “What’s Really Wrong With the Targeted Killing White Paper,” <http://www.lawfareblog.com/2013/02/whats-really-wrong-with-the-targeted-killing-white-paper/>)

Many of us wondered, at the time, just where this came from–since it’s hard to imagine what due process could be without at least some judicial oversight. On this point, the white paper again isn’t very helpful. The sum total of its analysis is Section II.C, on page 10, which provides that: [U]nder the circumstances described in this paper, there exists no appropriate judicial forum to evaluate these constitutional considerations. It is well established that “[m]atters intimately related to foreign policy and national security are rarely proper subjects for judicial intervention,” because such matters “frequently turn on standards that defy the judicial application,” or “involve the exercise of a discretion demonstrably committed to the executive or legislature.” Were a court to intervene here, it might be required inappropriately to issue an ex ante command to the President and officials responsible for operations with respect to their specific tactical judgment to mount a potential lethal operation against a senior operational leader of al-Qa’ida or its associated forces. And judicial enforcement of such orders would require the Court to supervise inherently predictive judgments by the President and his national security advisors as to when and how to use force against a member of an enemy force against which Congress has authorized the use of force. There are two enormous problems with this reasoning: First, many of us who argue for at least some judicial review in this context specifically don’t argue for ex ante review for the precise reasons the white paper suggests. Instead, we argue for ex post review–in the form of damages actions after the fact, in which liability would only attach if the government both (1) exceeded its authority; and (2) did so in a way that violated clearly established law. Whatever else might be said about such damages suits, they simply don’t raise the interference concerns articulated in the white paper, and so one would have expected some distinct explanation for why that kind of judicial review shouldn’t be available in this context. All the white paper offers, though, is its more general allusion to the political question doctrine. Which brings me to… Second, and in any event, the suggestion that lawsuits arising out of targeted killing operations against U.S. citizens raise a nonjusticiable political question is almost laughable–and is the one part of this white paper that really does hearken back to the good ole’ days of the Bush Administration (I’m less sold on any analogy based upon the rest of the paper). Even before last Term’s Zivotofsky decision, in which the Supreme Court went out of its way to remind everyone (especially the D.C. Circuit) of just how limited the political question doctrine really should be, it should’ve followed that uses of military force against U.S. citizens neither “turn on standards that defy the judicial application,” nor “involve the exercise of a discretion demonstrably committed to the executive or legislature.” Indeed, in the context of the Guantánamo habeas litigation, courts routinely inquire into the very questions that might well arise in such a damages suit, e.g., whether there is sufficient evidence to support the government’s conclusion that the target is/was a senior operational leader of al Qaeda or one of its affiliates… Don’t get me wrong: Any suit challenging a targeted killing operation, even a post hoc damages action, is likely to run into a number of distinct procedural concerns, including the difficulty of arguing for a Bivens remedy; the extent to which the state secrets privilege might preclude the litigation; etc. But those are the arguments that the white paper should’ve been making–and not a wholly unnuanced invocation of the political question doctrine in a context in which it clearly does not–and should not–apply. V. A Modest Proposal This all leads me to what I’ve increasingly come to believe is the only real solution here: If folks are really concerned about this issue, especially on the Hill, then Congress should create a cause of action–with nominal damages–for individuals who have been the targets of such operations (or, more honestly, their heirs). The cause of action could be for $1 in damages; it could expressly abrogate the state secrets privilege and replace it with a procedure for the government to offer at least some of its evidence ex parte and in camera; and it could abrogate qualified immunity so that, in every case, the court makes law concerning how the government applies its criteria in a manner consistent with the Due Process Clause of the Fifth Amendment. This wouldn’t in any way resolve the legality of targeted killings, but it would clear the way for courts to do what courts do–ensure that, when the government really is depriving an individual of their liberty (if not their life), it does so in a manner that comports with the Constitution–as the courts, and not just the Executive Branch, interpret it. It’s not a perfect solution, to be sure, but if ever there was a field in which the perfect is the enemy of the good, this is it.

#### Vote neg---

#### Neg ground---only prohibitions on particular authorities guarantee links to every core argument like flexibility and deference

#### Precision---only our interpretation defines “restrictions on authority”---that’s key to adequate preparation and policy analysis

#### Limits---there are an infinite number of small hoops they could require the president to jump through---overstretches our research burden

### 2

#### The aff doesn’t provide real reform – continued crisis discourse allows a re-expansion of executive authority

Scheuerman 12 – Professor of Political Science and West European Studies at Indiana University (William E., Summer 2012, "Emergencies, Executive Power, and the Uncertain Future of US Presidential Democracy," Law & Social Inquiry 37(3), EBSCO)

IV. REFORMISM'S LIMITS Bruce Ackerman, one of our country's most observant analysts of its clunky constitutional machinery, is similarly impatient with the "comforting notion that our heroic ancestors" created an ideal constitutional and political system (2010, 10). He even agrees that the US model increasingly seems to overlap with Schmitt's dreary vision of executive-centered plebiscitarianism motored by endless crises and emergencies (2010, 82). In sharp contrast to Posner and Vermeule, however, he not only worries deeply about this trend, but he also discards the unrealistic possibility that it might be successfully countered without recourse to legal and constitutional devices. Although Madison's original tripartite separation of powers is ill-adjusted to the realities of the modern administrative state, we need to reinvigorate both liberal legalism and checks and balances. Unless we can succeed in doing so, US citizens are likely to experience a "quantum leap in the presidency's destructive capacities" in the new century (2010, 119). Despite its alarmist tenor, for which he has been—in my view—unfairly criticized,'' Ackerman's position is grounded in a blunt acknowledgment of the comparative disadvantages of the US constitutional system. More clearly than any of the other authors discussed in this article, he breaks cleanly with the intellectual and constitutional provincialism that continues to plague so much legal and political science research on the United States. In part because as "late developers" they learned from institutional mistakes in the United States and elsewhere, more recently designed liberal democracies often do a better job than our Model T version at guaranteeing both policy effectiveness and the rule of law (2010, 120-22). Following the path-breaking work of his colleague Juan Linz, Ackerman offers a critical assessment of our presidential version of liberal democracy, where an independently elected executive regularly finds itself facing off against a potentially obstructionist Congress, which very well may seek to bury "one major presidential initiative after another" (2010, 5; see also Linz 1994). In the context of either real or imagined crises, executives facing strict temporal restraints (i.e., an upcoming election), while claiming to be the people's best protector against so-called special interests, will typically face widespread calls for swift (as well as legally dubious) action. "Crisis talk," in part endogenously generated by a flawed political system prone to gridlock rather than effective policy making, "prepares the ground for a grudging acceptance of presidential unilateralism" (2010, 6). Executives everywhere have much to gain from crisis scenarios. Yet incentives for declaring and perpetuating emergencies may be especially pronounced in our presidential system. The combination of temporal rigidity (i.e., fixed elections and terms of office) and "dual democratic legitimacy" (with both Congress and the president claiming to speak for "we the people") poses severe challenges to law-based government (Linz 1994). Criticizing US scholarship for remaining imprisoned in the anachronistic binary contrast of "US presidentialism vs. Westminster parliamentarism," Ackerman recommends that we pay closer attention to recent innovations achieved by what he describes as "constrained parliamentarism," basically a modified parliamentary system that circumvents the worst design mistakes of both Westminster parliamentarism and US presidentialism. As he has argued previously in a lengthy Harvard Law Review article, constrained parliamentarism—as found, for example, in recent democracies like Germany and Spain—locates law making in a Westminster-style popular assembly. But in contrast to the UK model, "legislative output is constrained by a higher lawmaking process" (2000, 666). The German Eederal Republic, for example, rests on a written constitution (e.g., the Basic Law) and has a powerful constitutional court. In Ackerman's view, constrained parliamentarism lacks many of the institutional components driving the growth of executive-dominated emergency govemment. Not surprisingly, he posits, it suffers to a reduced degree from many of the institutional pathologies plaguing US-style presidentialism. Ackerman argues that, in contrast, US-style presidential models have regularly collapsed elsewhere (e.g., in Latin and South American countries, where US-style presidentialism has been widely imitated [Linz and Valenzuela 1994]), devolving on occasion into unabated authoritarianism (2000, 646). Ackerman now seems genuinely concerned that a similar fate might soon befall its original version. Even if his most recent book repeats some earlier worries, he has now identified additional perils that he thinks deserve immediate attention. Not surprisingly, perhaps, his anxiety level has noticeably increased. Even Schmitt's unattractive vision of presidential authoritarianism appears "a little old-fashioned," given some ominous recent trends (2010, 82). To an extent unfathomable in Schmitt's day, the executive can exploit quasi-scientific polling data in order to gauge the public pulse. Presidents now employ a small but growing army of media gurus and consultants who allow them to craft their messages in astonishingly well-skilled—and potentially manipulative—ways. Especially during crisis moments, an overheated political environment can quickly play into the hands of a "White House propaganda machine generating a stream of sound bites" (2010, 33). Pundits and opinion makers already tend to blur the crucial divide between polling "numbers" and actual votes, with polls in both elite and popular consciousness tending not only to supplement but increasingly displace election results.'^ The decline of the print media and serious joumalism—about which Ackerman is understandably distressed—means that even the most fantastic views are taken seriously. Thus far, the Internet has failed to pick up the slack; it tends to polarize public opinion. Meanwhile, our primary system favors candidates who successfully appeal to an energized partisan base, meaning that those best able to exploit public opinion polling and the mass media, but out of sync with the median voter, generally gain the party nomination. Linz earlier pointed out that presidentialism favors political outsiders; Ackerman worries that in our emerging presidential model, the outsiders will tend to be extremists. Polling and media-savvy, charismatic, and relatively extreme figures will colonize the White House. In addition, the president's control over the massive administrative apparatus provides the executive with a daunting array of institutional weapons, while the Office of Legal Counsel (OLC) and Office of Counsel to the President offer hyperpoliticized sites from which distinctly executive-centered legal and constitutional views now are rapidly disseminated. Ackerman raises some tough questions for those who deem the OLC and related executive organs fundamentally sound institutions that somehow went haywire under David Addington and John Yoo. In his view, their excesses represent a logical result of basic structural trends currently transforming both the executive and political system as whole. OLC's partisan and sometimes quasi-authoritarian legal pronouncements are now being eagerly studied by law students and cited by federal courts (2010, 93). Notwithstanding an admirable tradition of executive deference to the Supreme Court, presidents are better positioned than ever to claim higher political legitimacy and neutralize political rivals. Backed by eager partisan followers, adept at the media game, and well armed with clever legal arguments constructed by some of the best lawyers in the country, prospective presidents may conceivably stop deferring to the Court (2010, 89). Ackerman's most unsettling amendment to his previous views is probably his discussion of the increasingly politicized character of the military—an administrative realm, by the way, ignored by other writers here, despite its huge role in modern US politics. Here again, the basic enigma is that the traditional eighteenth-century tripartite separation of powers meshes poorly with twenty-first-century trends: powerful military leaders can now regularly play different branches of govemment against one another in ways that undermine meaningful civilian oversight. Top officers possess far-reaching opportunities "to become an independent political force—allowing them to tip the balance of political support in one direction, then another," as the competing branches struggle for power (2010, 49). For Ackerman, the emergence of nationally prominent and media-savvy figures such as Colin Powell and David Petraeus, who at crucial junctures have communicated controversial policy positions to a broader public,'^ suggests that this long-standing structural flaw has recently gotten worse. The Goldwater-Nichols Act of 1996, for example, transformed the chair of the Joint Chiefs of Staff from a mediator for the competing services into the military's principal—and hugely influential—spokesperson within the National Security Council (2010, 50). Not only does the military constitute a hugely significant segment of the administrative machinery, but it is now embodied—both in govemment and the public eye—in a single leader whose views carry tremendous weight. The fact that opinion surveys show that the officer corps is increasingly conservative in its partisan orientation, Ackerman notes, only adds to the dangers. Americans need not fear an imminent military putsch, along the lines that destroyed other presidential regimes elsewhere. Nonetheless, we would do well not to be "lulled into a false sense of security" (2010, 87). Having painted a foreboding portrait of institutional trends, Ackerman points to paths we might take to ward off the worst. In light of the obvious seriousness of the illness he has diagnosed, however, his antidotes tend to disappoint: he proposes that we treat cancer with some useful but limited home remedies. Like Shane, Ackerman wants to improve popular deliberation by reforming the mass media and institutionalizing "Deliberation Day" (2010, 125-40). Yet how such otherwise potentially appealing initiatives might counteract the symbiotic relationship between presidentialism and crisis government remains ambiguous. A modernized electoral college, for example, might simply engender executives better positioned to claim to stand in for "we the people" than their historical predecessors. Given Ackerman's own worries about plebiscitarianism, this reform might compound rather than alleviate our problems. More innovatively, Ackerman endorses the idea of a quasi-judicial check within the executive branch, a "Supreme Executive Tribunal" given the task of expeditiously determining the legality of proposed executive action, whose members would be appointed to staggered terms and subject to Senate confirmation. Forced to gain a seal of approval from jurists relatively insulated from sitting presidents, the executive tribunal would act more quickly than an ordinary court and thereby help put a "brake on the presidential dynamic before it can gather steam" (2010,143). Before the president could take the first political move and potentially alter the playing field, he or she might first have to clear the move with a body of legal experts, a requirement that presumably over time would work to undergird the executive branch's commitment to legality. The proposed tribunal could allow the president and Congress to resolve many of their standoffs more expeditiously than is typical today (2010, 146). Congressional representatives, for example, might rely on the tribunal to challenge executive signing statements. Existing exemptions for a significant number of major executive-level actors (e.g., the president's National Security Advisor) from Senate confirmation also need to be abandoned, while the military should promulgate a new Canon of Military Ethics, aimed at clarifying what civilian control means in contemporary real-life settings, in order to counteract its ongoing politicization. Goldwater-Nichols could be revised so as better to guarantee the subordination of military leaders to the Secretary of Defense (2010, 153-65). Ackerman also repeats his previous calls for creating an explicit legal framework for executive emergency action: Congress could temporarily grant the president broad discretionary emergency powers while maintaining effective authority to revoke them if the executive proved unable to gain ever more substantial support from the legislature (2010, 165-70; see also Ackerman 2006). Each of these suggestions demands more careful scrutiny than possible here. Nonetheless, even if many of them seem potentially useful, room for skepticism remains. Why, for example, would the proposed executive tribunal not become yet another site for potentially explosive standoffs between presidents and Congress? Might not highlevel political conflicts end up simply taking the forms of destructive (and misleadingly legalistic) duels? To the extent that one of the tribunal's goals is to decelerate executive decision making, its creation would perhaps leave our already sluggish and slow-moving political system even less able than at the present to deal with fast-paced challenges. Faced with time constraints and the need to gain popular support, executives might then feel even more pressed than at present to circumvent legality. As Ackerman knows, even as it presently operates, the Senate confirmation process is a mess. His proposal to extend its scope might simply end up reproducing at least some familiar problems. Last but not least, given the perils he so alarmingly describes, his proposed military reforms seem unsatisfying. Why not instead simply cut our bloated military apparatus and abandon US imperial pretensions? The obvious Achilles heel is that none of the proposals really deals head-on with what Ackerman himself conceives as the fundamental root of executive-centered government: an independently elected president strictly separated from legislative bodies with which he periodically clashes in potentially destructive ways. Despite Ackerman's ambition, his proposals do not provide structural reform: he concludes that US-based reformers should "take the independently elected presidency as a fixture" (2010, 124). Thus, presidential government is here to stay; reformers can also forget about significantly altering our flawed system of presidential primaries, activist government, and powerful military that intervenes frequently abroad (2010, 124). Given contemporary political developments, one can certainly appreciate why Ackerman is skeptical that the US system might finally be ripe for a productive institutional overhaul. Nonetheless, this just makes an already rather bleak book look even bleaker. His book's title. The Decline and Fall of the Arnerican Republic, is out of step with the somewhat upbeat reformist proposals detailed in its final chapters. Regretfully, the title better captures his core message. Only Ackerman's ultimately disturbing book both adeptly rejects the tendency among recent students of executive power to revert to constitutional nostalgia while forthrightly identifying the very real dangers posed by recent institutional trends. In an age of permanent or at least seemingly endless emergencies, where the very attempt to cleanly distinguish dire crises from "normal" political and social challenges becomes exceedingly difficult, the executive threatens to become an even more predominant— and potentially lawless—institutional player Unfortunately, US-style presidential democracy may be particularly vulnerable to this trend. Ackerman proves more successful than the other authors discussed here because he is best attuned to a rich body of comparative constitutional and political science scholarship that has raised legitimate doubts about the alleged virtues of US-style liberal democracy. Not surprisingly, some of his own reform ideas—for example, his proposed system of emergency law making—draw heavily on foreign examples, including Canada and new democracies such as South Africa. He convincingly argues that we might at least ameliorate the widespread tendency among presidents to manipulate crises for narrow partisan reasons, for example, by relying on the clever idea of a supermajoritarian escalator, which would require every legislative renewal of executive emergency authority to rest on ever more numerous supermajorities (2006). Ackerman is right to suggest that the United States needs to look abroad in order to improve our rather deficient system of emergency rule (Scheuerman 2006, 2008). Our system is broken; it is time to see what can be learned from others. Ackerman's latest book's overly cautious reformism thus seems especially peculiar in light of his own powerful and indeed enthusiastic defense of constrained parliamentarism, which he quite plausibly describes as potentially offering a superior approach to emergency government. The key point is not that we can be absolutely sure that the "grass is greener" in new democracies such as postwar Germany or post-Franco Spain; existing empirical evidence offers, frankly, a mixed picture. Contemporary Germany, for example, has certainly experienced its own fair share of emergency executive excesses (Frankenberg 2010). Scholars have criticized not only the empirical thesis that presidentialism and a strict separation of powers can help explain the substantial growth of executive discretion (Carolan 2009; Gross and Ni Aolain 2006), but also more farreaching assertions about their alleged structural disadvantages (Cheibub 2006). Still others argue that parliamentary regimes even of the "old type" (i.e., the UK Westminster model) have done relatively well in maintaining the rule of law during serious crises (Ewing and Gearty 2000; Bellamy 2007, 249-53). Unfortunately, we still lack wellconceived empirical studies comparing constrained parliamentarism with US-style presidentialism. Too much existing scholarship focuses on single countries, or relies on "foreign" cases but only in a highly selective and anecdotal fashion. Until we have more properly designed comparative studies, however, it seems inaccurate to assume a priori that core institutional features of US presidential democracy are well equipped to tackle the many challenges at hand. As I have tried to argue here, a great deal of initial evidence suggests that this simply is not the case. Admittedly, every variety of liberal democracy confronts structural tendencies favoring the augmentation of executive power: many of the social and economic roots (e.g., social acceleration) of executive-centered crisis govemment represent more-or-less universal phenomena, likely to rattle even well-designed constitutional systems. One can also easily imagine that in decades to come, extreme "natural" catastrophes— increasingly misnamed, because of their links to human-based climate change— justifying declarations of martial law or states of emergency will proliferate, providing novel possibilities for executives to expand their authority.^° So it would be naive to expect any easy constitutional or political-institutional fix. However, this sobering reality should not lead us to abandon creative institutional thinking. On the contrary, it arguably requires of us that we try to come up with new institutional models, distinct both from existing US-style presidentialism and parliamentarism, constrained or otherwise.

#### Enframing of security makes macro-political violence inevitable

Burke 7 – Associate Professor of Politics and International Relations in the University of New South Wales (Anthony, Theory & Event, Volume 10, Issue 2, 2007, “Ontologies of War: Violence, Existence and Reason,” Project MUSE)

This essay develops a theory about the causes of war -- and thus aims to generate lines of action and critique for peace -- that cuts beneath analyses based either on a given sequence of events, threats, insecurities and political manipulation, or the play of institutional, economic or political interests (the 'military-industrial complex'). Such factors are important to be sure, and should not be discounted, but they flow over a deeper **bedrock of modern reason** that has not only come to form a powerful structure of common sense but **the apparently solid ground of the real itself**. In this light, the two 'existential' and 'rationalist' discourses of war-making and justification mobilised in the Lebanon war are more than merely arguments, rhetorics or even discourses. Certainly they mobilise forms of knowledge and power together; providing political leaderships, media, citizens, bureaucracies and military forces with organising systems of belief, action, analysis and rationale. But they run deeper than that. They are truth-systems of the most powerful and fundamental kind that we have in modernity: **ontologies, statements about truth and being which claim a rarefied privilege to state what is and how it must be maintained** as it is.I am thinking of ontology in both its senses: ontology as both a statement about the nature and ideality of being (in this case political being, that of the nation-state), and as a statement of epistemological truth and certainty, of methods and processes of arriving at certainty (in this case, the development and application of strategic knowledge for the use of armed force, and the creation and maintenance of geopolitical order, security and national survival). These derive from the classical idea of ontology as a speculative or positivistic inquiry into the fundamental nature of truth, of being, or of some phenomenon; the desire for a solid metaphysical account of things inaugurated by Aristotle, an account of 'being qua being and its essential attributes'.17 In contrast, drawing on Foucauldian theorising about truth and power, I see ontology as a particularly powerful claim to truth itself: a claim to the status of an underlying systemic foundation for truth, identity, existence and action; one that is not essential or timeless, but is thoroughly historical and contingent, that is deployed and mobilised in a fraught and conflictual socio-political context of some kind. In short, ontology is the 'politics of truth'18 in its most sweeping and powerful form. I see such a drive for ontological certainty and completion as particularly problematic for a number of reasons. Firstly, when it takes the form of the existential and rationalist ontologies of war, it amounts to a hard and exclusivist claim: **a drive for ideational hegemony and closure that limits debate and questioning**, **that confines it within the boundaries of a particular, closed system of logic, one that is grounded in the truth of being**, in the truth of truth as such. The second is its intimate relation with violence: the dual ontologies represent a simultaneously social and conceptual structure that generates violence. Here **we are witness to an epistemology of violence (strategy) joined to an ontology of violence (the national security state)**. When we consider their relation to war, the two ontologies are especially dangerous because each alone (and doubly in combination) tends both to **quicken the resort to war and to lead to its escalation** either in scale and duration, or in unintended effects. In such a context **violence is not so much a tool that can be picked up and used on occasion**, at limited cost and with limited impact -- **it permeates being.** This essay describes firstly the ontology of the national security state (by way of the political philosophy of Thomas Hobbes, Carl Schmitt and G. W. F. Hegel) and secondly the rationalist ontology of strategy (by way of the geopolitical thought of Henry Kissinger), showing how they crystallise into a mutually reinforcing system of support and justification, especially in the thought of Clausewitz. This creates both a profound ethical and pragmatic problem. The ethical problem arises because of their militaristic force -- they embody and reinforce a norm of war -- and because they enact what Martin Heidegger calls an 'enframing' image of technology and being in which **humans are merely utilitarian instruments** for use, control and destruction, and force -- in the words of one famous Cold War strategist -- can be thought of as a 'power to hurt'.19 The pragmatic problem arises because force so often produces neither the linear system of effects imagined in strategic theory nor anything we could meaningfully call security, but rather **turns in upon itself in a nihilistic spiral of pain and destruction**. In the era of a 'war on terror' dominantly conceived in Schmittian and Clausewitzian terms,20 the arguments of Hannah Arendt (that violence collapses ends into means) and Emmanuel Levinas (that 'every war employs arms that turn against those that wield them') take on added significance. Neither, however, explored what occurs when war and being are made to coincide, other than Levinas' intriguing comment that in war persons 'play roles in which they no longer recognises themselves, making them betray not only commitments but their own substance'. 21 What I am trying to describe in this essay is a complex relation between, and interweaving of, epistemology and ontology. But it is not my view that these are distinct modes of knowledge or levels of truth, because in the social field named by security, statecraft and violence they are made to blur together, continually referring back on each other, like charges darting between electrodes. Rather they are related systems of knowledge with particular systemic roles and intensities of claim about truth, political being and political necessity. Positivistic or scientific claims to epistemological truth supply an air of predictability and reliability to policy and political action, which in turn support larger ontological claims to national being and purpose, drawing them into a common horizon of certainty that is one of the central features of past-Cartesian modernity. Here it may be useful to see ontology as a more totalising and metaphysical set of claims about truth, and epistemology as more pragmatic and instrumental; but while a distinction between epistemology (knowledge as technique) and ontology (knowledge as being) has analytical value, it tends to break down in action. The epistemology of violence I describe here (strategic science and foreign policy doctrine) claims positivistic clarity about techniques of military and geopolitical action which use force and coercion to achieve a desired end, an end that is supplied by the ontological claim to national existence, security, or order. However in practice, technique quickly passes into ontology. This it does in two ways. First, **instrumental violence is married to an ontology of insecure national existence which itself admits no questioning**. The nation and its identity are known and essential, prior to any conflict, and the resort to violence becomes an equally essential predicate of its perpetuation. In this way knowledge-as-strategy claims, in a positivistic fashion, to achieve a calculability of effects (power) for an ultimate purpose (securing being) that it must always assume. Second, strategy as a technique not merely becomes an instrument of state power but ontologises itself in a technological image of 'man' as a maker and user of things, including **other humans, which have no essence or integrity outside their value as objects**. In Heidegger's terms, **technology becomes being; epistemology immediately becomes technique, immediately being**. This combination could be seen in the aftermath of the 2006 Lebanon war, whose obvious strategic failure for Israelis generated fierce attacks on the army and political leadership and forced the resignation of the IDF chief of staff. Yet in its wake neither ontology was rethought. Consider how a reserve soldier, while on brigade-sized manoeuvres in the Golan Heights in early 2007, was quoted as saying: 'we are ready for the next war'. Uri Avnery quoted Israeli commentators explaining the rationale for such a war as being to 'eradicate the shame and restore to the army the "deterrent power" that was lost on the battlefields of that unfortunate war'. In 'Israeli public discourse', he remarked, 'the next war is seen as a natural phenomenon, like tomorrow's sunrise.' 22 The danger obviously raised here is that these dual ontologies of war link being, means, events and decisions into a single, unbroken chain whose very process of construction cannot be examined. As is clear in the work of Carl Schmitt, being implies action, the action that is war. This chain is also obviously at work in the U.S. neoconservative doctrine that argues, as Bush did in his 2002 West Point speech, that 'the only path to safety is the path of action', which begs the question of whether strategic practice and theory can be detached from strong ontologies of the insecure nation-state.23 This is the direction taken by much realist analysis critical of Israel and the Bush administration's 'war on terror'.24 Reframing such concerns in Foucauldian terms, we could argue that obsessive ontological commitments have led to especially disturbing 'problematizations' of truth.25 However such rationalist critiques rely on a one-sided interpretation of Clausewitz that seeks to disentangle strategic from existential reason, and to open up choice in that way. However without interrogating more deeply how they form a conceptual harmony in Clausewitz's thought -- and thus in our dominant understandings of politics and war -- tragically violent 'choices' will continue to be made. The essay concludes by pondering a normative problem that arises out of its analysis: if the divisive ontology of the national security state and the violent and instrumental vision of 'enframing' have, as Heidegger suggests, come to define being and drive 'out every other possibility of revealing being', how can they be escaped?26 How can other choices and alternatives be found and enacted? How is there any scope for agency and resistance in the face of them? Their social and discursive power -- one that aims to take up the entire space of the political -- needs to be respected and understood. However, we are far from powerless in the face of them. **The need is to critique dominant images of political being and dominant ways of securing that being at the same time**, and to act and choose such that we bring into the world a more sustainable, peaceful and non-violent global rule of the political. Friend and Enemy: Violent Ontologies of the Nation-State In his Politics Among Nations Hans Morgenthau stated that 'the national interest of a peace-loving nation can only be defined in terms of national security, which is the irreducible minimum that diplomacy must defend with adequate power and without compromise'. While Morgenthau defined security relatively narrowly -- as the 'integrity of the national territory and its institutions' -- in a context where security was in practice defined expansively, as synonymous with a state's broadest geopolitical and economic 'interests', what was revealing about his formulation was not merely the ontological centrality it had, but the sense of urgency and priority he accorded to it: it must be defended 'without compromise'.27 Morgenthau was a thoughtful and complex thinker, and understood well the complexities and dangers of using armed force. However his formulation reflected an influential view about the significance of the political good termed 'security'. When this is combined with the way in which security was conceived in modern political thought as an existential condition -- a sine qua non of life and sovereign political existence -- and then married to war and instrumental action, it provides a basic underpinning for either the limitless resort to strategic violence without effective constraint, or the perseverance of limited war (with its inherent tendencies to escalation) as a permanent feature of politics. While he was no militarist, Morgenthau did say elsewhere (in, of all places, a far-reaching critique of nuclear strategy) that the 'quantitative and qualitative competition for conventional weapons is a rational instrument of international politics'.28 The conceptual template for such an image of national security state can be found in the work of Thomas Hobbes, with his influential conception of the political community as a tight unity of sovereign and people in which their bodies meld with his own to form a 'Leviathan', and which must be defended from enemies within and without. His image of effective security and sovereignty was one that was intolerant of internal difference and dissent, legitimating a strong state with coercive and exceptional powers to preserve order and sameness. This was a vision not merely of political order but of existential identity, set off against a range of existential others who were sources of threat, backwardness, instability or incongruity.29 It also, in a way set out with frightening clarity by the theorist Carl Schmitt and the philosopher Georg Hegel, exchanged internal unity, identity and harmony for permanent alienation from other such communities (states). Hegel presaged Schmitt's thought with his argument that individuality and the state are single moments of 'mind in its freedom' which 'has an infinitely negative relation to itself, and hence its essential character from its own point of view is its singleness': Individuality is awareness of one's existence as a unit in sharp distinction from others. It manifests itself here in the state as a relation to other states, each of which is autonomous vis-a-vis the others...this negative relation of the state to itself is embodied in the world as the relation of one state to another and as if the negative were something external.30 Schmitt is important both for understanding the way in which such alienation is seen as a definitive way of imagining and limiting political communities, and for understanding how such a rigid delineation is linked to the inevitability and perpetuation of war. Schmitt argued that the existence of a state 'presupposes the political', which must be understood through 'the specific political distinction...between friend and enemy'. The enemy is 'the other, the stranger; and it sufficient for his nature that he is, in a specially intense way, existentially something different and alien, so that in an extreme case conflicts with him are possible'.31 The figure of the enemy is constitutive of the state as 'the specific entity of a people'.32 Without it society is not political and a people cannot be said to exist: Only the actual participants can correctly recognise, understand and judge the concrete situation and settle the extreme case of conflict...to judge whether the adversary intends to negate his opponent's way of life and therefore must be repulsed or fought in order to preserve one's own form of existence.33 Schmitt links this stark ontology to war when he states that the political is only authentic 'when a fighting collectivity of people confronts a similar collectivity. The enemy is solely the public enemy, because everything that has a relationship to such a collectivity of men, particularly to the whole nation, becomes public by virtue of such a relationship...in its entirety the state as an organised political entity decides for itself the friend-enemy distinction'.34 War, in short, is an existential condition: the entire life of a human being is a struggle and every human being is symbolically a combatant. The friend, enemy and combat concepts receive their real meaning precisely because they refer to the real possibility of physical killing. War follows from enmity. War is the existential negation of the enemy.35 Schmitt claims that his theory is not biased towards war as a choice ('It is by no means as though the political signifies nothing but devastating war and every political deed a military action...it neither favours war nor militarism, neither imperialism nor pacifism') but it is hard to accept his caveat at face value.36 When such a theory takes the form of a social discourse (which it does in a general form) such an ontology can only support, as a kind of originary ground, the basic Clausewitzian assumption that war can be a rational way of resolving political conflicts -- because the import of Schmitt's argument is that such 'political' conflicts are ultimately expressed through the possibility of war. As he says: 'to the enemy concept belongs the ever-present possibility of combat'.37 Where Schmitt meets Clausewitz, as I explain further below, the existential and rationalistic ontologies of war join into a closed circle of mutual support and justification. This closed circle of existential and strategic reason generates a number of dangers. Firstly, the emergence of conflict can generate military action almost automatically simply because the world is conceived in **terms of the distinction between friend and enemy**; because **the very existence of the other constitutes an unacceptable threat**, rather than a chain of actions, judgements and decisions. (As the Israelis insisted of Hezbollah, they 'deny our right to exist'.) **This effaces agency, causality and responsibility from policy and political discourse: our actions can be conceived as independent of the conflict or quarantined from critical enquiry**, as necessities that achieve an instrumental purpose but do not contribute to a new and unpredictable causal chain. Similarly the Clausewitzian idea of force -- which, by transporting a Newtonian category from the natural into the social sciences, assumes the very effect it seeks -- further encourages the resort to military violence. **We ignore the complex history of a conflict, and thus the alternative paths to its resolution that such historical analysis might provide, by portraying conflict as fundamental and existential in nature; as possibly containable or exploitable, but always irresolvable**. Dominant portrayals of the war on terror, and the Israeli-Arab conflict, are arguably examples of such ontologies in action. Secondly, the militaristic force of such an ontology is visible, in Schmitt, in the absolute sense of vulnerability whereby a people can judge whether their 'adversary intends to negate his opponent's way of life'.38 Evoking the kind of thinking that would become controversial in the Bush doctrine, Hegel similarly argues that: ...a state may regard its infinity and honour as at stake in each of its concerns, however minute, and it is all the more inclined to susceptibility to injury the more its strong individuality is impelled as a result of long domestic peace to seek and create a sphere of activity abroad. ....the state is in essence mind and therefore cannot be prepared to stop at just taking notice of an injury after it has actually occurred. On the contrary, there arises in addition as a cause of strife the idea of such an injury...39 **Identity**, even more than physical security or autonomy, is put at stake in such thinking and can be defended and redeemed through warfare (or, when taken to a further extreme of an absolute demonisation and dehumanisation of the other, by mass killing, 'ethnic cleansing' or genocide). However anathema to a classical realist like Morgenthau, for whom prudence was a core political virtue, these have been influential ways of defining national security and defence during the twentieth century and persists into the twenty-first. They infused Cold War strategy in the United States (with the key policy document NSC68 stating that 'the Soviet-led assault on free institutions is worldwide now, and ... a defeat of free institutions anywhere is a defeat everywhere')40 and frames dominant Western responses to the threat posed by Al Qaeda and like groups (as Tony Blair admitted in 2006, 'We could have chosen security as the battleground. But we didn't. We chose values.')41 It has also become influential, in a particularly tragic and destructive way, in Israel, where memories of the Holocaust and (all too common) statements by Muslim and Arab leaders rejecting Israel's existence are mobilised by conservatives to justify military adventurism and a rejectionist policy towards the Palestinians. On the reverse side of such ontologies of national insecurity we find pride and hubris, the belief that martial preparedness and action are vital or healthy for the existence of a people. Clausewitz's thought is thoroughly imbued with this conviction. For example, his definition of war as an act of policy does not refer merely to the policy of cabinets, but expresses the objectives and will of peoples: When whole communities go to war -- whole peoples, and especially civilized peoples -- the reason always lies in some political situation and the occasion is always due to some political object. War, therefore, is an act of policy.42 Such a perspective prefigures Schmitt's definition of the 'political' (an earlier translation reads 'war, therefore, is a political act'), and thus creates an inherent tension between its tendency to fuel the escalation of conflict and Clausewitz's declared aim, in defining war as policy, to prevent war becoming 'a complete, untrammelled, absolute manifestation of violence'.43 Likewise his argument that war is a 'trinity' of people (the source of 'primordial violence, hatred and enmity'), the military (who manage the 'play of chance and probability') and government (which achieve war's 'subordination as an instrument of policy, which makes it subject to reason alone') merges the existential and rationalistic conceptions of war into a theoretical unity.44 The idea that national identities could be built and redeemed through war derived from the 'romantic counter-revolution' in philosophy which opposed the cosmopolitanism of Kant with an emphasis on the absolute state -- as expressed by Hegel's Philosophy of Right, Bismarkian Realpolitik and politicians like Wilhelm Von Humbolt. Humbolt, a Prussian minister of Education, wrote that war 'is one of the most wholesome manifestations that plays a role in the education of the human race', and urged the formation of a national army 'to inspire the citizen with the spirit of true war'. He stated that war 'alone gives the total structure the strength and the diversity without which facility would be weakness and unity would be void'.45 In the Phenomenology of Mind Hegel made similar arguments that to for individuals to find their essence 'Government has from time to time to shake them to the very centre by war'.46 The historian Azar Gat points to the similarity of Clausewitz's arguments that 'a people and a nation can hope for a strong position in the world only if national character and familiarity with war fortify each other by continual interaction' to Hegel's vision of the ethical good of war in his Philosophy of Right.47 Likewise Michael Shapiro sees Clausewitz and Hegel as alike in seeing war 'as an ontological investment in both individual and national completion...Clausewitz figures war as passionate ontological commitment rather than cool political reason...war is a major aspect of being.'48 Hegel's text argues that war is 'a work of freedom' in which 'the individual's substantive duty' merges with the 'independence and sovereignty of the state'.49 Through war, he argues, the ethical health of peoples is preserved in their indifference to the stabilization of finite institutions; just as the blowing of the winds preserves the sea from the foulness which would be the result of a prolonged calm, so the corruption in nations would be the product of a prolonged, let alone 'perpetual' peace.50 Hegel indeed argues that 'sacrifice on behalf of the individuality of the state is a substantial tie between the state and all its members and so is a universal duty...if the state as such, if its autonomy, is in jeopardy, all its citizens are duty bound to answer the summons to its defence'.51 Furthermore, this is not simply a duty, but a form of self-realisation in which the individual dissolves into the higher unity of the state: The intrinsic worth of courage as a disposition of mind is to be found in the genuine, absolute, final end, the sovereignty of the state. The work of courage is to actualise this end, and the means to this end is the sacrifice of personal actuality. This form of experience thus contains the harshness of extreme contradictions: a self-sacrifice which yet is the real existence of one's freedom; the maximum self-subsistence of individuality, yet only a cog playing its part in the mechanism of an external organisation; absolute obedience, renunciation of personal opinions and reasonings, in fact complete absence of mind, coupled with the most intense and comprehensive presence of mind and decision in the moment of acting; the most hostile and so most personal action against individuals, coupled with an attitude of complete indifference or even liking towards them as individuals.52 A more frank statement of the potentially lethal consequences of patriotism -- and its simultaneously physical and conceptual annihilation of the individual human being -- is rarely to be found, one that is repeated today in countless national discourses and the strategic world-view in general. (In contrast, one of Kant's fundamental objections to war was that it involved using men 'as mere machines or instruments'.53) Yet however bizarre and contradictory Hegel's argument, it constitutes a powerful social ontology: an apparently irrefutable discourse of being. It actualises the convergence of war and the social contract in the form of the national security state. Strategic Reason and Scientific Truth By itself, such an account of the nationalist ontology of war and security provides only a general insight into the perseverance of military violence as a core element of politics. It does not explain why so many policymakers think military violence works. As I argued earlier, such an ontology is married to a more rationalistic form of strategic thought that claims to link violent means to political ends predictably and controllably, and which, by doing so, combines military action and national purposes into a common -- and thoroughly modern -- horizon of certainty. Given Hegel's desire to decisively distil and control the dynamic potentials of modernity in thought, it is helpful to focus on the modernity of this ontology -- one that is modern in its adherence to modern scientific models of truth, reality and technological progress, and in its insistence on imposing images of scientific truth from the physical sciences (such as mathematics and physics) onto human behaviour, politics and society. For example, the military theorist and historian Martin van Creveld has argued that one of the reasons Clausewitz was so influential was that his 'ideas seemed to have chimed in with the rationalistic, scientific, and technological outlook associated with the industrial revolution'.54 Set into this epistemological matrix, modern politics and government engages in a sweeping project of mastery and control in which **all of the world's resources -- mineral, animal, physical, human -- are made part of a machinic process of which war and violence are viewed as normal features.** These are the deeper claims and implications of Clausewitzian strategic reason. One of the most revealing contemporary examples comes from the writings (and actions) of Henry Kissinger, a Harvard professor and later U.S. National Security Adviser and Secretary of State. He wrote during the Vietnam war that after 1945 U.S. foreign policy was based 'on the assumption that technology plus managerial skills gave us the ability to reshape the international system and to bring about domestic transformations in emerging countries'. This 'scientific revolution' had 'for all practical purposes, removed technical limits from the exercise of power in foreign policy'.55 Kissinger's conviction was based not merely in his pride in the vast military and bureaucratic apparatus of the United States, but in a particular epistemology (theory of knowledge). Kissinger asserted that the West is 'deeply committed to the notion that the real world is external to the observer, that knowledge consists of recording and classifying data -- the more accurately the better'. This, he claimed, has since the Renaissance set the West apart from an 'undeveloped' world that contains 'cultures that have escaped the early impact of Newtonian thinking' and remain wedded to the 'essentially pre-Newtonian view that the real world is almost entirely internal to the observer'.56 At the same time, Kissinger's hubris and hunger for control was beset by a corrosive anxiety: that, in an era of nuclear weapons proliferation and constant military modernisation, of geopolitical stalemate in Vietnam, and the emergence and militancy of new post-colonial states, order and mastery were harder to define and impose. He worried over the way 'military bipolarity' between the superpowers had 'encouraged political multipolarity', which 'does not guarantee stability. Rigidity is diminished, but so is manageability...equilibrium is difficult to achieve among states widely divergent in values, goals, expectations and previous experience' (emphasis added). He mourned that 'the greatest need of the contemporary international system is an agreed concept of order'.57 Here were the driving obsessions of the modern rational statesman based around a hunger for stasis and certainty that would entrench U.S. hegemony: For the two decades after 1945, our international activities were based on the assumption that technology plus managerial skills gave us the ability to reshape the international system and to bring about domestic transformations in "emerging countries". This direct "operational" concept of international order has proved too simple. Political multipolarity makes it impossible to impose an American design. Our deepest challenge will be to evoke the creativity of a pluralistic world, to base order on political multipolarity even though overwhelming military strength will remain with the two superpowers.58 Kissinger's statement revealed that such cravings for order and certainty continually confront chaos, resistance and uncertainty: clay that won't be worked, flesh that will not yield, enemies that refuse to surrender. This is one of the most powerful lessons of the Indochina wars, which were to continue in a phenomenally destructive fashion for six years after Kissinger wrote these words. Yet as his sinister, Orwellian exhortation to 'evoke the creativity of a pluralistic world' demonstrated, Kissinger's hubris was undiminished. **This is a vicious, historic irony: a desire to control nature, technology, society and human beings that is continually frustrated, but never abandoned or rethought**. By 1968 U.S. Secretary of Defense Robert McNamara, the rationalist policymaker par excellence, had already decided that U.S. power and technology could not prevail in Vietnam; Nixon and Kissinger's refusal to accept this conclusion, to abandon their Cartesian illusions, **was to condemn hundreds of thousands** **more to die** in Indochina and the people of Cambodia to two more decades of horror and misery.59 In 2003 there would be a powerful sense of déja vu as another Republican Administration crowned more than decade of failed and destructive policy on Iraq with a deeply controversial and divisive war to remove Saddam Hussein from power. In this struggle with the lessons of Vietnam, revolutionary resistance, and rapid geopolitical transformation, we are witness to an enduring political and cultural theme: of **a craving for order, control and certainty in the face of continual uncertainty**. Closely related to this anxiety was the way that Kissinger's thinking -- and that of McNamara and earlier imperialists like the British Governor of Egypt Cromer -- was embedded in instrumental images of technology and the machine: the machine as both a tool of power and an image of social and political order. In his essay 'The Government of Subject Races' Cromer envisaged effective imperial rule -- over numerous societies and billions of human beings -- as best achieved by a central authority working 'to ensure the harmonious working of the different parts of the machine'.60 Kissinger analogously invoked the virtues of 'equilibrium', 'manageability' and 'stability' yet, writing some six decades later, was anxious that technological progress no longer brought untroubled control: the Westernising 'spread of technology and its associated rationality...does not inevitably produce a similar concept of reality'.61 We sense the rational policymaker's frustrated desire: the world is supposed to work like a machine, ordered by a form of power and governmental reason which deploys machines and whose desires and processes are meant to run along ordered, rational lines like a machine. Kissinger's desire was little different from that of Cromer who, wrote Edward Said: ...envisions a seat of power in the West and radiating out from it towards the East a great embracing machine, sustaining the central authority yet commanded by it. What the machine's branches feed into it from the East -- human material, material wealth, knowledge, what have you -- is processed by the machine, then converted into more power...the immediate translation of mere Oriental matter into useful substance.62 This desire for order in the shadow of chaos and uncertainty -- the constant war with an intractable and volatile matter -- has **deep roots in modern thought**, and was a major impetus to the development of technological reason and its supporting theories of knowledge. As Kissinger's claims about the West's Newtonian desire for the 'accurate' gathering and classification of 'data' suggest, modern strategy, foreign policy and Realpolitik have been thrust deep into the apparently stable soil of natural science, in the hope of finding immovable and unchallengeable roots there. While this process has origins in ancient Judaic and Greek thought, it crystallised in philosophical terms most powerfully during and after the Renaissance. The key figures in this process were Francis Bacon, Galileo, Isaac Newton, and René Descartes, who all combined a hunger for political and ontological certainty, a positivist epistemology and a naïve faith in the goodness of invention. Bacon sought to create certainty and order, and with it a new human power over the world, through a new empirical methodology based on a harmonious combination of experiment, the senses and the understanding. With this method, he argued, we can 'derive hope from a purer alliance of the faculties (the experimental and rational) than has yet been attempted'.63 In a similar move, Descartes sought to conjure certainty from uncertainty through the application of a new method that moved progressively out from a few basic certainties (the existence of God, the certitude of individual consciousness and a divinely granted faculty of judgement) in a search for pure fixed truths. Mathematics formed the ideal image of this method, with its strict logical reasoning, its quantifiable results and its uncanny insights into the hidden structure of the cosmos.64 Earlier, Galileo had argued that scientists should privilege 'objective', quantifiable qualities over 'merely perceptible' ones; that 'only by means of an exclusively quantitative analysis could science attain certain knowledge of the world'.65 Such doctrines of mathematically verifiable truth were to have powerful echoes in the 20th Century, in the ascendancy of systems analysis, game theory, cybernetics and computing in defense policy and strategic decisions, and in the awesome scientific breakthroughs of nuclear physics, which unlocked the innermost secrets of matter and energy and applied the most advanced applications of mathematics and computing to create the atomic bomb. Yet this new scientific power was marked by a terrible irony: as even Morgenthau understood, the control over matter afforded by the science could never be translated into the control of the weapons themselves, into political utility and rational strategy.66 Bacon thought of the new scientific method not merely as way of achieving a purer access to truth and epistemological certainty, but as liberating a new power that would enable the creation of a new kind of Man. He opened the Novum Organum with the statement that 'knowledge and human power are synonymous', and later wrote of his 'determination...to lay a firmer foundation, and extend to a greater distance the boundaries of human power and dignity'.67 In a revealing and highly negative comparison between 'men's lives in the most polished countries of Europe and in any wild and barbarous region of the new Indies' -- one that echoes in advance Kissinger's distinction between post-and pre-Newtonian cultures -- Bacon set out what was at stake in the advancement of empirical science: anyone making this comparison, he remarked, 'will think it so great, that man may be said to be a god unto man'.68 We may be forgiven for blinking, but in Bacon's thought 'man' was indeed in the process of stealing a new fire from the heavens and seizing God's power over the world for itself. Not only would the new empirical science lead to 'an improvement of mankind's estate, and an increase in their power over nature', but would reverse the primordial humiliation of the Fall of Adam: For man, by the fall, lost at once his state of innocence, and his empire over creation, both of which can be partially recovered even in this life, the first by religion and faith, the second by the arts and sciences. For creation did not become entirely and utterly rebellious by the curse, but in consequence of the Divine decree, 'in the sweat of thy brow thou shalt eat bread'; she is now compelled by our labours (not assuredly by our disputes or magical ceremonies) at length to afford mankind in some degree his bread...69 There is a breathtaking, world-creating hubris in this statement -- one that, in many ways, came to characterise western modernity itself, and which is easily recognisable in a generation of modern technocrats like Kissinger. The Fall of Adam was the Judeo-Christian West's primal creation myth, one that marked humankind as flawed and humbled before God, condemned to hardship and ambivalence. Bacon forecast here a return to Eden, but one of man's own making. This truly was the death of God, of putting man into God's place, and no pious appeals to the continuity or guidance of faith could disguise the awesome epistemological violence which now subordinated creation to man. Bacon indeed argued that inventions are 'new creations and imitations of divine works'. As such, there is nothing but good in science: 'the introduction of great inventions is the most distinguished of human actions...inventions are a blessing and a benefit without injuring or afflicting any'.70 And what would be mankind's 'bread', the rewards of its new 'empire over creation'? If the new method and invention brought modern medicine, social welfare, sanitation, communications, education and comfort, it also enabled the **Armenian genocide, the Holocaust and two world wars; napalm, the B52, the hydrogen bomb, the Kalashnikov rifle and military strategy**. Indeed some of the 20th Century's most far-reaching inventions -- radar, television, rocketry, computing, communications, jet aircraft, the Internet -- would be the product of drives for national security and militarisation. Even the inventions Bacon thought so marvellous and transformative -- printing, gunpowder and the compass -- brought in their wake upheaval and tragedy: printing, dogma and bureaucracy; gunpowder, the rifle and the artillery battery; navigation, slavery and the genocide of indigenous peoples. In short, the legacy of the new empirical science would be ambivalence as much as certainty; degradation as much as enlightenment; the destruction of nature as much as its utilisation. Doubts and Fears: Technology as Ontology If Bacon could not reasonably be expected to foresee many of these developments, the idea that scientific and technological progress could be destructive did occur to him. However it was an anxiety he summarily dismissed: ...let none be alarmed at the objection of the arts and sciences becoming depraved to malevolent or luxurious purposes and the like, for the same can be said of every worldly good; talent, courage, strength, beauty, riches, light itself...Only let mankind regain their rights over nature, assigned to them by the gift of God, and obtain that power, whose exercise will be governed by right reason and true religion.71 By the mid-Twentieth Century, after the destruction of Hiroshima and Nagasaki, such fears could no longer be so easily wished away, as the physicist and scientific director of the Manhattan Project, J. Robert Oppenheimer recognised. He said in a 1947 lecture: We felt a particularly intimate responsibility for suggesting, for supporting and in the end in large measure achieving the realization of atomic weapons...In some sort of crude sense which no vulgarity, no humor, no over-statement can quite extinguish, the physicists have known sin, and this is a knowledge they cannot lose.72 Adam had fallen once more, but into a world which refused to acknowledge its renewed intimacy with contingency and evil. Man's empire over creation -- his discovery of the innermost secrets of matter and energy, of the fires that fuelled the stars -- had not 'enhanced human power and dignity' as Bacon claimed, but instead brought destruction and horror. Scientific powers that had been consciously applied in the defence of life and in the hope of its betterment **now threatened its total and absolute destruction**. This would not prevent a legion of scientists, soldiers and national security policymakers later attempting to apply Bacon's faith in invention and Descartes' faith in mathematics to make of the Bomb a rational weapon. Oppenheimer -- who resolutely opposed the development of the hydrogen bomb -- understood what the strategists could not: that the weapons resisted control, resisted utility, that 'with the release of atomic energy quite revolutionary changes had occurred in the techniques of warfare'.73 Yet Bacon's legacy, one deeply imprinted on the strategists, was his view that truth and utility are 'perfectly identical'.74 In 1947 Oppenheimer had clung to the hope that 'knowledge is good...it seems hard to live any other way than thinking it was better to know something than not to know it; and the more you know, the better'; by 1960 he felt that 'terror attaches to new knowledge. It has an unmooring quality; it finds men unprepared to deal with it.'75 Martin Heidegger questioned this mapping of natural science onto the social world in his essays on technology -- which, as 'machine', has been so crucial to modern strategic and geopolitical thought as an image of perfect function and order and a powerful tool of intervention. He commented that, given that modern technology 'employs exact physical science...the deceptive illusion arises that modern technology is applied physical science'.76 Yet as the essays and speeches of Oppenheimer attest, technology and its relation to science, society and war cannot be reduced to a noiseless series of translations of science for politics, knowledge for force, or force for good. Instead, Oppenheimer saw a process frustrated by roadblocks and ruptured by irony; in his view there was no smooth, unproblematic translation of scientific truth into social truth, and technology was not its vehicle. Rather his comments raise profound and painful ethical questions that resonate with terror and uncertainty. Yet this has not prevented technology becoming a potent object of desire, not merely as an instrument of power but as a promise and conduit of certainty itself. In the minds of too many rational soldiers, strategists and policymakers, technology brings with it the truth of its enabling science and spreads it over the world. It turns epistemological certainty into political certainty; it turns control over 'facts' into control over the earth. Heidegger's insights into this phenomena I find especially telling and disturbing -- because they underline the ontological force of the instrumental view of politics. In The Question Concerning Technology, Heidegger's striking argument was that in the modernising West technology is not merely a tool, a 'means to an end'. Rather **technology has become a governing image of the modern universe, one that has come to order, limit and define human existence as a 'calculable coherence of forces' and a 'standing reserve' of energy**. Heidegger wrote: 'the threat to man does not come in the first instance from the potentially lethal machines and apparatus of technology. The actual threat has already affected man in his essence.'77 This process Heidegger calls 'Enframing' and through it the scientific mind **demands that 'nature reports itself** in some way or other that is identifiable through calculation and remains orderable as a system of information'. Man is not a being who makes and uses machines as means, choosing and limiting their impact on the world for his ends; rather man has imagined the world as a machine and humanity everywhere becomes **trapped within its logic**. Man, he writes, 'comes to the very brink of a precipitous fall...where **he himself will have to be taken as standing-reserve**. Meanwhile Man, precisely as the one so threatened, exalts himself to the posture of lord of the earth.'78 Technological man not only becomes the name for a project of lordship and mastery over the earth, but incorporates humanity within this project as a calculable resource. **In strategy, warfare and geopolitics human bodies, actions and aspirations are caught, transformed and perverted by such calculating, enframing reason: human lives are reduced to tools, obstacles, useful or obstinate matter.** This tells us much about the enduring power of crude instrumental versions of strategic thought, which relate not merely to the actual use of force but to broader geopolitical strategies that see, as limited war theorists like Robert Osgood did, force as an 'instrument of policy short of war'. It was from within this strategic ontology that figures like the Nobel prize-winning economist Thomas Schelling theorised the strategic role of threats and coercive diplomacy, and spoke of strategy as 'the power to hurt'.79 In the 2006 Lebanon war we can see such thinking in the remark of a U.S. analyst, a former Ambassador to Israel and Syria, who speculated that by targeting civilians and infrastructure Israel aimed 'to create enough pain on the ground so there would be a local political reaction to Hezbollah's adventurism'.80 Similarly a retired Israeli army colonel told the Washington Post that 'Israel is attempting to create a rift between the Lebanese population and Hezbollah supporters by exacting a heavy price from the elite in Beirut. The message is: If you want your air conditioning to work and if you want to be able to fly to Paris for shopping, you must pull your head out of the sand and take action toward shutting down Hezbollah-land.'81 Conclusion: Violent Ontologies or Peaceful Choices? I was motivated to begin the larger project from which this essay derives by a number of concerns. I felt that the available critical, interpretive or performative languages of war -- realist and liberal international relations theories, just war theories, and various Clausewitzian derivations of strategy -- failed us, because they either perform or refuse to **place under suspicion the underlying political ontologies** that I have sought to unmask and question here. Many realists have quite nuanced and critical attitudes to the use of force, but ultimately affirm strategic thought and remain embedded within the existential framework of the nation-state. Both liberal internationalist and just war doctrines seek mainly to improve the accountability of decision-making in security affairs and to limit some of the worst moral enormities of war, but (apart from the more radical versions of cosmopolitanism) they fail to question the ontological claims of political community or strategic theory.82 In the case of a theorist like Jean Bethke Elshtain, just war doctrine is in fact allied to a softer, liberalised form of the Hegelian-Schmittian ontology. She dismisses Kant's Perpetual Peace as 'a fantasy of at-oneness...a world in which differences have all been rubbed off' and in which 'politics, which is the way human beings have devised for dealing with their differences, gets eliminated.'83 She remains a committed liberal democrat and espouses a moral community that stretches beyond the nation-state, which strongly contrasts with Schmitt's hostility to liberalism and his claustrophobic distinction between friend and enemy. However her image of politics -- which at its limits, she implies, requires the resort to war as the only existentially satisfying way of resolving deep-seated conflicts -- reflects much of Schmitt's idea of the political and Hegel's ontology of a fundamentally alienated world of nation-states, in which war is a performance of being. She categorically states that any effort to dismantle security dilemmas 'also requires the dismantling of human beings as we know them'.84 Whilst this would not be true of all just war advocates, I suspect that even as they are so concerned with the ought, moral theories of violence grant too much unquestioned power to the is. The problem here lies with the confidence in being -- of 'human beings as we know them' -- which ultimately fails to escape a Schmittian architecture and thus eternally exacerbates (indeed **reifies) antagonisms**. Yet we know from the work of Deleuze and especially William Connolly that **exchanging an ontology of being for one of becoming**, where the boundaries and nature of the self contain new possibilities through agonistic relation to others, provides a less destructive and violent way of acknowledging and dealing with conflict and difference.85 My argument here, whilst normatively sympathetic to Kant's moral demand for the eventual abolition of war, militates against excessive optimism.86 Even as I am arguing that war is not an enduring historical or anthropological feature, or a neutral and rational instrument of policy -- that it is rather the product of **hegemonic forms of knowledge** about political action and community -- my analysis does suggest some sobering conclusions about its power as an idea and formation. Neither the progressive flow of history nor the pacific tendencies of an international society of republican states will save us. The violent ontologies I have described here in fact dominate the conceptual and policy frameworks of modern republican states and have come, against everything Kant hoped for, to stand in for progress, modernity and reason. Indeed what Heidegger argues, I think with some credibility, is that the enframing world view has come to stand in for being itself. Enframing, argues Heidegger, 'does not simply endanger man in his relationship to himself and to everything that is...it **drives out every other possibility of revealing**...the rule of Enframing threatens man with the possibility that it could be denied to him to enter into a more original revealing and hence to experience the call of a more primal truth.'87 What I take from Heidegger's argument -- one that I have sought to extend by analysing the militaristic power of modern ontologies of political existence and security -- is a view that the challenge is posed not merely by a few varieties of weapon, government, technology or policy, but **by an overarching system of thinking and understanding that lays claim to our entire space of truth and existence**. Many of the most destructive features of contemporary modernity -- militarism, repression, coercive diplomacy, covert intervention, geopolitics, economic exploitation and ecological destruction -- derive not merely from particular choices by policymakers based on their particular interests, but from **calculative, 'empirical' discourses of scientific and political truth rooted in powerful enlightenment images of being. Confined within such an epistemological and cultural universe, policymakers' choices become necessities, their actions become inevitabilities, and humans suffer and die**. Viewed in this light, 'rationality' is the name we give the chain of reasoning which builds one structure of truth on another until a course of action, however violent or dangerous, becomes preordained through that reasoning's very operation and existence. It creates both discursive constraints -- available choices may simply not be seen as credible or legitimate -- and material constraints that derive from the mutually reinforcing cascade of discourses and events which then **preordain militarism and violence as necessary policy responses**, however ineffective, dysfunctional or chaotic. The force of my own and Heidegger's analysis does, admittedly, tend towards a deterministic fatalism. On my part this is quite deliberate; it is important to allow this possible conclusion to weigh on us. Large sections of modern societies -- especially parts of the media, political leaderships and national security institutions -- are utterly trapped within the Clausewitzian paradigm, within the instrumental utilitarianism of 'enframing' and the stark ontology of the friend and enemy. They are certainly tremendously aggressive and energetic in continually stating and reinstating its force. But is there a way out? Is there no possibility of agency and choice? Is this not the key normative problem I raised at the outset, of how the modern ontologies of war efface agency, causality and responsibility from decision making; the responsibility that comes with having choices and making decisions, with exercising power? (In this I am much closer to Connolly than Foucault, in Connolly's insistence that, even in the face of the anonymous power of discourse to produce and limit subjects, selves remain capable of agency and thus incur responsibilities.88) There seems no point in following Heidegger in seeking a more 'primal truth' of being -- that is to reinstate ontology and obscure its worldly manifestations and consequences from critique. However we can, while refusing Heidegger's unworldly89 nostalgia, appreciate that he was searching for a way out of the modern system of calculation; that he was searching for **a 'questioning', 'free relationship' to technology that would not be immediately recaptured by the strategic, calculating vision of enframing**. Yet his path out is somewhat chimerical -- his faith in 'art' and the older Greek attitudes of 'responsibility and indebtedness' offer us valuable clues to the kind of sensibility needed, but little more. When we consider the problem of policy, the force of this analysis suggests that choice and agency can be all too often limited; they can remain confined (sometimes quite wilfully) within the overarching strategic and security paradigms. Or, more hopefully, policy choices could aim to bring into being a more enduringly inclusive, cosmopolitan and peaceful logic of the political. But this **cannot be done without seizing alternatives from outside the space of enframing and utilitarian strategic thought**, by being aware of its presence and weight and activating a very different concept of existence, security and action.90 **This would seem to hinge upon 'questioning'** as such -- on the questions we put to the real and our efforts to create and act into it. Do security and strategic policies seek to exploit and direct humans as material, as energy, or do they seek to protect and enlarge human dignity and autonomy? Do they seek to impose by force an unjust status quo (as in Palestine), or to remove one injustice only to replace it with others (the U.S. in Iraq or Afghanistan), or do so at an unacceptable human, economic, and environmental price? Do we see our actions within an instrumental, amoral framework (of 'interests') and a linear chain of causes and effects (the idea of force), or do we see them as folding into a complex interplay of languages, norms, events and consequences which are less predictable and controllable?91 And most fundamentally: Are we seeking to coerce or persuade? Are less violent and more sustainable choices available? Will our actions perpetuate or help to end the global rule of insecurity and violence? Will our thought?

#### Reject the affirmative’s security discourse – this untimely intervention is the only chance for a counter-discourse

Calkivik 10 – PhD in Poli Sci @ Univ Minnesota (Emine Asli, 10/2010, "DISMANTLING SECURITY," PhD dissertation submitted to Univ Minnesota for Raymond Duvall, http://conservancy.umn.edu/bitstream/99479/1/Calkivik\_umn\_0130E\_11576.pdf)

It is this self-evidence of security even for critical approaches and the antinomy stemming from dissident voices reproducing the language of those they dissent from that constitutes the starting point for this chapter, where I elaborate on the meaning of dismantling security as untimely critique. As mentioned in the vignette in the opening section, the suggestion to dismantle security was itself deemed as an untimely pursuit in a world where lives of millions were rendered brutally insecure by poverty, violence, disease, and ongoing political conflicts. Colored by the tone of a call to conscience in the face of the ongoing crisis of security, it was not the time, interlocutors argued, for self-indulgent critique. I will argue that it is the element of being untimely, the effort, in the words of Walter Benjamin, “to brush history against the grain” that gives critical thinking its power.291 It might appear as a trivial discussion to bring up the relation between time and critique because conceptions of critical thinking in the discipline of International Relations already possess the notion that critical thought needs to be untimely. In the first section, I will tease out what this notion of untimeliness entails by visiting ongoing conversations within the discipline about critical thought and political time. Through this discussion, I hope to clarify what sets apart dismantling security as untimely critique from the notion of untimeliness at work in critical international relations theory. The latter conception of the untimely, I will suggest, paradoxically calls on critical thought to be “on time” in that it champions a particular understanding of what it means for critical scholarship to be relevant and responsible for its times. This notion of the untimely demands that critique be strategic and respond to political exigency, that it provide answers in this light instead of raising more questions about which questions could be raised or what presuppositions underlie the questions that are deemed to be waiting for answers. After elaborating in the first section such strategic conceptions of the untimeliness of critical theorizing, in the second section I will turn to a different sense of the untimely by drawing upon Wendy Brown’s discussion of the relation between critique, crisis, and political time through her reading of Benjamin’s “Theses on the Philosophy of History.”292 In contrast to a notion of untimeliness that demands strategic thinking and punctuality, Brown’s exegesis provides a conception of historical materialism where critique is figured as a force of disruption, a form of intervention that reconfigures the meaning of the times and “contest[s] the very senses of time invoked to declare critique ‘untimely’.”293 Her exposition overturns the view of critique as a self-indulgent practice as it highlights the immediately political nature of critique and reconfigures the meaning of what it means for critical thought to be relevant.294 It is in this sense of the untimely, I will suggest, that dismantling security as a critique hopes to recover. I should point out that in this discussion my intention is neither to construct a theory of critique nor to provide an exhaustive review and evaluation of the forms of critical theorizing in International Relations. Rather, my aim is to contribute to the existing efforts that engage with the question of what it means to be critical apart from drawing the epistemological and methodological boundaries so as to think about how one is critical.295 While I do not deny the importance of epistemological questions, I contend that taking time to think about the meaning of critique beyond these issues presents itself as an important task. This task takes on additional importance within the context of security studies where any realm of investigation quickly begets its critical counterpart. The rapid emergence and institutionalization of critical terrorism studies when studies on terrorism were proliferating under the auspices of the so-called Global War on Terror provides a striking example to this trend. 296 Such instances are important reminders that, to the extent that epistemology and methodology are reified as the sole concerns in defining and assessing critical thinking297 or “wrong headed refusals”298 to get on with positive projects and empirical research gets branded as debilitating for critical projects, what is erased from sight is the political nature of the questions asked and what is lost is the chance to reflect upon what it means for critical thinking to respond to its times. In his meditation on the meaning of responding and the sense of responsibility entailed by writing, Jean-Luc Nancy suggests that “all writing is ‘committed.’” 299 This notion of commitment diverges from the programmatic sense of committed writing. What underlies this conception is an understanding of writing as responding: writing is a response to the voice of an other.In Nancy’s words, “[w]hoever writes responds” 300 and “makes himself responsible to in the absolute sense.”301 Suggesting that there is always an ethical commitment prior to any particular political commitment, such a notion of writing contests the notion of creative autonomy premised on the idea of a free, self-legislating subject who responds. In other words, it discredits the idea of an original voice by suggesting that there is no voice that is not a response to a prior response. Hence, to respond is configured as responding to an expectation rather than as an answer to a question and responsibility is cast as an “anticipated response to questions, to demands, to still-unformulated, not exactly predictable expectations.”302 Echoing Nancy, David Campbell makes an important reminder as he suggests that as international relations scholars “we are always already engaged,” although the sites, mechanisms and quality of engagements might vary.303 The question, then, is not whether as scholars we are engaged or not, but what the nature of this engagement is. Such a re-framing of the question is intended to highlight the political nature of all interpretation and the importance of developing an “ethos of political criticism that is concerned with assumptions, limits, their historical production, social and political effects, and the possibility of going beyond them in thought and action.”304 Taking as its object assumptions and limits, their historical production and social and political effects places the relevancy of critical thought and responsibility of critical scholarship on new ground. It is this ethos of critique that dismantling security hopes to recover for a discipline where security operates as the foundational principle and where critical thinking keeps on contributing to security’s impressing itself as a self-evident condition. Critical Theory and Punctuality Within the context of International Relations, critical thought’s orientation toward its time comes out strongly in Kimberley Hutchings’s formulation.305 According to Hutchings, no matter what form it takes, what distinguishes critical international relations theory from other forms of theorizing is “its orientation towards change and the possibility of futures that do not reproduce the hegemonic power of the present.”306 What this implies about the nature of critical thought is that it needs to be not only diagnostic, but also self-reflexive. In the words of Hutchings, “all critical theories lay claim to some kind of account not only of the present of international politics and its relation to possible futures, but also of the role of critical theory in the present and future in international politics.” 307 Not only analyzing the present, but also introducing the question of the future into analysis places political time at the center of critical enterprise and makes the problem of change a core concern. It is this question of change that situates different forms of critical thinking on a shared ground since they all attempt to expose the way in which what is presented as given and natural is historically produced and hence open to change. With their orientation to change, their efforts to go against the dominant currents and challenge the hegemony of existing power relations by showing how contemporary practices and discourses contribute to the perpetuation of structures of power and domination, critical theorists in general and critical security studies specialists in particular take on an untimely endeavor. It is this understanding of the untimely aspect of critical thinking that is emphasized by Mark Neufeld, who regards the development of critical approaches to security as “one of the more hopeful intellectual developments in recent years.”308 Despite nurturing from different theoretical traditions and therefore harboring “fundamental differences between modernist and postmodernist commitments,” writes Neufeld, scholars who are involved in the critical project nevertheless “share a common concern with calling into question ‘prevailing social and power relationships and the institutions into which they are organized.’” 309 The desire for change—through being untimely and making the way to alternative futures that would no longer resemble the present—have led some scholars to emphasize the utopian element that must accompany all critical thinking. Quoting Oscar Wilde’s aphorism—a map of the world that does not include Utopia is not even worth glancing at, Ken Booth argues for the need to restore the role and reputation of utopianism in the theory and practice of international politics. 310 According to Booth, what goes under the banner of realism—“ethnocentric self-interest writ large”311 — falls far beyond the realities of a drastically changed world political landscape at the end of the Cold War. He describes the new reality as “an egg-box containing the shells of sovereignty; but alongside it a global community omelette [sic] is cooking.”312 Rather than insisting on the inescapability of war in the international system as political realists argue, Booth argues for the need and possibility to work toward the utopia of overcoming the condition of war by banking on the opportunities provided by a globalizing world. The point that critical thought needs to be untimely by going against its time is also emphasized by Dunne and Wheeler, who assert that, regardless of the form it takes, “critical theory purport[s] to ‘think against’ the prevailing current” and that “[c]ritical security studies is no exception” to this enterprise.313 According to the authors, the function of critical approaches to security is to problematize what is taken for granted in the disciplinary production of knowledge about security by “resist[ing], transcend[ing] and defeat[ing]…theories of security, which take for granted who is to be secured (the state), how security is to be achieved (by defending core ‘national’ values, forcibly if necessary) and from whom security is needed (the enemy).”314 While critical theory in this way is figured as untimely, I want to suggest that this notion of untimeliness gets construed paradoxically in a quite timely fashion. With a perceived disjuncture between writing the world from within a discipline and acting in it placed at the center of the debates, the performance of critical thought gets evaluated to the extent that it is punctual and in synch with the times. Does critical thought provide concrete guidance and prescribe what is to be done? Can it move beyond mere talk and make timely political interventions by providing solutions? Does it have answers to the strategic questions of progressive movements? Demanding that critical theorizing come clean in the court of these questions, such conceptions of the untimely demand that critique respond to its times in a responsible way, where being responsible is understood in stark contrast to a notion of responding and responsibility that I briefly discussed in the introductory pages of this chapter (through the works of Jean-Luc Nancy and David Campbell). Let me visit two recent conversations ensuing from the declarations of the contemporary crisis of critical theorizing in order to clarify what I mean by a timely understanding of untimely critique. The first conversation was published as a special issue in the Review of International Studies (RIS), one of the major journals of the field. Prominent figures took the 25th anniversary of the journal’s publication of two key texts—regarded as canonical for the launching and development of critical theorizing in International Relations—as an opportunity to reflect upon and assess the impact of critical theory in the discipline and interrogate what its future might be. 315 The texts in question, which are depicted as having shaken the premises of the static world of the discipline, are Robert Cox’s 1981 essay entitled on “Social Forces, States, and World Orders”316 and Richard Ashley’s article, “Political Realism and Human Interests.”317 In their introductory essay to the issue, Rengger and Thirkell-White suggest that the essays by Cox and Ashley—followed by Andrew Linklater’s Men and Citizens in the Theory of International Relations318 —represent “the breach in the dyke” of the three dominant discourses in International Relations (i.e., positivists, English School, and Marxism), unleashing “a torrent [that would] soon become a flood” as variety of theoretical approaches in contemporary social theory (i.e., feminism, Neo-Gramscianism, poststructuralism, and post-colonialism) would get introduced through the works of critical scholars.319 After elaborating the various responses given to and resistance raised against the critical project in the discipline, the authors provide an overview and an assessment of the current state of critical theorizing in International Relations. They argue that the central question for much of the ongoing debate within the critical camp in its present state—a question that it cannot help but come to terms with and provide a response to—concerns the relation between critical thought and political practice. As they state, the “fundamental philosophical question [that] can no longer be sidestepped” by critical International Relations theory is the question of the relation between “knowledge of the world and action in it.”320 One of the points alluded to in the essay is that forms of critical theorizing, which leave the future “to contingency, uncertainty and the multiplicity of political projects” and therefore provide “less guidance for concrete political action”321 or, again, those that problematize underlying assumptions of thought and “say little about the potential political agency that might be involved in any subsequent struggles”322 may render the critical enterprise impotent and perhaps even suspect. This point comes out clearly in Craig Murphy’s contribution to the collection of essays in the RIS’s special issue. 323 Echoing William Wallace’s argument that critical theorists tend to be “monks,”324 who have little to offer for political actors engaged in real world politics, Murphy argues that the promise of critical theory is “partially kept” because of the limited influence it has had outside the academy towards changing the world.Building a different world, he suggests, requires more than isolated academic talk; that it demands not merely “words,” but “deeds.”325 This, according to Murphy, requires providing “knowledge that contributes to change.”326 Such knowledge would emanate from connections with the marginalized and would incorporate observations of actors in their everyday practices. More importantly, it would create an inspiring vision for social movements, such as the one provided by the concept of human development, which, according to Murphy, was especially powerful “because it embodied a value-oriented way of seeing, a vision, rather than only isolated observations.”327 In sum, if critical theory is to retain its critical edge, Murphy’s discussion suggests, it has to be in synch with political time and respond to its immediate demands. The second debate that is revelatory of this conception of the timing of critical theory—i.e., that critical thinking be strategic and efficient in relation to political time—takes place in relation to the contemporary in/security environment shaped by the so-called Global War on Terror. The theme that bears its mark on these debates is the extent to which critical inquiries about the contemporary security landscape become complicit in the workings of power and what critique can offer to render the world more legible for progressive struggles.328 For instance, warning critical theorists against being co-opted by or aligned with belligerence and war-mongering, Richard Devetak asserts that critical international theory has an urgent “need to distinguish its position all the more clearly from liberal imperialism.”329 While scholars such as Devetak, Booth,330 and Fierke331 take the critical task to be an attempt to rescue liberal internationalism from turning into liberal imperialism, others announce the “crisis of critical theorizing” and suggest that critical writings on the nature of the contemporary security order lack the resources to grasp their actual limitations, where the latter is said to reside not in the realm of academic debate, but in the realm of political practice.332 It is amidst these debates on critique, crisis, and political time that Richard Beardsworth raises the question of the future of critical philosophy in the face of the challenges posed by contemporary world politics.333 Recounting these challenges, he provides the matrix for a proper form of critical inquiry that could come to terms with “[o]ur historical actuality.”334 He describes this actuality as the “thick context” of modernity (“an epoch, delimited by the capitalization of social relations,” which imposes its own philosophical problematic—“that is, the attempt, following the social consequences of capitalism, to articulate the relation between individuality and collective spirit”335 ), American unilateralism in the aftermath of the attacks on September 11, 2001, and the growing political disempowerment of people worldwide. Arguing that “contemporary return of religion and new forms of irrationalism emerge, in large part, out of the failure of the second response of modernity to provide a secular solution to the inequalities of the nation-state and colonization,”336 he formulates the awaiting political task for critical endeavors as constructing a world polity to resist the disintegration of the world under the force of capital.It is with this goal in mind that he suggests that “responsible scholarship needs to rescue reason in the face irrational war”337 and that intellectuals need to provide “the framework for a world ethical community of law, endowed with political mechanisms of implementation in the context of a regulated planetary economy.”338 He suggests that an aporetic form of thinking such as Jacques Derrida’s—a thinking that “ignores the affirmative relation between the determining powers of reason and history”339 —would be an unhelpful resource because such thinking “does not open up to where work needs to be done for these new forms of polity to emerge.”340 In other words, critical thinking, according to Beardsworth, needs to articulate and point out possible political avenues and to orient thought and action in concrete ways so as to contribute to progressive political change rather than dwelling on the encounter of the incalculable and calculation and im-possibility of world democracy in a Derridean fashion. In similar ways to the first debate on critique that I discussed, critical thinking is once again called upon to respond to political time in a strategic and efficient manner. As critical inquiry gets summoned up to the court of reason in Beardsworth’s account, its realm of engagement is limited to that which the light of reason can be shed upon, and its politics is confined to mapping out the achievable and the doable in a given historical context without questioning or disrupting the limits of what is presented as “realistic” choices. Hence, if untimely critical thought is to be meaningful it has to be on time by responding to political exigency in a practical, efficient, and strategic manner. In contrast to this prevalent form of understanding the untimeliness of critical theory, I will now turn to a different account of the untimely provided by Wendy Brown whose work informs the project of dismantling security as untimely critique. Drawing from her discussion of the relationship between critique, crisis, and political time, I will suggest that untimely critique of security entails, simultaneously, an attunement to the times and an aggressive violation of their self-conception. It is in this different sense of the untimely that the suggestion of dismantling security needs to be situated. Critique and Political Time As I suggested in the Prelude to this chapter, elevating security itself to the position of major protagonist and extending a call to “dismantle security” was itself declared to be an untimely pursuit in a time depicted as the time of crisis in security. Such a declaration stood as an exemplary moment (not in the sense of illustration or allegory, but as a moment of crystallization) for disciplinary prohibitions to think and act otherwise—perhaps the moment when a doxa exhibits its most powerful hold. Hence, what is first needed is to overturn the taken-for-granted relations between crisis, timeliness, and critique. The roots krisis and kritik can be traced back to the Greek word krinõ, which meant “to separate”, to “choose,” to “judge,” to “decide.”341 While creating a broad spectrum of meanings, it was intimately related to politics as it connoted a “divorce” or “quarrel,” but also a moment of decision and a turning point. It was also used as a jurisprudential term in the sense of making a decision, reaching a verdict or judgment (kritik) on an alleged disorder so as to provide a way to restore order. Rather than being separated into two domains of meaning—that of “subjective critique” and “objective crisis”—krisis and kritik were conceived as interlinked moments. Koselleck explains this conceptual fusion: [I]t wasin the sense of “judgment,” “trial,” “legal decision,” and ultimately “court” that crisis achieved a high constitutionalstatus, through which the individual citizen and the community were bound together. The “for and against” wastherefore present in the original meaning of the word and thisin a manner that already conceptually anticipated the appropriate judgment. 342 Recognition of an objective crisis and subjective judgments to be passed on it so as to come up with a formula for restoring the health of the polity by setting the times right were thereby infused and implicated in each other.343 Consequently, as Brown notes, there could be no such thing as “mere critique” or “untimely critique” because critique always entailed a concern with political time: “[C]ritique as political krisis promise[d] to restore continuity by repairing or renewing the justice that gives an order the prospect of continuity, that indeed ma[de] it continuous.”344 The breaking of this intimate link between krisis and kritik, the consequent depoliticization of critique and its sundering from crisis coincides with the rise of modern political order and redistribution of the public space into the binary structure of sovereign and subject, public and private.345 Failing to note the link between the critique it practiced and the looming political crisis, emerging philosophies of history, according Koselleck, had the effect of obfuscating this crisis. As he explains, “[n]ever politically grasped, [this political crisis] remained concealed in historico-philosophical images of the future which cause the day’s events to pale.”346 It is this intimate, but severed, link between crisis and critique in historical narratives that Wendy Brown’s discussion brings to the fore and re-problematizes. She turns to Walter Benjamin’s “Theses on the Philosophy of History” and challenges conventional understandings of historical materialism, which conceives of the present in terms of unfolding laws of history.347 According to Brown, the practice of critical theory appeals to a concern with time to the extent that “[t]he crisis that incites critique and that critique engages itself signals a rupture of temporal continuity, which is at the same time a rupture in political imaginary.”348 Cast in these terms, it is a particular experience with time, with the present, that Brown suggests Benjamin’s theses aim to capture. Rather than an unmoving or an automatically overcome present (a present that is out of time), the present is interpreted as an opening that calls for a response to it. This call for a response highlights the idea that, far from being a luxury, critique is non-optional in its nature. Such an understanding of critical thought is premised on a historical consciousness that grasps the present historically so as to break with the selfconception of the age. Untimely critique transforms into a technique to blow up the present through fracturing its apparent seamlessness by insisting on alternatives to its closed political and epistemological universe.349 Such a conception resonates with the distinction that Žižek makes between a political subjectivity that is confined to choosing between the existing alternatives—one that takes the limits of what is given as the limits to what is possible—and a form of subjectivity that creates the very set of alternatives by “transcend[ing] the coordinates of a given situation [and] ‘posit[ing] the presuppositions’ of one's activity” by redefining the very situation within which one is active.”350 With its attempt to grasp the times in its singularity, critique is cast neither as a breaking free from the weight of time (which would amount to ahistoricity) nor being weighed down by the times (as in the case of teleology).351 It conceives the present as “historically contoured but not itself experienced as history because not necessarily continuous with what has been.”352 It is an attitude that renders the present as the site of “non-utopian possibility” since it is historically situated and constrained yet also a possibility since it is not historically foreordained or determined.353 It entails contesting the delimitations of choice and challenging the confinement of politics to existing possibilities. Rather than positing history as existing objectively outside of narration, what Brown’s discussion highlights is the intimate relation between the constitution of political subjectivity vis-à-vis the meaning of history for the present. It alludes to “the power of historical discourse,” which Mowitt explains as a power “to estrange us from that which is most familiar, namely, the fixity of the present” because “what we believe to have happened to us bears concretely on what we are prepared to do with ourselves both now and in the future.”354 Mark Neocleous concretizes the political stakes entailed in such encounters with history—with the dead—from the perspective of three political traditions: a conservative one, which aims to reconcile the dead with the living, a fascist one, which aims to resurrect the dead to legitimate its fascist program, and a historical materialist one, which seeks redemption with the dead as the source of hope and inspiration for the future.355 Brown’s discussion of critique and political time is significant for highlighting the immediately political nature of critique in contrast to contemporary invocations that cast it as a self-indulgent practice, an untimely luxury, a disinterested, distanced, academic endeavor. Her attempt to trace critique vis-à-vis its relation to political time provides a counter-narrative to the conservative and moralizing assertions that shun untimely critique of security as a luxurious interest that is committed to abstract ideals rather than to the “reality” of politics—i.e., running after utopia rather than modeling “real world” solutions. Dismantling security as untimely critique entails a similar claim to unsettle the accounts of “what the times are” with a “bid to reset time.”356 It aspires to be untimely in the face of the demands on critical thought to be on time; aims to challenge the moralizing move, the call to conscience that arrives in the form of assertions that saying “no!” to security, that refusing to write it, would be untimely. Rather than succumbing to the injunction that thought of political possibility is to be confined within the framework of security, dismantling security aims to open up space for alternative forms, for a different language of politics so as to “stop digging” the hole politics of security have dug us and start building a counter-discourse. Conclusion As an attempt to push a debate that is fixated on security to the limit and explore what it means to dismantle security, my engagement with various aspects of this move is not intended as an analysis raised at the level of causal interpretations or as an attempt to find better solutions to a problem that already has a name. Rather, it tries to recast what is taken-for-granted by attending to the conceptual assumptions, the historical and systemic conditions within which the politics of security plays itself out. As I tried to show in this chapter, it also entails a simultaneous move of refusing to be a disciple of the discipline of security. This implies overturning not only the silent disciplinary protocols about which questions are legitimate to ask, but also the very framework that informs those questions. It is from this perspective that I devoted two chapters to examining and clarifying the proposal to dismantle security as a claim on time. After explicating, in Chapter 4, the temporal structure that is enacted by politics of security and elaborating on how security structures the relation between the present and the future, in this chapter, I approached the question of temporality from a different perspective, by situating it in relation to disciplinary times in order to clarify what an untimely critique of security means. I tried to elaborate this notion of the untimely by exploring the understanding of untimeliness that informs certain conceptions of critical theorizing in International Relations. I suggested that such a notion of the untimely paradoxically calls on critical thought to be on time in the sense of being punctual and strategic. Turning to Wendy Brown’s discussion of the relation between critique and political time, I elaborated on the sense of untimely critique that dismantling security strives for—a critique that goes against the times that are saturated by the infinite passion to secure and works toward taking apart the architecture of security.

### 3

#### CP TEXT: The United States Federal Judiciary should conduct judicial ex post review of United States’ drone strike operations, with liability falling on the government for any constitutional violation, on the grounds that the political question doctrine should not bar justiciability of cases against the military.

#### Competes – Targeted killing includes drones and special force raids – only the plan restricts special forces

Alston 11 (Phillip – John Norton Pomeroy Professor of Law, New York University School of Law, “ARTICLE: The CIA and Targeted Killings Beyond Borders”, 2011, 2 Harv. Nat'l Sec. J. 283, lexis)

The two principal targeted killing techniques are kill-or-capture raids and air strikes from unmanned aerial vehicles commonly known as drones. The individuals targeted are alleged terrorists or others deemed dangerous, and their inclusion on what are known as kill/capture lists is based on undisclosed intelligence applied against secret criteria. In Afghanistan alone it appears that there are at least six different kill/capture lists, with a total of thousands of names on them. While the CIA has been actively engaged in kill/capture missions since its arrival in Afghanistan in the days immediately after 9/11, it sometimes operates in conjunction with DOD Special Operations Forces under the command of JSOC, a body that also leads a determinedly twilight existence. Because the targeting operations and the kill/capture lists on which they are based are secret, the CIA will neither confirm nor deny their existence. [\*286] The CIA's drone-based killing programs have so far killed well in excess of 2,000 persons in Pakistan, and it has been involved in such drone programs in at least four other countries. This number is likely to expand significantly in the years ahead as a result of a combination of factors, including the perceived effectiveness of drone killings, the relatively low costs involved, shrinking overall defense budgets, a diminishing appetite for traditional warfare, the very low risk to United States personnel, the rapidly growing sophistication of tracking, targeting, and delivery technologies, and major investments aimed at further accelerating technological breakthroughs. Seen against this background, the targeted killing of Osama bin Laden in May 2011 was not a dramatic departure from the United States' established practice, but rather just another example of its increasingly frequent use of extraterritorial targeted killings as an integral part of its overall national security strategy. As the CIA Director observed at the time, the Special Forces that carried out the bin Laden raid--the United States Navy SEALS--"conduct these kinds of operations two and three times a night in Afghanistan." n5

#### Solves – 1AC evidence lists drone strikes as being the reason for their impacts – counterplan sufficiently resolves that

#### Special Operations Forces conduct operations globally

Alston 11 (Phillip – John Norton Pomeroy Professor of Law, New York University School of Law, “ARTICLE: The CIA and Targeted Killings Beyond Borders”, 2011, 2 Harv. Nat'l Sec. J. 283, lexis)

B. Kill/Capture Operations These operations might be thought of as the military equivalent of search and seizure exercises. The principal difference, of course, is that lethality appears to be a prominent ingredient in the military version, and there is no reason to believe that killings are strictly confined to situations involving self-defense, although in the absence of detailed data no ironclad conclusions can be drawn in this regard. Kill/capture operations are based [\*334] on target lists drawn up after more or less systematic analysis of intelligence. The technical term reflected in the U.S. Air Force's Targeting manual is a "joint integrated prioritized collection list," n158 but in the broader military context the terms used more commonly are "joint prioritized effects list," "joint effects list," or more colloquially "kill list." n159 In Afghanistan, these operations have generally taken the form of "night raids," which refers to kill/capture operations undertaken under the cover of darkness and involving the invasion of private homes or compounds. They have become especially controversial after a number of high-profile cases involving alleged, and sometimes acknowledged, mistakes in terms of the individuals killed. These Afghanistan operations are part of a broader program carried out by United States Special Operations Forces (SOF) around the world, 85 percent of whose activities occur within the Central Command's region, which includes primarily Afghanistan and Iraq. n160

#### Oversight devastates the effectiveness of special operations

Serafino 11 (Marissa – Assistant to the Chief of Staff, Office of US Senator Jeanne Shaheen, “U.S. Military: Invest in Special Ops, Not in Drones “, 2011, http://www.policymic.com/articles/1412/u-s-military-invest-in-special-ops-not-in-drones/9235)

As intelligence and defense departments enter a new era with reduced spending, special operations forces provide some stability to the security of the U.S. Special ops forces are a key component of the war in Afghanistan and have a high rate of military success, so even in an economic recession, people remain the greatest asset to the military. These forces operate a network of secret prisons across the world and engage in: counter-terrorist activities; assassinations; long-range reconnaissance; intelligence analysis; foreign troop training; and weapons of mass destruction counter-proliferation operations. Critics have continually cried foul about the secrecy of counterterrorism operations and have raised concerns with the influence of the U.S. Special Operations Command (SOCOM). Critics also contend that with a global presence in roughly 60% of the world's nations, counterterrorism strike forces are evidence of a rising clandestine pentagon power elite waging secret wars across the world. The real question here is whether you trust our defense experts to authorize missions they deem necessary, such as the killing of bin Laden. While the lack of transparency of SOCOM is cause for debate, ultimately, secrecy is crucial to protecting the interests of the United States and its citizens. Covert missions were officially established during the Cold War under President Truman, who saw a need for secrecy even then. In order to continue U.S. hegemony today, special ops forces must be expanded. They protect U.S. interests while drawing the least amount of attention. Their job is to be inconspicuous. The United States needs discretion, especially in a fragile and nuclear world. While oversight is important for any special operation, broad oversight, such as congressional oversight, will endanger officers and counter the success of missions. Special operations forces have been an invaluable weapon of the past and will be an asset in the future for counterterrorism. America is smart to invest in them. Cuts to the defense budget should be in outdated technology and weaponry. The technological and strategic race for the security of our state depends on special operations, research, and innovations in order to move us forward.

#### Special ops key to solve proxy conflict

Thomas and Dougherty 13 (Jim – Vice President and Director of Studies at the Center for

Strategic and Budgetary Assessments, and Chris – Research Fellow at the Center for Strategic and

Budgetary Assessments, “Beyond the Ramparts: The Future of U.S. Special Operations Forces”, 5/10, http://www.csbaonline.org/publications/2013/05/beyond-the-ramparts-the-future-of-u-s-special-operations-forces/)

Emerging Strategic Context Predicting exactly which threats will confront the United States, or precisely where SOF will deploy over the next ten to twenty years, is an impossible task. It is feasible, however, to project forward some of the key trends that will shape planning requirements and the impact they will have on SOF. While the future security environment will present the U.S. Joint Force, including SOF, with a panoply of challenges, there are four in particular that will have arguably the most significant long-term implications for SOF: defeating Islamist VENs; countering weapons of mass destruction (WMD); confronting anti-access and area-denial networks (A2/ AD); and waging influence campaigns and proxy wars. The United States will confront these challenges against a backdrop of persistent global economic weakness and its own 􀂿scal predicament. Islamist VENs pose challenges in the present that will likely persist well into the future. Although surgical strikes have inflicted a heavy toll on the leadership of al Qaeda since 9/11, violent extremism has metastasized and new nodes have spawned in an ever-adapting terrorist network. Consistent with the founding vision of al Qaeda as a 􀂳base􀂴 from which violent Islamist extremists would develop a global terrorism network, al Qaeda franchises and ideologically associated groups have sprung up throughout the Muslim world, exploiting weak states and endemic instability. This metastasis of extremist franchises is pushing the locus of CT efforts beyond Iraq and Afghanistan. Conducting CT outside of theaters of war will require U.S. SOF to place greater emphasis on finding and fixing enemy forces, while partner forces􀂲be they foreign security forces, intelligence services, or law enforcement agencies – conduct the finishes. More proactive global CT and FID operations will also require pushing smaller SOF units forward for long-duration operations in remote, austere areas. Moreover, it will necessitate a lighter footprint, and the shift away from theaters of armed con􀃀ict with a large U.S. presence will limit SOF’s ability to rely on General Purpose Forces (GPF) units for logistics and sustainment 􀂳enablers.􀂴 WMD do not represent new threats to U.S. security interests, but as nascent nuclear powers grow their arsenals and aspirants like Iran continue to pursue nuclear capabilities, the threat of nuclear proliferation, as well as the potential for the actual use of nuclear weapons, will increase. Upheaval in failing or outlaw states like Libya and Syria, which possess chemical weapons and a range of missiles, highlights the possibility that in future instances of state collapse or civil war, such weapons could be used by failing regimes in an act of desperation, fall into the hands of rebel forces, or be seized by parties hostile to the United States or its interests. SOF can contribute across the spectrum of counter-WMD efforts, from stopping the acquisition of WMD by hostile states or terrorist groups to preventing their use. The global CT network SOF have built over the last decade could be repurposed over the ne􀁛t decade to become a global counter-WMD network, applying the same logic that it takes a network to defeat a network. Increasing the reach and density of a global counter-WMD network will require expanding security cooperation activities focused on counter-proliferation. Finally, SOF may offer the most viable strategic option for deposing WMD-armed regimes through UW campaigns should the need arise. The spread of advanced military technologies, such as precision-guided munitions, is enabling a number of countries to construct A2/AD networks that could erode the United States’ ability to project military power into key regions. Nations such as China and Iran are actively seeking to acquire and held A2/AD capabilities, including precision-guided ballistic and cruise missiles, attack submarines, fast-attack craft, anti-satellite (ASAT) weapons, computer-network attack capabilities, advanced 􀂿ghter aircraft, and integrated air defenses, that may challenge the U.S. military’s ability to project power. The cumulative effect of spreading A2/ AD systems is that the land, air, sea, space, and cyberspace domains will be far less permissive for U.S. military operations. In the face of growing A2/AD threats, the value of low-signature forces capable of operating independently and far forward in denied areas is likely to increase substantially. SOF may oer the most viable ground-force option in future A2/AD environments, either executing direct action against key targets or working by, with, and through partner forces to conduct peripheral campaigns (i.e., operations designed to impose costs and conducted beyond the territory or reach of the enemy). Prior to hostilities, SOF could carry out preparation of the environment (PE) and special reconnaissance (SR) missions. At the outset of hostilities, SOF might serve as an early-entry force to blind or disrupt enemy command, control, communications, computers, intelligence, surveillance, and reconnaissance (C􀀗ISR) networks, thereby enabling higher-signature conventional forces to penetrate A2/AD networks. Inserting or e􀁛tracting SOF from denied environments, and supporting them once there, will challenge SOF aviation and undersea capabilities. Accordingly, SOF will need stealthy means of Beyond the Ramparts: The Future of U.S. Special Operations Forces xiii insertion from the air and sea. SOF may also need to conduct foreign external defense (FED) missions in states to build their capacity to repel foreign military aggression. This could entail helping key partners to create their own versions of A2/AD networks. The proliferation of WMD and A2/AD capabilities will erode the conventional power-projection capability of not only the United States, but of other countries as well. In the future, states may therefore avoid direct confrontations and be more inclined to use unconventional methods and measures short of war to gain influence and achieve their foreign policy goals. States may also turn to third-party proxies to maintain plausible deniability for their actions. States could engage in influence campaigns and proxy competitions to achieve objectives such as: imposing costs on ma􀁍or competitors, foreclosing opportunities for other countries or non-state actors to gain a foothold in a region, “peeling away” allies or partners from competitors, diverting the attention and resources of competitors (misdirection), conducting cross-border operations against a ma􀁍or power with less risk of confrontation, or controlling (or denying) critical resources and trade routes. SOF will be critical to success in persistent influence campaigns and proxy competitions. They will need e􀁛quisite, local-area e􀁛pertise and language skills, along with deep, longstanding relationships with key local actors built over time by embedding and living with foreign partner forces. Though SOF already operate in smaller units than GPF, the breadth, speci􀂿city, and need to minimize the visibility of these operations will place an emphasis on even smaller SOF teams and single operators working in close collaboration with other government agencies. These four security challenges􀂲coming to the fore during a time of 􀂿scal austerity in the United States and global economic uncertainty􀂲are likely to dominate the national security agenda for decades to come. These challenges are not mutually e􀁛clusive and, in almost every case, the challenges are intertwined with opportunities for SOF to impose costs on U.S. adversaries. Given their global nature, and recognizing the interrelationship between the various challenges and opportunities, SOF are uniquely suited to address them asymmetrically.

### 4

#### ---Judicial review of war powers erodes the State Secrets Privilege

Kadidal 7 (Shayana – Center for Constitutional Rights, New York City; J.D., Yale 1994, “DOES CONGRESS HAVE THE POWER TO LIMIT THE PRESIDENT'S CONDUCT OF DETENTIONS, INTERROGATIONS AND SURVEILLANCE IN THE CONTEXT OF WAR?”, 2007, 11 N.Y. City L. Rev. 23, lexis)

As to the AUMF, this meta-defense runs as follows: In both our case and the ACLU's similar case, the government claims that it could explain how the program fits into what Congress authorized in the AUMF--namely, the "use [of] all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist [\*58] attacks that occurred on September 11, 2001" n127 and those who harbored them--but to do so it would have to explain to the court how the Program works, particularly who it was targeting and what kinds of communications it was intercepting. The sensitivity of that information about how the Program works in practice means that it cannot do that, even ex parte in camera. Thus, the government argues, the State Secrets Privilege forecloses the ability to litigate these questions. n128 As to the FISA-is-unconstitutional defense, the meta-defense argues that for the government to explain to the court how the Program fits into the core of the President's inherent power to defend the nation--that (limited) core aspect of the war power that is so fundamentally executive as to be immune to regulation from Congress--would require disclosing state secrets to the court. Since FISA might be unconstitutional to the extent that it restricts such a hypothetical core, unregulable part of the executive war power, the court cannot rely on FISA in enjoining the President from carrying out such surveillance:

#### Drone oversight requires circumventing the doctrine – allows lawsuits and releases military secrets

Rosen 11 (Richard D. – Professor of Law and Director, Center for Military Law and Policy, Texas Tech University School of Law, “PART III: ARTICLE: DRONES AND THE U.S. COURTS”, 2011, 37 Wm. Mitchell L. Rev. 5280, lexis)

V. State Secrets: The Death Knell of Drone Cases Assuming a complaint survives the jurisdictional, justiciability, immunity, and other hurdles to lawsuits challenging U.S. drone policy, the state secrets doctrine is likely to bring the suit to a quick end. n93 Under the doctrine, the United States may prevent the disclosure of information in judicial proceedings if there is a reasonable danger of revealing military or state secrets. n94 Once the privilege is properly invoked and a court is satisfied that release would pose a reasonable danger to secrets of state, "even the most compelling necessity cannot overcome the claim of privilege." n95 Not only will the state secrets doctrine thwart plaintiffs from acquiring or introducing evidence vital to their case, n96 it could result in dismissal of the cases themselves. Under the doctrine, the courts will dismiss a case either because the very subject of the case involves state secrets, n97 or a case cannot proceed without the privileged evidence or presents an unnecessary risk of revealing [\*5293] protected secrets. n98 Employing drones as a weapons platform against terrorists and insurgents in an ongoing armed conflict implicates both the nation's military tactics and strategy as well as its delicate relations with friendly nations. n99 As such, lawsuits challenging the policy cannot be tried without access to and the possible disclosure of highly classified information relating to the means, methods, and circumstances under which drones are employed.

#### Lawsuits release vital drone methods and intelligence –turns case

Murphy and Radsan 9 (Richard – AT&T Professor of Law, Texas Tech University School of Law, and Afsheen – Professor, William Mitchell College of Law, “ARTICLE: DUE PROCESS AND TARGETED KILLING OF TERRORISTS”, November, 32 Cardozo L. Rev. 405, lexis)

In defense of this anomaly, there are obvious policy reasons for not allowing Bivens-style claims against American officials for targeted killings wherever they occur in the world. Among them, we do not want federal courts damaging national security through excessive, misdirected second-guessing of executive judgments; nor do we want [\*442] the litigation process to reveal information that national security requires to be kept secret. In Arar v. Ashcroft, a divided panel of the Second Circuit cited these "special factors" to disallow a plaintiff from bringing a Bivens claim against officials he alleged subjected him to extraordinary rendition. n209 But as the dissenting judge in Arar noted, these special factors lose much of their force once one acknowledges that a Bivens-style action needs to overcome formidable hurdles of fact and law. n210 As to practical hurdles, most people left alive by a Predator strike or other targeted killing would not turn to American courts for relief. Some would not sue because they are, in fact, the enemy - Osama bin Laden is not going to hire an American lawyer. n211 Others would not sue because doing so is beyond their means - a villager from the mountains of Afghanistan is not likely to hire an American lawyer either. As to legal hurdles, Boumediene itself poses a high one to lawsuits by non-U.S. citizens for overseas attacks. Here we may seem to contradict our earlier insistence that Boumediene presupposes some form of constitutional protection worldwide for everyone. n212 Yet Boumediene shows that the requirement of judicial process depends on a pragmatic analysis. n213 As part of its balancing, Boumediene made clear that courts should favor the interests of American citizens and of others with strong connections to the United States. n214 Although the Boumediene petitioners lacked the preference in favor of citizens, they persuaded a slim majority of the Court to extend constitutional habeas to non-resident aliens detained at Guantanamo. This result, however, took place under exceptional circumstances: among them, Guantanamo is de facto United States territory; n215 the executive had held detainees [\*443] there for years and claimed authority to do so indefinitely; and the Supreme Court doubted the fairness and accuracy of the CSRTs. n216 Absent such circumstances, Boumediene leaves courts to follow their habit of deferring to the executive on national security. For targeted killing, that may mean cutting off non-citizens from American courts. The state-secrets privilege poses another barrier to Bivens-style actions. This privilege allows the government to block the disclosure of information in court that would damage national security. n217 It could prevent a case from proceeding in any number of ways. For instance, the government could block plaintiffs from accessing or using information needed to determine whether a Predator attack had a sound basis through human or technical sources of intelligence. n218 By this trump card, the government could prevent litigation from seriously compromising intelligence sources and methods. n219 In addition, the doctrine of qualified immunity requires dismissal of actions against officials if a court determines they reasonably believed they were acting within the scope of their legal authority. n220 Defendants would satisfy this requirement so long as they reasonably [\*444] claimed they had authority under the laws of war (assuming their applicability). These standards are hazy, and a court applying them would tend to defer to the executive on matters of military judgment. n221 In view of so many practical and legal hurdles, some courts and commentators might be inclined to categorically reject all Bivens-style challenges to targeted killings. In essence, they might view lawsuits related to targeted killing as a political question left to the executive. n222 This view parallels Justice Thomas's that courts should not second-guess executive judgments as to who is an enemy combatant. n223 Contrary to Justice Thomas's view, the potency of the government's threshold defenses means that targeted-killing cases that make it to the merits would likely involve the most egregious conduct - for example, killing an unarmed Jose Padilla at O'Hare Airport on a shoot-to-kill order. For these egregious cases, a judicial check on executive authority is most necessary. In terms of a Mathews balancing, the question becomes whether the benefits of Bivens actions on targeted killings of terrorists outweigh the harms. The potential harm is to the CIA's sources and methods on the Predator program. Lawsuits might harm national security by forcing the disclosure of sensitive information. The states-secrets privilege should block this result, however. Lawsuits might also harm national security by causing executive officials to become risk-averse about actions needed to counter terrorist activities. Qualified immunity, however, should ensure that liability exists only where an official lacks any justification for his action. On the benefit side, allowing lawsuits to proceed would, in truly exceptional cases, serve the private interest of the plaintiff in seeking compensation and, perhaps more to the point given the incommensurability of death and money, would provide accountability. Still more important, all people have an interest in casting light on the government's use of the power to kill in a world-wide war in which combatants and targets are not easily identified.

#### Unmanned vehicle tech leadership is key to naval power

Landay et al. 4 (William E. Landay III – RDML (Rear Admiral), USN, Concurring with the following: Michael A. LeFever, RDML, USN Raymond A. Spicer, RDML, USN Roseanne M. Levitre, RDML, USN Steven J. Toma szeski, RADM, USN, Oceanographer of the Navy, Approved by Joseph A. Walsh and Roger M. Smith of US Navy, “The Navy Unmanned Undersea Vehicle (UUV) Master Plan”, 11/9, http://www.navy.mil/navydata/technology/uuvmp.pdf)

The Vision for UUVs and the Objective of the UUV Master Plan Today our naval forces enjoy maritime superiority around the world and find themselves at a strategic inflection point during which future capabilities must be pondered with creativity and innovation . Change must be embraced and made an ally in order to take advantage of emerging technologies, concepts, and doctrine; thereby preserving the nation’s global leadership. Sea Power 21 has additionally specified unmanned vehicles as force multipliers and risk reduction agents for the Navy of the future. Transformation applies to what we buy as well as how we buy and operate it–all while competing with other shifting national investment priorities. The growing use of unmanned systems– air, surface, ground, and underwater is continually demonstrating new possibilities. While admittedly futuristic in vision , one can conceive of scenarios where UUVs sense, track, identify, target, and destroy an enemy–all autonomously and tie in with the full net-centric battlespace. UUV systems will provide a key undersea component f o r FORCEnet, contributing to an integrated picture of the battlespace. Even though today’s planners, operators, and technologists cannot accurately forecast the key applications for U UVs in the year 2050, this plan provides a roadmap to move toward that vision. Pursuit of this plan’s updated recommendations beginning in the year 2004, will place increasingly large numbers of UUVs in the hands of warfighters. Thus, xvii UUV Master Plan UUVs can begin addressing near-term needs while im proving understanding of mid- to far-term possibilities. Even the most futuristic applications can evolve in a confident, cost-effective manner. This confidence is based on several factor s: the Sea Power 21 Sub-Pillar capabilities identified he readdress a broad ran g e of user needs; critical technologies are identified that will enable tomorrow’s more complex applications; and key principles and best practices are recommended that p r o v ide for a logical, flexible, and affordable development effort.

#### Strong navy is key to prevent great power – deterrence

Eaglen 11 (Mackenzie, Heritage Foundation Research Fellow for National Security Studies, Allison Center for Foreign Policy Studies, May, 16, 2011, “Thinking about a Day without Sea Power: Implications for U.S. Defense Policy”, http://www.heritage.org/research/reports/2011/05/thinking-about-a-day-without-sea-power-implications-for-us-defense-policy)

Under a scenario of dramatically reduced naval power, the United States would cease to be active in any international alliances. While it is reasonable to assume that land and air forces would be similarly reduced in this scenario, the lack of credible maritime capability to move their bulk and establish forward bases would render these forces irrelevant, even if the Army and Air Force were retained at today’s levels. In Iraq and Afghanistan today, 90 percent of material arrives by sea, although material bound for Afghanistan must then make a laborious journey by land into theater. China’s claims on the South China Sea, previously disputed by virtually all nations in the region and routinely contested by U.S. and partner naval forces, are accepted as a fait accompli, effectively turning the region into a “Chinese lake.” China establishes expansive oil and gas exploration with new deepwater drilling technology and secures its local sea lanes from intervention. Korea, unified in 2017 after the implosion of the North, signs a mutual defense treaty with China and solidifies their relationship. Japan is increasingly isolated and in 2020–2025 executes long-rumored plans to create an indigenous nuclear weapons capability.[11] By 2025, Japan has 25 mobile nuclear-armed missiles ostensibly targeting China, toward which Japan’s historical animus remains strong. China’s entente with Russia leaves the Eurasian landmass dominated by Russia looking west and China looking east and south. Each cedes a sphere of dominance to the other and remains largely unconcerned with the events in the other’s sphere. Worldwide, trade in foodstuffs collapses. Expanding populations in the Middle East increase pressure on their governments, which are already stressed as the breakdown in world trade disproportionately affects food importers. Piracy increases worldwide, driving food transportation costs even higher. In the Arctic, Russia aggressively asserts its dominance and effectively shoulders out other nations with legitimate claims to seabed resources. No naval power exists to counter Russia’s claims. India, recognizing that its previous role as a balancer to China has lost relevance with the retrenchment of the Americans, agrees to supplement Chinese naval power in the Indian Ocean and Persian Gulf to protect the flow of oil to Southeast Asia. In exchange, China agrees to exercise increased influence on its client state Pakistan. The great typhoon of 2023 strikes Bangladesh, killing 23,000 people initially, and 200,000 more die in the subsequent weeks and months as the international community provides little humanitarian relief. Cholera and malaria are epidemic. Iran dominates the Persian Gulf and is a nuclear power. Its navy aggressively patrols the Gulf while the Revolutionary Guard Navy harasses shipping and oil infrastructure to force Gulf Cooperation Council (GCC) countries into Tehran’s orbit. Russia supplies Iran with a steady flow of military technology and nuclear industry expertise. Lacking a regional threat, the Iranians happily control the flow of oil from the Gulf and benefit economically from the “protection” provided to other GCC nations. In Egypt, the decade-long experiment in participatory democracy ends with the ascendance of the Muslim Brotherhood in a violent seizure of power. The United States is identified closely with the previous coalition government, and riots break out at the U.S. embassy. Americans in Egypt are left to their own devices because the U.S. has no forces in the Mediterranean capable of performing a noncombatant evacuation when the government closes major airports. Led by Iran, a coalition of Egypt, Syria, Jordan, and Iraq attacks Israel. Over 300,000 die in six months of fighting that includes a limited nuclear exchange between Iran and Israel. Israel is defeated, and the State of Palestine is declared in its place. Massive “refugee” camps are created to house the internally displaced Israelis, but a humanitarian nightmare ensues from the inability of conquering forces to support them. The NATO alliance is shattered. The security of European nations depends increasingly on the lack of external threats and the nuclear capability of France, Britain, and Germany, which overcame its reticence to military capability in light of America’s retrenchment. Europe depends for its energy security on Russia and Iran, which control the main supply lines and sources of oil and gas to Europe. Major European nations stand down their militaries and instead make limited contributions to a new EU military constabulary force. No European nation maintains the ability to conduct significant out-of-area operations, and Europe as a whole maintains little airlift capacity.

## On

### Allied Co-op

#### ---NSA scandal thumps US/EU relations – destroys trust which decks coop on EVERY issue

Dempsey 2/3/14 (Judy, Analyst for European Affairs @ Carnegie Endowment for World Peace, "Kerry’s Lost Opportunity for Transatlantic Relations," http://carnegieeurope.eu/strategiceurope/?fa=54408)

When U.S. Secretary of State John Kerry flew into Berlin on January 31, expectations were high that the United States was finally taking seriously its allies’ anger about the National Security Agency’s pervasive spying.¶ U.S. snooping is an issue that is refusing to disappear from German newspaper headlines. Crucially, it is increasingly straining transatlantic relations—a situation that neither the Americans nor the Europeans can afford to ignore.¶ At a meeting with German Chancellor Angela Merkel, Kerry spoke casually of “bumps in the road.” Yet he gave absolutely no reassurance about the United States’ future policy on spying, neither during his Berlin meetings nor afterward at this year’s Munich Security Conference.¶ In fact, when he spoke to his audience of high-ranking politicians, diplomats, and foreign and security policy specialists in the Bavarian capital, he didn’t even mention the NSA. Nor did U.S. Defense Secretary Chuck Hagel bother to raise the issue publicly.¶ That was a mistake.¶ It is not only the German public that needs reassurances and explanations about the scope of the NSA’s reach. It is about restoring trust between the United States and all its European allies. Given the huge issues that governments on both sides of the Atlantic have to tackle, such trust is necessary more than ever.¶ If the administration of U.S. President Barack Obama wants to start rebuilding trust in the transatlantic relationship, it needs to embark on much more active public diplomacy. “And that means sending very senior people to European countries to do just that,” said Toomas Hendrik Ilves, the president of Estonia, who also took part in the Munich summit.¶ In that sense, Kerry and Hagel squandered the opportunity to use the high-level conference as a platform to reach out to German and European audiences. The pair did nothing to address the trend identified in a recent poll by German public television that only 57 percent of Germans believe that relations with the United States are good, down from 92 percent in 2012.¶ Instead, Kerry spent much of his speech recalling his childhood in Europe and stressing America’s commitment to NATO and to Europe. He and Hagel cited all the places and all the conflicts in which the United States was engaged, to prove that America was not turning in on itself. In short, conference participants were told that everything was just fine with the transatlantic relationship.¶ Yet the State of the Union address that Obama gave in Washington on January 28 presented a very different picture, causing genuine concern not only to European governments but also to U.S. foreign policy experts. In that speech, there was scant mention of Ukraine. There was little serious attention paid to Syria, and nothing about Russia or China. NATO and Europe received only passing references.¶ But at least Obama did mention that U.S. surveillance methods were being reviewed. That is exactly what Kerry and Hagel should have said in Munich. They should have acknowledged how much the NSA scandal has hurt transatlantic relations, and they should have explained what Washington plans to do about that.¶ An equally important dimension to the spying scandal is Russia. Vladimir Putin, the Russian president, must be having a field day. The more Edward Snowden, a former NSA official who has been given asylum in Russia, leaks classified information, the more those revelations weaken transatlantic ties. Putin must be delighted about the wedge being driven between the United States and its European allies, in particular Germany.¶ Neither Obama nor Merkel can afford to ignore this state of affairs. They both need each other more than ever, on issues ranging from the unrest in Ukraine to the negotiations on a new Transatlantic Trade and Investment Partnership. It would be so damaging for the United States and the EU if certain political parties and influential nongovernmental organizations in Europe were to exploit the NSA scandal to jeopardize those talks.¶ The United States must understand that its allies’ anger over being spied on won’t simply blow over. Ignoring that sentiment carries real costs in terms of influence and policies. Some plain talking from John Kerry and others is sorely needed.

#### EU terror intel-sharing is resilient – tensions don’t threaten

**Mix 13** (Derek E. Mix, Analyst in European Affairs at the Congressional Research Service, “The United States and Europe: Current Issues,” March 30, <http://www.fas.org/sgp/crs/row/RS22163.pdf>)

In the years since the 9/11 attacks, transatlantic cooperation on counterterrorism has been strong. ¶ Spurred on by 9/11, the March 2004 bombings in Madrid, and the July 2005 bombings in ¶ London, the EU has sought to strengthen and coordinate its internal counterterrorism capabilities. ¶ While the EU has thus been increasing its relevance in this area, bilateral intelligence sharing and ¶ law enforcement cooperation between the United States and individual European countries also ¶ remains key to disrupting terrorist plots and apprehending those involved. Analysts assert that ¶ Europe remains both a primary target of radical Islamist terrorists and a potential base for cells ¶ seeking to carry out attacks against the United States. ¶ U.S. and European officials from the cabinet level down maintain regular dialogues on issues ¶ related to homeland security and counterterrorism. In recent years, U.S. and EU police and ¶ judicial agencies have established cooperative relationships that include several information ¶ sharing arrangements. In 2010, new U.S.-EU treaties on extradition and mutual legal assistance ¶ entered into force. The United States and the EU have also reached agreements on container ¶ security and airline passenger data as part of their efforts to strengthen aviation, transport, and ¶ border security. In addition, the United States and the EU actively work together to track and ¶ counter the financing of terrorism, in forums such as the Financial Action Task Force and through ¶ information sharing deals such as the U.S.-EU “SWIFT agreement,” which allows U.S. ¶ authorities access to financial data held by a Belgium-based consortium of international banks as ¶ part of the U.S. Treasury Department’s Terrorist Finance Tracking Program (TFTP). ¶ Although overall counterterrorism cooperation is strong, areas of tension exist. European ¶ policymakers have had significant concerns over the adequacy of data privacy safeguards in a ¶ number of U.S.-EU information sharing arrangements. The EU considers data privacy a basic ¶ right, and the EU has strict regulations protecting personal data. During the past several years, ¶ objections raised in the European Parliament complicated and delayed the adoption of the most ¶ recent version of the SWIFT deal and the agreement on sharing airline passenger name record ¶ (PNR) data. In 2011, the United States and the EU began negotiations on a framework Data ¶ Privacy and Protection Agreement (DPPA). Some observers assert that such a framework ¶ agreement, building on a set of privacy and data protection principles endorsed by the two sides ¶ in 2009, could expand mutual recognition of one another’s data protection systems, help ease ¶ European concerns, and promote closer cooperation.

#### ---NATO collapse inevitable

Bandow 5/20/12 Doug, former columnist with Copley News Service and a senior fellow at the Cato Institute, Forbes.com, “NATO as NERO: Alliance postures while Europe burns” http://www.forbes.com/sites/dougbandow/2012/05/20/nato-as-nero-alliance-postures-while-europe-burns/

Last June Secretary Gates predicted “a dim if not dismal future” for the alliance.  He warned “that there will be dwindling appetite and patience in the U.S. Congress — and in the American body politic writ large — to expend increasingly precious funds on behalf of nations that are apparently unwilling to devote the necessary resources or make the necessary changes to be serious and capable partners in their own defense.”   Last October Gates’ successor, Leon Panetta, was only slightly less blunt:  “legitimate questions about whether, if present trends continue, NATO will again be able to sustain the kind of operations that we have seen in Libya and Afghanistan without the United States taking on even more of the burden.” Of course, the answer obviously was no, and nothing decided in Chicago will change it. To coin a phrase, it is time for a change.  Washington once opposed an independent European defense.  Now the U.S. should insist on it.  Or rather—since it is not America’s place to decide Europe’s future for Europe—should adopt policies likely to lead to that result.  Washington should bring home the 80,000 troops which remain in Europe and announce that it will be formally leaving NATO after a “decent interval.”  The Europeans could use the existing alliance structure to organize continental military affairs, perhaps in cooperation with the European Union.  (Albania, Croatia, Iceland, and Turkey are not currently EU members, but Croatia is slated to join next year and the others are candidates for membership; Canada is the only true outlier.)

#### No NATO impact

Kaplan & Kaplan 11 (Robert D., senior fellow at the Center for a New American Security in Washington and a member of the Pentagon’s Defense Policy Board, and Stephen S., former vice chairman of the National Intelligence Council as well as a longtime daily White House briefer and director of the president’s daily briefing, March/April 2011, “America Primed,” <http://nationalinterest.org/print/article/america-primed-4892>)

OF COURSE even this set of assets is not enough to ensure American primacy—nor its sway over the West. And not all alliances are created equal. For example, Washington can less and less rely on NATO to serve as its linchpin in Europe. NATO is of limited help in Afghanistan, was irrelevant in Iraq and simply does not matter in the larger Middle East. The defense budgets of member states in Western Europe are generally below the NATO standard of 2 percent of GDP, even as these same countries now brace for the steepest cuts in military spending since the end of the Cold War. U.S. Defense Secretary Robert Gates, as prudent and low-key a public speaker as one can imagine, has publicly chided Europeans for being too reluctant to use military force. Nor does NATO, whatever the fine print of its documents, really guarantee the territorial integrity of its new member states in Eastern Europe against potential Russian aggression. The United States does that, and the Balts, Poles, Romanians and others know it. Plainly, the Poles and Romanians sent troops to Iraq and Afghanistan (and any number of various African countries where the United States has had military missions) not because they necessarily approved of these deployments or were enthusiastic about them, but as a quid pro quo for this implicit security guarantee.

#### Drone program sustainable

Chesney 12 (Robert Chesney, professor at the University of Texas School of Law, nonresident senior fellow of the Brookings Institution, distinguished scholar at the Robert S. Strauss Center for International Security and Law, 8/29/12, “Beyond the Battlefield, Beyond Al Qaeda: The Destabilizing Legal Architecture of Counterterrorism,” <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2138623>)

This multi-year pattern of cross-branch and cross-party consensus gives the impression that the legal architecture of detention has stabilized at last. But the settlement phenomenon is not limited to detention policy. The same thing has happened, albeit to a lesser extent, in other areas. The military commission prosecution system provides a good example. When the Obama administration came into office, it seemed quite possible, indeed likely, that it would shut down the commissions system. Indeed, the new president promptly ordered all commission proceedings suspended pending a policy review.48 In the end, however, the administration worked with the then Democratic-controlled Congress to pursue a mend-it-don’t-end-it approach culminating in passage of the Military Commissions Act of 2009, which addressed a number of key objections to the statutory framework Congress and the Bush administration had crafted in 2006. In his National Archives address in spring 2009, moreover, President Obama also made clear that he would make use of this system in appropriate cases.49 He has duly done so, notwithstanding his administration’s doomed attempt to prosecute the so-called “9/11 defendants” (especially Khalid Sheikh Mohamed) in civilian courts. Difficult questions continue to surround the commissions system as to particular issues—such as the propriety of charging “material support” offenses for pre-2006 conduct50—but the system as a whole is far more stable today than at any point in the past decade.51 There have been strong elements of cross-party continuity between the Bush and Obama administration on an array of other counterterrorism policy questions, including the propriety of using rendition in at least some circumstances and, perhaps most notably, the legality of using lethal force not just in contexts of overt combat deployments but also in areas physically remote from the “hot battlefield.” Indeed, the Obama administration quickly outstripped the Bush administration in terms of the quantity and location of its airstrikes outside of Afghanistan,52 and it also greatly surpassed the Bush administration in its efforts to marshal public defenses of the legality of these actions.53 What’s more, the Obama administration also succeeded in fending off a lawsuit challenging the legality of the drone strike program (in the specific context of Anwar al-Awlaki, an American citizen and member of AQAP known to be on a list of approved targets for the use of deadly force in Yemen who was in fact killed in a drone strike some months later).54 The point of all this is not to claim that legal disputes surrounding these counterterrorism policies have effectively ended. Far from it; a steady drumbeat of criticism persists, especially in relation to the use of lethal force via drones. But by the end of the first post-9/11 decade, this criticism no longer seemed likely to spill over in the form of disruptive judicial rulings, newly-restrictive legislation, or significant spikes in diplomatic or domestic political pressure, as had repeatedly occurred in earlier years. Years of law-conscious policy refinement—and quite possibly some degree of public fatigue or inurement when it comes to legal criticisms—had made possible an extended period of cross-branch and cross-party consensus, and this in turn left the impression that the underlying legal architecture had reached a stage of stability that was good enough for the time being.

#### PRISM and detention are massive alt-causes

Kristin Archick, European affairs specialist @ CRS, 9-4-2013, “U.S.-EU Cooperation Against Terrorism,” Congressional Research Service, <http://www.fas.org/sgp/crs/row/RS22030.pdf>

Although the United States and the EU both recognize the importance of sharing information in an effort to track and disrupt terrorist activity, data privacy has been and continues to be a key U.S.-EU sticking point. As noted previously, the EU considers the privacy of personal data a basic right; EU data privacy regulations set out common rules for public and private entities in the EU that hold or transmit personal data, and prohibit the transfer of such data to countries where legal protections are not deemed “adequate.” In the negotiation of several U.S.-EU informationsharing agreements, from those related to Europol to SWIFT to airline passenger data, some EU officials have been concerned about whether the United States could guarantee a sufficient level of protection for European citizens’ personal data. In particular, some Members of the European Parliament (MEPs) and many European civil liberty groups have long argued that elements of U.S.-EU information-sharing agreements violate the privacy rights of EU citizens. In light of the public revelations in June 2013 of U.S. National Security Agency (NSA) surveillance programs and news reports alleging that U.S. intelligence agencies have monitored EU diplomatic offices and computer networks, many analysts are worried about the future of U.S.-EU information-sharing arrangements. As discussed in this section, many of these U.S.-EU information-sharing agreements require the approval of the European Parliament, and many MEPs (as well as many officials from the European Commission and the national governments) have been deeply dismayed by the NSA programs and other spying allegations. In response, the Parliament passed a resolution expressing serious concerns about the U.S. surveillance operations and established a special working group to conduct an in-depth investigation into the reported programs.17 In addition, led by the European Commission and the U.S. Department of Justice, the United States and the EU have convened a joint expert group on the NSA’s surveillance operations, particularly the so-called PRISM program (in which the NSA reportedly collected data from leading U.S. Internet companies), to assess the “proportionality” of such programs and their implications for the privacy rights of EU citizens.18 U.S. officials have sought to reassure their EU counterparts that the PRISM program and other U.S. surveillance activities operate within U.S. law and are subject to oversight by all three branches of the U.S. government. Some observers note that the United States has been striving to demonstrate that it takes EU concerns seriously and is open to improving transparency, in part to maintain European support for existing information-sharing accords, such as SWIFT (which will be up for renewal in 2015), and the U.S.-EU Passenger Name Record agreement (up for renewal in 2019). Nevertheless, many experts predict that the revelations of programs such as PRISM will make the negotiation of future U.S.-EU information-sharing arrangements more difficult, and may make the European Parliament even more cautious and skeptical about granting its approval.

### Imminence

#### ---No drone overuse---the military shapes operations specifically to balance CT objectives with local blowback

Murphy 11 (Richard Murphy, the AT&T Professor of Law, Texas Tech University School of Law, and Afsheen John Radsan, Professor, William Mitchell College of Law, was assistant general counsel at the Central Intelligence Agency from 2002-2004, 2011, “ARTICLE: MEASURE TWICE, SHOOT ONCE: HIGHER CARE FOR CIA-TARGETED KILLING,” University of Illinois Law Review, 11 U. Ill. L. Rev. 1201)

Critics of the CIA's targeted killing, contrary to Panetta, say the program does more harm than good to U.S. interests. Kilcullen and Exum, for instance, concede that killing terrorists, viewed in a vacuum, creates positive military effects. n126 But they also contend that the overall costs outweigh their benefits because: (1) drone strikes create a counterproductive "siege mentality" among the local populace of Northwest Pakistan, solidifying extremists in that area; (2) they cause public outrage across Pakistan; and (3) the drones, deployed without a sound understanding of their effects, substitute a "piece of technology" for strategy. n127

Assessing the Kilcullen and Exum critique is not a mathematical exercise - rather, it requires nuanced political and military judgments based on incomplete, uncertain facts. Still, the U.S. military's own policies demonstrate that it agrees with critics that controlling collateral damage and maintaining local support are crucial. In this regard, the objectives of law and policy overlap. The U.S. Army's Counterinsurgency Manual advises that "political power is the central issue in insurgencies and counterinsurgencies; each side aims to get the people to accept its governance or authority as legitimate." n128 It adds, "an operation that kills five insurgents is counterproductive if collateral damage leads to recruitment of fifty more insurgents." n129 For this reason, the U.S. military [\*1224] has applied extremely restrictive rules of engagement in Afghanistan to bring down civilian casualties. n130

#### Pakistan’s stabilizing---drone strikes are declining as precision increases---the status quo resolves their whole advantage

Munter 13 (Cameron Munter 9-30, professor of practice in international relations at Pomona College, served as a U.S. Foreign Service Officer for nearly three decades, was Ambassador to Pakistan 2010-2012, 9/30/13, “Guest Post: A New Face in the U.S.-Pakistani Relationship,” http://justsecurity.org/2013/09/30/cameron-munter-pakistan-relations/)

In doing so, however, we have made the image of a soldier or a drone the image of America’s strategic vision for Pakistan and the region. As 2014 approaches, and American troops end their combat mission in Afghanistan; as drone strikes in the Pakistani tribal areas appear to be fewer in number and more precise in targeting; as the general trends of the U.S. “pivot toward Asia” become clear, the soldier and the drone will be less common. Even though the President’s commitment to U.S. security does not waver, the reminders of his commitment will be fewer and far between – at least it would seem, seen from the street in Pakistan. Will that face of America – the M-16 and flak jacket, the film of a predator strike – remain, or can we replace it with something else? A different face of commitment, one that Americans have supported throughout the last decade but which has, in the Pakistani media (fairly or not) been shoved aside by the violence in the tribal areas and unrest throughout the country? That other commitment has been enormous expenditure by the U.S. government in support of economic growth, building schools, replacing crops destroyed by floods, refurbishing power plants, and improving health delivery services, to name just a few achievements. But few Pakistanis believe this aid has made a difference. Instead, they associate us only with the manifestations of the war on terror. In the coming month this can change. No, it should not just be a PR campaign to convince Pakistanis of our commitment to what they care about (not just what we care about). Certainly, PR is necessary, but lacking a new face, it won’t be sufficient. It will require two things. First, on the policy level, we must use the changes in 2014 to wrest U.S. policy toward Pakistan from its current status as derivative of the war in Afghanistan. Of course, Pakistan has an enormous role to play in security arrangements of the region in years to come. Its relationship to India, to China, to Iran, and of course to Afghanistan are very important as the international community seeks to find a just and equitable peace in the region. But we should make every effort to consider Pakistan’s needs. Not just the needs of the Pakistani military and intelligence leadership, important as they are. Rather, the needs of a country of nearly 200 million people whose stability and prosperity will be essential to the long-term stability and prosperity of the entire region. Pakistan’s success is not a guarantee of regional peace; but Pakistani failure is certainly a guarantee of regional strife. Second, on a practical level, we should provide a face of American commitment that we know, through decades of effort, is welcome. Polling shows consistently that while most Pakistanis are angry at America (citing security policies as the reason), most Pakistanis – across the political spectrum, rural and urban, young and old – want a better relationship with us. Why? Because despite all the searing problems of the last decade, they admire us: they admire our educational institutions, our business acumen, our commitment to philanthropy. And here, I believe, they can find the practical partners to renew Pakistani understanding of American commitment to the relationship. Universities, businesses, foundations. Students and teachers, businesspeople and investors, donors and grassroots workers. These are the faces of the relationship in which America can play to its strengths, and in doing so, help build a successful Pakistan that is so necessary for us to achieve our own strategic interests in South Asia and beyond. Recent press articles highlight just how worried we’ve been about Pakistan’s nuclear arsenal. And we should be worried. We need to know if that arsenal can be misused or fall into the wrong hands. But even a massive surveillance effort, while necessary, will be insufficient. We need to take modest but purposeful measures to help Pakistan remain stable. That’s not the same as focusing so overwhelmingly on immediate security concerns. We also need to engage in Pakistani politics, economics, society, where we have a much stronger hand to play than we perhaps realize. Certainly, such changes cannot take place overnight. After all, the main reason that we see so few American university professors or businesspeople in Pakistan is that it’s still considered too dangerous. Yes, Pakistan’s government must take on the terrorist challenge, and it is enormous. And when Pakistan’s new Interior Minister propose plans to make the best use of Pakistan’s internal security forces, we should engage with him and take seriously any requests for help. But I believe we have a chance to do so, a chance afforded by the potential change in the face of America in Pakistan: difficult as it is, painful as our experiences in Pakistan have been, let’s listen to them and see if their plans to tackle terrorism have a place for our help. It’s certainly in our interest and theirs. Who knows? If Pakistan’s new leadership is able to make real progress against terrorism, there may be another new face – a face of a Pakistan that is not the negative image so common in recent years, but a Pakistan where people of good will are determined to succeed, and ask the help of an old friend in doing so.

#### No impact to Pakistani public opposition---it’s not widespread

Byman 13 (Daniel Byman, Professor in the Security Studies Program at the Edmund A. Walsh School of Foreign Service at Georgetown University and a Senior Fellow at the Saban Center for Middle East Policy at the Brookings Institution, July/August 2013, “Why Drones Work,” Foreign Affairs, Vol. 92, No. 4)

A 2012 poll found that 74 percent of Pakistanis viewed the United States as their enemy, likely in part because of the ongoing drone campaign. Similarly, in Yemen, as the scholar Gregory Johnsen has pointed out, drone strikes can win the enmity of entire tribes. This has led critics to argue that the drone program is shortsighted: that it kills today's enemies but creates tomorrow's in the process.

Such concerns are valid, but the level of local anger over drones is often lower than commonly portrayed. Many surveys of public opinion related to drones are conducted by anti-drone organizations, which results in biased samples. Other surveys exclude those who are unaware of the drone program and thus overstate the importance of those who are angered by it. In addition, many Pakistanis do not realize that the drones often target the very militants who are wreaking havoc on their country. And for most Pakistanis and Yemenis, the most important problems they struggle with are corruption, weak representative institutions, and poor economic growth; the drone program is only a small part of their overall anger, most of which is directed toward their own governments. A poll conducted in 2007, well before the drone campaign had expanded to its current scope, found that only 15 percent of Pakistanis had a favorable opinion of the United States. It is hard to imagine that alternatives to drone strikes, such as SEAL team raids or cruise missile strikes, would make the United States more popular.

#### Turn --- The U.S. currently conducts TKs on behalf of Pakistan against militants that threaten the Pakistani state as an explicit quid-pro-quo for the overall TK program---narrowing requirements for imminence makes these ‘good will kills’ illegal---results in kickout

C. Christine Fair 13, Peace and Security Studies Program, Edmund A. Walsh School of Foreign Service, Georgetown University, 11/12/13, “Drones, Spies, Terrorists and Second Class Citizenship in Pakistan - A Review Essay,” http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2353447

Closely related to the issue of Pakistan’s sovereignty is the question about Pakistan’s ability and willingness to exercise the rule of law and take action against those militants operating in and from Pakistan. On this matter the Stanford-NYU Law Schools’ report concedes that “in the absence of Pakistani consent, US use of force in Pakistan may not constitute an unlawful violation of Pakistan’s sovereignty if the force is necessary in self- defense in response to an armed attacked—either as a response to the attacks of September 11, 2001 or as anticipatory self-defense to mitigate threats posed by non-state groups” in the FATA (Stanford-NYU Law Schools, pp. 106-107). The report further points out that for this use of force to be lawful in Pakistan, Pakistan must also be shown to be “unwilling or unable to take [the appropriate steps, itself, against the non-state group]” (p. 107). The Stanford-NYU Law Schools’ report thus casts doubt upon whether contemporary drone attacks can be justified by reference to the events of 9/11. The authors are also doubtful about the resort to “anticipatory” self defense because it is unlikely that the majority of the drone strikes have averted attacks that are “instant, overwhelming, and leaving no choice of means, and no moment of deliberation” (pp. 107-108).

Indeed recent reporting casts doubt upon the U.S. claims that drone strikes target al Qaeda and Taliban operatives or their associates to prevent imminent attack to the United States and its interests. Recent reporting by Jonathan Landay, based upon a privileged review of primary source materials, indicated that as many as “265 of up to 482 people who the U.S. intelligence reports estimated the CIA killed during a 12-month period ending in September 2011 were not senior al Qaida leaders but instead were ‘assessed’ as Afghan, Pakistani and unknown extremists. Drones killed only six top al Qaida leaders in those months, according to news media accounts.”24 This is consistent with author interviews with American and Pakistani officials who concede that the U.S. drones are killing “Pakistani terrorists,” such as Pakistani Taliban leaders (e.g. Nek Mohammad in 2004, Baitullah Mehsood in 2009, Waliur Rehman in 2013 among numerous others). What motivation does the United States have to eliminate Pakistan’s enemies that pose no significant imminent threat to the United States?

I have long speculated that the U.S. and Pakistan’s intelligence agencies engage in a deadly exchange rate: the United States targets and eliminates Pakistan’s foes so that it can have the opportunity to eliminate its own. The ISI fulminates domestic outrage to increase the price of American access to Pakistani air space. This is important because, as Mazzetti’s account explains, in recent years U.S. and Pakistani interests have increasingly diverged. At the beginning of the war both countries boasted fondly of their joint successes in targeting al-Qaeda even while Pakistan preserved its ties to the Afghan Taliban and allied fighters such as the network of Jalaluddin Haqqani and India-oriented militants such as Lashkar-e-Taiba. However, as the war progressed and as American goals evolved to the point where they increasingly viewed the Afghan Taliban as the enemy rather than Al Qaeda, the United States and Pakistan have essentially become locked in a proxy war. As both parties pursued different outcomes at the strategic level, both sought to achieve minimal non-negotiables from the other while increasingly viewing the other as the enemy.

#### No impact to Pakistan instability- their ev is hype

Hundley 12(Before joining the Pulitzer Center, Tom Hundley was a newspaper journalist for 36 years, including nearly two decades as a foreign correspondent for the Chicago Tribune. During that time he served as the Tribune’s bureau chief in Jerusalem, Warsaw, Rome and London, reporting from more than 60 countries. He has covered three wars in the Persian Gulf, the Arab-Israeli conflict and the rise of Iran’s post-revolutionary theocracy. His work has won numerous journalism awards. He has taught at the American University in Dubai and at Dominican University in River Forest, Illinois. He has also been a Middle East correspondent for GlobalPost and a contributing writer for the Chicago News Cooperative. Tom graduated from Georgetown University and holds a master’s degree in international relations from the University of Pennsylvania. He was also National Endowment for the Humanities journalism fellow at the University of Michigan. Published September 5, 2012

With both sides armed to the teeth, **it is easy to exaggerate the fears** and much harder to pinpoint where the real dangers lie. For the United States, the nightmare scenario is that some of Pakistan's warheads or its fissile material falls into the hands of the Taliban or al Qaeda -- or, worse, that the whole country falls into the hands of the Taliban. For example, Rolf Mowatt-Larssen, a former CIA officer now at Harvard University's Belfer Center for Science and International Affairs, has warned of the "lethal proximity between terrorists, extremists, and nuclear weapons insiders" in Pakistan. This is a reality, but on the whole, Pakistan's nuclear arsenal appears to be reasonably secure against internal threats, according to those who know the country best. To **outsiders**, Pakistan **appears** to be permanently teetering on the **brink** of collapse. The fact that large swaths of the country are literally beyond the control of the central government is not reassuring. But a weak state **does not mean** a **weak society**, and **powerful internal dynamics based** largely on kinship and tribe **make it highly unlikely** that Pakistan would **ever fall** under the control of an outfit like the Taliban. During the country's intermittent bouts of democracy, its civilian leaders have been consistently incompetent and corrupt, but **even in the worst of times,** the military has maintained a high standard of professionalism. And there is **nothing** that **matters more** to the Pakistani military than keeping the nuclear arsenal -- **its crown jewels** -- out of the hands of India, the United States, and homegrown extremists. "Pakistan struggled to acquire these weapons against the wishes of the world. Our nuclear capability comes as a result of great sacrifice. It is our most precious and powerful weapon -- for our defense, our security, and our political prestige," Talat Masood, a retired Pakistani lieutenant general, told me. "We keep them safe." Pakistan's nuclear security is in the responsibility of the Strategic Plans Division**,** which appears to function pretty much as **a separate branch** of the military. It has its **own training facility and an elaborate set of controls** and screening proceduresto keep track of **all warheads and fissile material** and to monitor **any blips** in the behavior patterns of its personnel. The 15 or so sites where weapons are stored **are the mostly heavily guarded** in the country. **Even if** some group managed to steal or commandeer a weapon, **it is highly unlikely the group would be able to use it**. The greater danger is the theft of fissile material, which could be used to make a crude bomb. "With 70 to 80 kilos of highly enriched uranium, it would be fairly easy to make one in the basement of a building in the city of your choice," said Pervez Hoodbhoy, a distinguished nuclear physicist at Islamabad's Quaid-i-Azam University. At the moment, Pakistan has a stockpile of about 2.75 tons -- or some 30 bombs' worth -- of highly enriched uranium. It does not tell Americans where it is stored. "All nuclear countries are conscious of the risks, nuclear weapons states especially so," said Gen. Ehsan ul-Haq, who speaks with the been-there-done-that authority of a man who has served as both chairman of Pakistan's Joint Chiefs of Staff Committee and head of the ISI, its controversial spy agency. "Of course there are concerns. Some are genuine, butmuch of what you read in the U.S. media is **irrational and reflective of paranoia**. Rising radicalism in Pakistan? Yes, this is true, and the military is very conscious of this." Perhaps **the most credible endorsement** of Pakistan's nuclear security regime comes from its **most steadfast enemy.** The **consensus among India's top generals and defense experts** is that Pakistan's nukes are pretty secure. "No one can be 100 percent secure, but I think they are **more than 99 percent secure**," said Shashindra Tyagi, a former chief of staff of the Indian Air Force. "They keep a very close watch on personnel. All of the steps that could be taken have been taken. This business of the Taliban taking over -- it can't be ruled out, but I think **it's unlikely**. **The** Pakistani **military understands the threats** they face better than anyone, **and** they **are smart enough to take care it."** Yogesh Joshi, an analyst at the Institute for Defense Studies and Analyses in New Delhi, agrees: "Different states have different perceptions of risk. The U.S. has contingency plans [to secure Pakistan's nukes] because its nightmare scenario is that Pakistan's weapons fall into terrorist hands. The view from India over the years is that **Pakistan,** probably **more than any other nuclear** weapons **state, has taken measures to secure its weapons.** At the political level here, there's a lot of confidence that Pakistan's nuclear weapons are secure."

#### -- No India/Pakistan war –Deterrence

Giorgio et al 10 (Maia Juel, Tina Søndergaard Madsen, Jakob Wigersma, Mark Westh, “Nuclear Deterrence in South Asia: An Assessment of Deterrence and Stability in the Indian – Pakistan Conflict,” Global Studies, Autumn, http://dspace.ruc.dk/bitstream/1800/6041/1/Project%20GS-BA%2c%20Autumn%202010.pdf)

To what extent has nuclear deterrence enhanced stability in the India-Pakistan conflict? Recalling the logical structure of the paper, we here wish to reconcile the three analyses and offer a coherent synthesis of the results in relation to the research question. In order to gather the threads it is beneficial to shortly reflect upon the main results of the three analyses. Firstly, the aim with the thesis was to explore if there is nuclear deterrence between India and Pakistan, based upon Waltz three requirements. After having undertaken this analysis, we can conclude that Waltz’s requirements for effective nuclear deterrence are in fact fulfilled in both countries. Thus, from a neorealist perspective, is it then possible to deduce that stability reigns between India and Pakistan as a result of nuclear deterrence? Taking a point of departure in neorealist assumptions and nuclear deterrence theory, there is indeed stability between India and Pakistan, as no major war has taken place between the countries, and more importantly, nuclear war has been avoided. Nuclear deterrence has thus been successful in creating stability on a higher structural level.

### PQD

#### Here’s the litmus test for this advantage – if you control F targeted killing, drones, or any thing close to those – there is not a single card in this advantage that says anything close to it – they tag one card as being about TK but it’s about US election law – the plan does not spill over to collapse the PQD doctrine – the plan text only applies the grounds to military cases on targeted killing – that doesn’t spillover to \_\_\_\_\_\_\_\_

#### Ex post review wouldn’t violate the political question doctrine or cause other branches to go to the court to settle disputes – proves no spillover

Taylor 13 (Paul, is a Senior Fellow, Center for Policy & Research. Focus on national security policy, international relations, targeted killings, and drone operations. “Former DOD Lawyer Frowns on Drone Court,” http://centerforpolicyandresearch.com/2013/03/23/former-dod-lawyer-frowns-on-drone-court/)

First, Johnson notes, as others have, that judges would be loath to issue the equivalent of death warrants, first of all on purely moral grounds, but also on more political grounds. Courts enjoy the highest approval ratings of the three branches of government, yet accepting the responsibility to determine which individuals may live or die, without that individual having an opportunity to appear before the court would simply shift some of the public opprobrium from the Executive to the Judiciary. However, if the court exercised ex post review, it instead would be in its ordinary position of approving or disapproving the Executive’s decisions, not making its decisions for it. Another concern raised by Johnson is that the judges would be highly uncomfortable making such decisions because they would be necessarily involve a secret, purely ex parte process. While courts do this on a daily basis, as when they issue search or arrest warrants, the targeted killing context stands apart in that the judge’s decision would be effectively irreversible. Here again, the use of ex post process would free the courts from this problem, and place it in the executive (which includes the military, incidentally, an organization which deals with this issue as a matter of course).

#### Overturning PQD wrecks coordination necessary to solve warming

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

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

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

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

CONCLUSION

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

#### PQD is never cited and previous statutes disprove it’s use

Skinner 8-23 (Gwynne, Willamette University - College of Law, “Misunderstood, Misconstrued, and Now Clearly Dead: The 'Political Question Doctrine' in Cases Arising in the Context of Foreign Affairs,”)

Lower federal courts often cite the “Political Question Doctrine” when dismissing as nonjusticiable individual rights cases arising in the context of foreign or military affairs, especially since the 1962 case of Baker v. Carr. Similarly, such courts have inappropriately begun citing “special factors” counselling hesitation in refusing to recognize constitutional claims (“Bivens claims”) in similar foreign policy contexts. However, a review of 200 years of history reveals that the Supreme Court has never applied the so-called “political question doctrine” as a true justiciability doctrine to dismiss individual rights claims, even those arising in the context of foreign or military affairs. In fact, the Supreme Court has almost always rejected the “political question doctrine” as a basis to preclude adjudication of individual rights claims, even in the context of foreign or military affairs. Although the Supreme Court has invoked a “political question doctrine” in some cases, a close review of those cases demonstrates that rather than dismissing the cases as “nonjusticiable,” the Court in fact adjudicated the case by finding that either the executive or Congress acted constitutionally within their power or discretion. The recent post-9/11 Supreme Court cases of Hamdi v. Rumsfeld, Rasul v. Bush, and Bush v. Boumediene further demonstrate that the doctrine does not exist as a nonjusticiability doctrine in individual rights claims (if it exists as such at all), even in those involving foreign and military affairs. In case there remained any doubt, in 2012 case of Zivotofsky v. Clinton, the Supreme Court for all practical purposes sounded the death knell of the application of the “political question doctrine” as a justiciability doctrine with regard to individual rights claims, including those arising in a foreign policy context. Rather than continuing to erroneously dismiss such cases on political question grounds or using “special factors” as nonjusticiable, federal courts should adjudicate the claims by ruling which branch has what power under the Constitution, and whether the branch acted within its powers. This is an important function of the courts, and one vital to legal and political transparency and democracy. Indeed, this is the approach the Supreme Court has consistently taken – even if the Court has not always well-articulated this approach - and which it affirmed in Zivotofsky.

#### Impact inevitable—CMR in the U.S. will always be strained—opposing values

Cohen 2000 Former Secretary of Defense.

Eliot A. Cohen. Why the Gap Matters - gap between military and civilian world. The National Interest. http://www.dtic.mil/miled/pamphlet/AFO18.pdf.

To do so, they must begin by purging themselves of the notion that if there is no threat of a coup, there is no problem. The truth is that the civil-military relationship in a democracy is almost invariably difficult, setting up as it does opposing values, powerful institutions with great resources, and inevitable tensions between military professionals and statesmen. Those difficulties have become more acute in the United States as a result of two great changes: the end of a centuries-old form of military organization, and a transformation in America's geopolitical circumstances.

#### Impact is exaggerated

Cohen 2000. Former Secretary of Defense.

Eliot A. Cohen. Why the Gap Matters - gap between military and civilian world. The National Interest. http://www.dtic.mil/miled/pamphlet/AFO18.pdf.

THE PARADOX of increased social and institutional vulnerability on the one hand and increased military influence on narrow sectors of policymaking on the other is the essence of the contemporary civil-military problem. Its roots lie not in the machinations of power hungry generals; they have had influence thrust upon them. Nor do they lie in the fecklessness of civilian leaders determined to remake the military in the image of civil society; all militaries must, in greater or lesser degree, share some of the mores and attitudes of the broader civilization from which they have emerged. The problem reflects, rather, deeper and more enduring changes in politics, society and technology. The challenge to American policymakers and soldiers lies in admitting that there is a problem without exaggerating its size and scope. There is no danger of a coup, but there is dry rot. There is no threat even of a MacArthur-sized crisis between political and military high commands, but there is a level of mistrust, antipathy and condescension that is worrisome. There is no fear of collapse of civilian control, but there is erosion in some areas, distortion in others, and, more than anything else, confusion about the meaning of military professionalism under the new conditions--plus sheer ignorance and forgetfulness about what civilian control entails. What are the solutions?

#### Lots of factors prevent great power conflict without hegemony

Fettweis 10 (Christopher J. Professor of Political Science at Tulane, Dangerous Times-The International Politics of Great Power Peace, pg. 175-6)

If the only thing standing between the world and chaos is the US military presence, then an adjustment in grand strategy would be exceptionally counter-productive. But it is worth recalling that none of the other explanations for the decline of war – nuclear weapons, complex economic interdependence, international and domestic political institutions, evolution in ideas and norms – necessitate an activist America to maintain their validity. Were American to become more restrained, nuclear weapons would still affect the calculations of the would be aggressor; the process of globalization would continue, deepening the complexity of economic interdependence; the United Nations could still deploy peacekeepers where necessary; and democracy would not shrivel where it currently exists. More importantly,the idea that war is a worthwhile way to resolve conflict would have no reason to return. As was argued in chapter 2, normative evolution is typically unidirectional. Strategic restraint in such a world be virtually risk free.

#### ----Long timeframe to warming and adaptation solves

Robert O. Mendelsohn 9, the Edwin Weyerhaeuser Davis Professor, Yale School of Forestry and Environmental Studies, Yale University, June 2009, “Climate Change and Economic Growth,” online: http://www.growthcommission.org/storage/cgdev/documents/gcwp060web.pdf

The heart of the debate about climate change comes from a number of warnings from scientists and others that give the impression that human-induced climate change is an immediate threat to society (IPCC 2007a,b; Stern 2006). Millions of people might be vulnerable to health effects (IPCC 2007b), crop production might fall in the low latitudes (IPCC 2007b), water supplies might dwindle (IPCC 2007b), precipitation might fall in arid regions (IPCC 2007b), extreme events will grow exponentially (Stern 2006), and between 20–30 percent of species will risk extinction (IPCC 2007b). Even worse, there may be catastrophic events such as the melting of Greenland or Antarctic ice sheets causing severe sea level rise, which would inundate hundreds of millions of people (Dasgupta et al. 2009). Proponents argue there is no time to waste. Unless greenhouse gases are cut dramatically today, economic growth and well‐being may be at risk (Stern 2006).

These statements are largely alarmist and misleading. Although climate change is a serious problem that deserves attention, society’s immediate behavior has an extremely low probability of leading to catastrophic consequences. The science and economics of climate change is quite clear that emissions over the next few decades will lead to only mild consequences. The severe impacts predicted by alarmists require a century (or two in the case of Stern 2006) of no mitigation. Many of the predicted impacts assume there will be no or little adaptation. The net economic impacts from climate change over the next 50 years will be small regardless. Most of the more severe impacts will take more than a century or even a millennium to unfold and many of these “potential” impacts will never occur because people will adapt. It is not at all apparent that immediate and dramatic policies need to be developed to thwart long‐range climate risks. What is needed are long‐run balanced responses.

#### Warming is irreversible

ANI 10 (“IPCC has underestimated climate-change impacts, say scientists”, 3-20, One India, http://news.oneindia.in/2010/03/20/ipcchas-underestimated-climate-change-impacts-sayscientis.html)

According to Charles H. Greene, Cornell professor of Earth and atmospheric science, "Even if all man-made greenhouse gas emissions were stopped tomorrow and carbon-dioxide levels stabilized at today's concentration, by the end of this century, the global average temperature would increase by about 4.3 degrees Fahrenheit, or about 2.4 degrees centigrade above pre-industrial levels, which is significantly above the level which scientists and policy makers agree is a threshold for dangerous climate change." "Of course, greenhouse gas emissions will not stop tomorrow, so the actual temperature increase will likely be significantly larger, resulting in potentially catastrophic impacts to society unless other steps are taken to reduce the Earth's temperature," he added. "Furthermore, while the oceans have slowed the amount of warming we would otherwise have seen for the level of greenhouse gases in the atmosphere, the ocean's thermal inertia will also slow the cooling we experience once we finally reduce our greenhouse gas emissions," he said. This means that the temperature rise we see this century will be largely irreversible for the next thousand years. "Reducing greenhouse gas emissions alone is unlikely to mitigate the risks of dangerous climate change," said Green.

## 2NC – Case, K

## Case

### XT Allied Co-op

#### ---NSA scandal thumps US/EU relations – destroys trust which decks coop on EVERY issue

Dempsey 2/3/14 (Judy, Analyst for European Affairs @ Carnegie Endowment for World Peace, "Kerry’s Lost Opportunity for Transatlantic Relations," http://carnegieeurope.eu/strategiceurope/?fa=54408)

When U.S. Secretary of State John Kerry flew into Berlin on January 31, expectations were high that the United States was finally taking seriously its allies’ anger about the National Security Agency’s pervasive spying.¶ U.S. snooping is an issue that is refusing to disappear from German newspaper headlines. Crucially, it is increasingly straining transatlantic relations—a situation that neither the Americans nor the Europeans can afford to ignore.¶ At a meeting with German Chancellor Angela Merkel, Kerry spoke casually of “bumps in the road.” Yet he gave absolutely no reassurance about the United States’ future policy on spying, neither during his Berlin meetings nor afterward at this year’s Munich Security Conference.¶ In fact, when he spoke to his audience of high-ranking politicians, diplomats, and foreign and security policy specialists in the Bavarian capital, he didn’t even mention the NSA. Nor did U.S. Defense Secretary Chuck Hagel bother to raise the issue publicly.¶ That was a mistake.¶ It is not only the German public that needs reassurances and explanations about the scope of the NSA’s reach. It is about restoring trust between the United States and all its European allies. Given the huge issues that governments on both sides of the Atlantic have to tackle, such trust is necessary more than ever.¶ If the administration of U.S. President Barack Obama wants to start rebuilding trust in the transatlantic relationship, it needs to embark on much more active public diplomacy. “And that means sending very senior people to European countries to do just that,” said Toomas Hendrik Ilves, the president of Estonia, who also took part in the Munich summit.¶ In that sense, Kerry and Hagel squandered the opportunity to use the high-level conference as a platform to reach out to German and European audiences. The pair did nothing to address the trend identified in a recent poll by German public television that only 57 percent of Germans believe that relations with the United States are good, down from 92 percent in 2012.¶ Instead, Kerry spent much of his speech recalling his childhood in Europe and stressing America’s commitment to NATO and to Europe. He and Hagel cited all the places and all the conflicts in which the United States was engaged, to prove that America was not turning in on itself. In short, conference participants were told that everything was just fine with the transatlantic relationship.¶ Yet the State of the Union address that Obama gave in Washington on January 28 presented a very different picture, causing genuine concern not only to European governments but also to U.S. foreign policy experts. In that speech, there was scant mention of Ukraine. There was little serious attention paid to Syria, and nothing about Russia or China. NATO and Europe received only passing references.¶ But at least Obama did mention that U.S. surveillance methods were being reviewed. That is exactly what Kerry and Hagel should have said in Munich. They should have acknowledged how much the NSA scandal has hurt transatlantic relations, and they should have explained what Washington plans to do about that.¶ An equally important dimension to the spying scandal is Russia. Vladimir Putin, the Russian president, must be having a field day. The more Edward Snowden, a former NSA official who has been given asylum in Russia, leaks classified information, the more those revelations weaken transatlantic ties. Putin must be delighted about the wedge being driven between the United States and its European allies, in particular Germany.¶ Neither Obama nor Merkel can afford to ignore this state of affairs. They both need each other more than ever, on issues ranging from the unrest in Ukraine to the negotiations on a new Transatlantic Trade and Investment Partnership. It would be so damaging for the United States and the EU if certain political parties and influential nongovernmental organizations in Europe were to exploit the NSA scandal to jeopardize those talks.¶ The United States must understand that its allies’ anger over being spied on won’t simply blow over. Ignoring that sentiment carries real costs in terms of influence and policies. Some plain talking from John Kerry and others is sorely needed.

#### No NATO impact

Kaplan & Kaplan 11 (Robert D., senior fellow at the Center for a New American Security in Washington and a member of the Pentagon’s Defense Policy Board, and Stephen S., former vice chairman of the National Intelligence Council as well as a longtime daily White House briefer and director of the president’s daily briefing, March/April 2011, “America Primed,” <http://nationalinterest.org/print/article/america-primed-4892>)

OF COURSE even this set of assets is not enough to ensure American primacy—nor its sway over the West. And not all alliances are created equal. For example, Washington can less and less rely on NATO to serve as its linchpin in Europe. NATO is of limited help in Afghanistan, was irrelevant in Iraq and simply does not matter in the larger Middle East. The defense budgets of member states in Western Europe are generally below the NATO standard of 2 percent of GDP, even as these same countries now brace for the steepest cuts in military spending since the end of the Cold War. U.S. Defense Secretary Robert Gates, as prudent and low-key a public speaker as one can imagine, has publicly chided Europeans for being too reluctant to use military force. Nor does NATO, whatever the fine print of its documents, really guarantee the territorial integrity of its new member states in Eastern Europe against potential Russian aggression. The United States does that, and the Balts, Poles, Romanians and others know it. Plainly, the Poles and Romanians sent troops to Iraq and Afghanistan (and any number of various African countries where the United States has had military missions) not because they necessarily approved of these deployments or were enthusiastic about them, but as a quid pro quo for this implicit security guarantee.

#### PRISM and detention are massive alt-causes

Kristin Archick, European affairs specialist @ CRS, 9-4-2013, “U.S.-EU Cooperation Against Terrorism,” Congressional Research Service, <http://www.fas.org/sgp/crs/row/RS22030.pdf>

Although the United States and the EU both recognize the importance of sharing information in an effort to track and disrupt terrorist activity, data privacy has been and continues to be a key U.S.-EU sticking point. As noted previously, the EU considers the privacy of personal data a basic right; EU data privacy regulations set out common rules for public and private entities in the EU that hold or transmit personal data, and prohibit the transfer of such data to countries where legal protections are not deemed “adequate.” In the negotiation of several U.S.-EU informationsharing agreements, from those related to Europol to SWIFT to airline passenger data, some EU officials have been concerned about whether the United States could guarantee a sufficient level of protection for European citizens’ personal data. In particular, some Members of the European Parliament (MEPs) and many European civil liberty groups have long argued that elements of U.S.-EU information-sharing agreements violate the privacy rights of EU citizens. In light of the public revelations in June 2013 of U.S. National Security Agency (NSA) surveillance programs and news reports alleging that U.S. intelligence agencies have monitored EU diplomatic offices and computer networks, many analysts are worried about the future of U.S.-EU information-sharing arrangements. As discussed in this section, many of these U.S.-EU information-sharing agreements require the approval of the European Parliament, and many MEPs (as well as many officials from the European Commission and the national governments) have been deeply dismayed by the NSA programs and other spying allegations. In response, the Parliament passed a resolution expressing serious concerns about the U.S. surveillance operations and established a special working group to conduct an in-depth investigation into the reported programs.17 In addition, led by the European Commission and the U.S. Department of Justice, the United States and the EU have convened a joint expert group on the NSA’s surveillance operations, particularly the so-called PRISM program (in which the NSA reportedly collected data from leading U.S. Internet companies), to assess the “proportionality” of such programs and their implications for the privacy rights of EU citizens.18 U.S. officials have sought to reassure their EU counterparts that the PRISM program and other U.S. surveillance activities operate within U.S. law and are subject to oversight by all three branches of the U.S. government. Some observers note that the United States has been striving to demonstrate that it takes EU concerns seriously and is open to improving transparency, in part to maintain European support for existing information-sharing accords, such as SWIFT (which will be up for renewal in 2015), and the U.S.-EU Passenger Name Record agreement (up for renewal in 2019). Nevertheless, many experts predict that the revelations of programs such as PRISM will make the negotiation of future U.S.-EU information-sharing arrangements more difficult, and may make the European Parliament even more cautious and skeptical about granting its approval.

### XT PQD

#### Overturning PQD wrecks coordination necessary to solve warming

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

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

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

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

CONCLUSION

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

#### PQD is never cited and previous statutes disprove it’s use

Skinner 8-23 (Gwynne, Willamette University - College of Law, “Misunderstood, Misconstrued, and Now Clearly Dead: The 'Political Question Doctrine' in Cases Arising in the Context of Foreign Affairs,”)

Lower federal courts often cite the “Political Question Doctrine” when dismissing as nonjusticiable individual rights cases arising in the context of foreign or military affairs, especially since the 1962 case of Baker v. Carr. Similarly, such courts have inappropriately begun citing “special factors” counselling hesitation in refusing to recognize constitutional claims (“Bivens claims”) in similar foreign policy contexts. However, a review of 200 years of history reveals that the Supreme Court has never applied the so-called “political question doctrine” as a true justiciability doctrine to dismiss individual rights claims, even those arising in the context of foreign or military affairs. In fact, the Supreme Court has almost always rejected the “political question doctrine” as a basis to preclude adjudication of individual rights claims, even in the context of foreign or military affairs. Although the Supreme Court has invoked a “political question doctrine” in some cases, a close review of those cases demonstrates that rather than dismissing the cases as “nonjusticiable,” the Court in fact adjudicated the case by finding that either the executive or Congress acted constitutionally within their power or discretion. The recent post-9/11 Supreme Court cases of Hamdi v. Rumsfeld, Rasul v. Bush, and Bush v. Boumediene further demonstrate that the doctrine does not exist as a nonjusticiability doctrine in individual rights claims (if it exists as such at all), even in those involving foreign and military affairs. In case there remained any doubt, in 2012 case of Zivotofsky v. Clinton, the Supreme Court for all practical purposes sounded the death knell of the application of the “political question doctrine” as a justiciability doctrine with regard to individual rights claims, including those arising in a foreign policy context. Rather than continuing to erroneously dismiss such cases on political question grounds or using “special factors” as nonjusticiable, federal courts should adjudicate the claims by ruling which branch has what power under the Constitution, and whether the branch acted within its powers. This is an important function of the courts, and one vital to legal and political transparency and democracy. Indeed, this is the approach the Supreme Court has consistently taken – even if the Court has not always well-articulated this approach - and which it affirmed in Zivotofsky.

#### Impact inevitable—CMR in the U.S. will always be strained—opposing values

Cohen 2000 Former Secretary of Defense.

Eliot A. Cohen. Why the Gap Matters - gap between military and civilian world. The National Interest. http://www.dtic.mil/miled/pamphlet/AFO18.pdf.

To do so, they must begin by purging themselves of the notion that if there is no threat of a coup, there is no problem. The truth is that the civil-military relationship in a democracy is almost invariably difficult, setting up as it does opposing values, powerful institutions with great resources, and inevitable tensions between military professionals and statesmen. Those difficulties have become more acute in the United States as a result of two great changes: the end of a centuries-old form of military organization, and a transformation in America's geopolitical circumstances.

#### Impact is exaggerated

Cohen 2000. Former Secretary of Defense.

Eliot A. Cohen. Why the Gap Matters - gap between military and civilian world. The National Interest. http://www.dtic.mil/miled/pamphlet/AFO18.pdf.

THE PARADOX of increased social and institutional vulnerability on the one hand and increased military influence on narrow sectors of policymaking on the other is the essence of the contemporary civil-military problem. Its roots lie not in the machinations of power hungry generals; they have had influence thrust upon them. Nor do they lie in the fecklessness of civilian leaders determined to remake the military in the image of civil society; all militaries must, in greater or lesser degree, share some of the mores and attitudes of the broader civilization from which they have emerged. The problem reflects, rather, deeper and more enduring changes in politics, society and technology. The challenge to American policymakers and soldiers lies in admitting that there is a problem without exaggerating its size and scope. There is no danger of a coup, but there is dry rot. There is no threat even of a MacArthur-sized crisis between political and military high commands, but there is a level of mistrust, antipathy and condescension that is worrisome. There is no fear of collapse of civilian control, but there is erosion in some areas, distortion in others, and, more than anything else, confusion about the meaning of military professionalism under the new conditions--plus sheer ignorance and forgetfulness about what civilian control entails. What are the solutions?

#### ----Long timeframe to warming and adaptation solves

Robert O. Mendelsohn 9, the Edwin Weyerhaeuser Davis Professor, Yale School of Forestry and Environmental Studies, Yale University, June 2009, “Climate Change and Economic Growth,” online: http://www.growthcommission.org/storage/cgdev/documents/gcwp060web.pdf

The heart of the debate about climate change comes from a number of warnings from scientists and others that give the impression that human-induced climate change is an immediate threat to society (IPCC 2007a,b; Stern 2006). Millions of people might be vulnerable to health effects (IPCC 2007b), crop production might fall in the low latitudes (IPCC 2007b), water supplies might dwindle (IPCC 2007b), precipitation might fall in arid regions (IPCC 2007b), extreme events will grow exponentially (Stern 2006), and between 20–30 percent of species will risk extinction (IPCC 2007b). Even worse, there may be catastrophic events such as the melting of Greenland or Antarctic ice sheets causing severe sea level rise, which would inundate hundreds of millions of people (Dasgupta et al. 2009). Proponents argue there is no time to waste. Unless greenhouse gases are cut dramatically today, economic growth and well‐being may be at risk (Stern 2006).

These statements are largely alarmist and misleading. Although climate change is a serious problem that deserves attention, society’s immediate behavior has an extremely low probability of leading to catastrophic consequences. The science and economics of climate change is quite clear that emissions over the next few decades will lead to only mild consequences. The severe impacts predicted by alarmists require a century (or two in the case of Stern 2006) of no mitigation. Many of the predicted impacts assume there will be no or little adaptation. The net economic impacts from climate change over the next 50 years will be small regardless. Most of the more severe impacts will take more than a century or even a millennium to unfold and many of these “potential” impacts will never occur because people will adapt. It is not at all apparent that immediate and dramatic policies need to be developed to thwart long‐range climate risks. What is needed are long‐run balanced responses.

### 2NC No XTC

#### Adaptation solves catastrophic impacts to warming

Goklany 11 -- PhD, author and researcher associated with IPCC, expert reviewer and U.S. delegate to that organization (Dr. Indur M., 12/11, "Misled on Climate Change: How the UN IPCC (and others) Exaggerate the Impacts of Global Warming," http://goklany.org/library/Reason%20CC%20and%20Development%202011.pdf)

So how much of a difference in impact would consideration of both economic development and technological change have made? If impacts were to be estimated for five or so years into the future, ignoring changes in adaptive capacity between now and then probably would not be fatal because neither economic development nor technological change would likely advance substantially during that period. However, the time horizon of climate change impact assessments is often on the order of 35–100 years or more. The Fast Track Assessments use a base year of 1990 to estimate impacts for 2025, 2055 and 2085. 39 The Stern Review’s time horizon extends to 2100– 2200 and beyond. 40 Over such periods one ought to expect substantial advances in adaptive capacity due to increases in economic development, technological change and human capital. As already noted, retrospective assessments indicate that over the span of a few decades, changes in economic development and technologies can substantially reduce, if not eliminate, adverse environmental impacts and improve human well-being, as measured by a variety of objective indicators. 41 Thus, not fully accounting for changes in the level of economic development and secular technological change would understate future adaptive capacity, which then could overstate impacts by one or more orders of magnitude if the time horizon is several decades into the future. The assumption that there would be little or no improved or new technologies that would become available between 1990 and 2100 (or 2200), as assumed in most climate change impact assessments, is clearly naïve. In fact, a comparison of today’s world against the world of 1990 (the base year used in most impacts studies to date) shows that even during this brief 20-year span, this assumption is invalid for many, if not most, human enterprises. Since 1990, for example, the portion of the developing world’s population living in absolute poverty declined from 42% to 25%, 42 and in sub-Saharan Africa Internet users increased from 0 to 50 million, while cellular phone users went from 0 per 100 to 33 per 100. 43 It should be noted that some of the newer impacts assessments have begun to account for changes in adaptive capacity. For example, the CIESIN study of 2006, in an exercise exploring the vulnerability to climate change under various climate change scenarios, allowed adaptive capacity to increase between the present and 2050 and 2100. 44 However, the researchers arbitrarily limited any increase in adaptive capacity to “either the current global mean or to a value that is 25% higher than the current value—whichever is higher.” 45 Such a limitation would, for example, have missed most of the increase in U.S. adaptive capacity during the twentieth century that virtually eliminated death and disease from climate-sensitive water-borne vector diseases. More recently, another study analyzed the sensitivity of deaths from malaria, diarrhea, schistosomiasis and dengue fever to warming, economic development and other determinants of adaptive capacity through the year 2100. 46 The results indicate, unsurprisingly, that economic development alone could reduce mortality substantially. For malaria, for instance, deaths would be eliminated before 2100 in a number of the more affluent sub-Saharan countries. 47

#### Experts agree

Hsu 10 (Jeremy, Live Science Staff, July 19, pg. <http://www.livescience.com/culture/can-humans-survive-extinction-doomsday-100719.html>)

His views deviate sharply from those of most experts, who don't view climate change as the end for humans. Even the worst-case scenarios discussed by the Intergovernmental Panel on Climate Change don't foresee human extinction. "The scenarios that the mainstream climate community are advancing are not end-of-humanity, catastrophic scenarios," said Roger Pielke Jr., a climate policy analyst at the University of Colorado at Boulder. Humans have the technological tools to begin tackling climate change, if not quite enough yet to solve the problem, Pielke said. He added that doom-mongering did little to encourage people to take action. "My view of politics is that the long-term, high-risk scenarios are really difficult to use to motivate short-term, incremental action," Pielke explained. "The rhetoric of fear and alarm that some people tend toward is counterproductive." Searching for solutions One technological solution to climate change already exists through carbon capture and storage, according to Wallace Broecker, a geochemist and renowned climate scientist at Columbia University's Lamont-Doherty Earth Observatory in New York City. But Broecker remained skeptical that governments or industry would commit the resources needed to slow the rise of carbon dioxide (CO2) levels, and predicted that more drastic geoengineering might become necessary to stabilize the planet. "The rise in CO2 isn't going to kill many people, and it's not going to kill humanity," Broecker said. "But it's going to change the entire wild ecology of the planet, melt a lot of ice, acidify the ocean, change the availability of water and change crop yields, so we're essentially doing an experiment whose result remains uncertain."

#### Warming will be slow, there’s no impact, and adaptation solves

William Yeatman 9, Energy Policy Analyst at the Competitive Enterprise Institute, February 3, 2009, “Global Warming 101: Science,” online: <http://www.globalwarming.org/2009/02/03/global-warming-101-science/>

A “planetary emergency—a crisis that threatens the survival of our civilization and the habitability of the Earth”—that is how former Vice President Al Gore describes global warming. Most environmental groups preach the same message. So do many journalists. So do some scientists.

In fact, at the 2008 annual meeting of Nobel Prize winners in Lindau, Germany, half the laureates on the climate change panel disputed the so-called consensus on global warming.

You have probably heard the dire warnings many times. Carbon dioxide (CO2) from mankind’s use of fossil fuels like coal, oil, and natural gas is building up in the atmosphere. Carbon dioxide is a greenhouse gas—it traps heat that would otherwise escape into outer space. Al Gore warns that global warming caused by carbon dioxide emissions could increase sea levels by 20 feet, spin up deadly hurricanes. It could even plunge Europe into an ice age.

Science does not support these and other scary predictions, which Gore and his allies repeatedly tout as a “scientific consensus.” Global warming is real and carbon dioxide emissions are contributing to it, but it is not a crisis. Global warming in the 21 st century is likely to be modest, and the net impacts may well be beneficial in some places. Even in the worst case, humanity will be much better off in 2100 than it is today.

The following is a summary of key points:

Average Annual Heat-Related Mortality: People will not drop like flies from heat waves in a warming world. Heat-related mortality will continue to decline as the world warms.

Far more people die each year from excess cold than from excess heat.

Global warming will not make air pollution worse.

Global warming will not lead to malaria epidemics in Northern Hemisphere countries.

Contrary to Gore, no “strong, new scientific consensus is emerging” that global warming is making hurricanes stronger.

Global Death & Death Rates Due to Extreme Events, 1900-2004: Since the 1920s, death rates related to extreme weather declined by more than 98 percent globally. The impression conveyed by An Inconvenient Truth—that global warming is making the world a more dangerous place—is false.

Gore’s warning that global warming could shut down the Atlantic branch of the oceanic thermohaline circulation (THC) and plunge Europe into an ice age is science fiction.

Gore’s warning that sea levels could rise by 20 feet is science fiction. Sea level rise in the 21 st century is likely to be measured in inches, not in feet.

The world warmed at a rate of 0.17°C per decade since 1978, according to the temperature record compiled by the United Nations Intergovernmental Panel on Climate Change (IPCC). Since most climate models predict that warming will occur at a constant—that is, non-accelerating—rate, it is reasonable to expect that global warming in the 21 st century will be close to the low end of the IPCC’s forecast range, of 1.4°C to 5.8°C.

The actual warming rate may be only half the 0.17°C per decade rate implied in the IPCC temperature record, because the IPCC has not adequately filtered out the warming biases from local factors like urbanization and improper management of monitoring equipment.

A warming near the low end of the IPCC range would produce both benefits—longer growing seasons, more rainfall, fewer cold deaths—and harms—more heat waves, more drought, some acceleration of sea level rise—but nothing resembling catastrophe.

Even in the IPCC high-end warming forecasts, human welfare would improve dramatically over the next 100 years. In the IPCC fossil-fuel-intensive development scenario, per capita GDP in developing countries increases from $875 per year in 1990 to $43,000 per year in 2100—even after taking into account an additional 110 years of global warming. Even in the IPCC worst-case scenario, global warming is not the civilization-ending catastrophe Al Gore purports it to be.

#### No impact to warming – not a hack

Stafford 3/11 -- interviewing Anthony Watts, 25-year broadcast meteorology veteran (James, 2013, "Climate Change without Catastrophe: Interview with Anthony Watts," http://oilprice.com/Interviews/Climate-Change-without-Catastrophe-Interview-with-Anthony-Watts.html)

Anthony Watts: The premise of the issue for proponents can be summed up very simply: You put CO2 in the atmosphere and it makes it warmer, that’s bad. The reality is that the Earth’s climate system is far more complex than that: It isn’t just a linear relationship between CO2 and temperature, it is a dynamic ever-changing one, and climate is tremendously complex with hundreds of interactive variables and feedbacks. Predicting an outcome of a chaotic system over the long term is a very, very big task, one that we’ve really only scratched the surface of. Dr. Judith Curry of Georgia Tech describes it as a “wicked problem”. But it is being popularly portrayed as a simple black-and-white problem and few really delve much beyond the headlines and the calls for action to understand that it is really many shades of grey. Oilprice.com: As a former TV meteorologist and a developer of weather data dissemination technology, can you tell us more about how your background lends to your “pragmatic scepticism” on climate change? Anthony Watts: In TV, if I was wrong on the forecast, or the temperature reported was inaccurate, I’d hear about it immediately. Viewers would complain. That immediate feedback translates very quickly to making sure you get it right. With climate, the forecast is open-ended, and we have to wait years for feedback, and so the skill level in forecasting often doesn’t improve very much with time. Also, I’ve had a lifetime of experience in designing and deploying weather instrumentation, and like with forecasting, if we don’t get it right, we hear about it immediately. What I learned is that the government weather service (NOAA) had it right at one time, but they’d dropped their guard, and my recent study (preliminary) shows that not only is the deployment of weather stations faulty in siting them, but that the adjustments designed to solve those issues actually make the problem worse. Oilprice.com: Is there any way to remove the “camp” element from the issue of climate change? How far do disastrous weather events—like Hurricane Sandy—go towards reshaping the climate change debate? Anthony Watts: The idea that Hurricane Sandy, a minor class 1 storm, was somehow connected to CO2 driven “climate change” is ludicrous, especially when far worse storms existed in the same area in the past when CO2 was much lower. Hurricane Hazel in October 1954 is a case in point. In my view, the only way to null out the “camp” element is via education. Looking at the history of severe weather, there really aren’t any trends at all. Both the IPCC and The Journal Nature say this clearly, but activists persist in trying to link severe weather and CO2 driven “climate change” because since temperature increases have paused for about 15 years, it is all they have left. But even that doesn’t hold up when you study the data history: There is also some peer-reviewed analysis which goes into some depth on this subject. This analysis concludes that "there is no evidence so far that climate change has increased the normalized economic loss from natural disasters." Oilprice.com: Your message on climate change has been controversial among those who believe this issue is the gravest one facing us today. In what way do you think your message is misunderstood? Anthony Watts: They think and promote that I’m categorically a “denier” in the pay of “big oil” (for the record, I’m paid nothing for this interview) in an effort to minimize my views, while ignoring the fact that I was actually on the proponent side of warming at one time. Now, I’d describe myself as a lukewarmer. Yes, it has gotten warmer, CO2 is partially a factor, but catastrophic predictions of the future just haven’t held up when you look at the observed data compared to the early predictions.

#### No consensus on catastrophic climate change – it’s unlikely

Boslough 13 -- PhD, Caltech-trained experimental and computational physicist, Fellow of the Committee for Skeptical Inquiry (Mark, 1/6/2013, "Global Warming: Scholarship vs. Pseudoscholarship," http://www.huffingtonpost.com/mark-boslough/global-warming-scholarshi\_b\_2422438.html)

What is not settled is the degree of climate change. In the peer-reviewed scientific literature there is a healthy, open, honest, and vigorous scientific debate. The best scientific estimate of the amount of warming (when CO2 levels double, which is likely to happen this century) is about 6 ºF. There are those who disagree, and have published the basis for their disagreement. The most useful assessments are not limited to the best estimate, but include quantification of the uncertainty, which is one of the hallmarks of honesty in science. There is a broad range of possibility, from below 4 ºF to greater than 11 ºF. One recent paper estimates a likelihood of about 2.5% that average temperature increases could exceed 14 ºF; a change that would probably lead to the collapse of global ecosystems, loss of civilization, and possible human extinction. There is no way to prove or disprove these quantitative estimates, other than to wait and see what happens. That said, it is hard to ignore a scholarly paper (emphasis on the word "scholarly") that gives longer odds for civilization than for a shuttle launch.

#### Past temperatures disprove human loss

Fowler 12 -- adjunct professor of engineering at George Mason University, retired systems engineer, doctorate is in systems and control theory from George Washington University (Thomas B., 9/1/2012, "THE GLOBAL WARMING CONUNDRUM," Modern Age, EBSCO)

Longer-Term Findings Perhaps the best way to put the current global warming controversy into perspective is to look at temperature records over longer historical periods. These records are obtained by proxies, and the main proxy used is ice core samples from central Creenland, made by NOAA. These are shown in Figure 4, beginning with the period from AD 1400 to the present, illustrating the controversial "hockey stick": It appears that things may be getting pretty bad today. But let us move to a slightly longer term, going back to the year 800, illustrated in Figure 5: Now things start to become more interesting. The well-documented Medieval Maximum is clearly visible and shows a much higher temperature deviation than the modern record. (This is disputed by some climate researchers and by the IPCC, which claims that its top is below that of the modern instrument record.)\* Nonetheless the ice core data agree with documentation that grapes were grown in England, for example, during that period. It was also a period of great awakening in Europe. But we must look further back, so we turn to the period from about 3000 BC to the present, given in Figure 6. Now more ttends become apparent. In particular, there is a peak corresponding to the Roman Empire, well documented, around the year 50 BC or so, known as the "Roman Maximum," which dwarfs the Medieval Maximum; and an even larger peak at the time of the late Bronze Age, about 1200 BC, which in turn dwarfs even the Roman Maximum. The late Bronze Age was also a very fertile period for human activity. There is also a smaller peak during the period now usually called "Late Antiquity," around the years AD 400-500. Note that even the dip between the Roman Maximum and this Late Antiquity peak had temperatures that equal or exceed that of the recent past, as did the dip in temperatures from the end of the Late Bronze Age peak to the Roman Maximum. Still, we must persevere and go back even further, this time to about 11,000 BC, shown in Figure 7. Now the last Ice Age clearly comes into view, a cold period that ended about 10,000 BC. There are several other peaks prior to the Late Bronze Age, but now the record makes the peaks and dips from about 8000 BC to the present look like noise on top of a much larger signal. We are not yet at the end of our quest. We now go back about fifty thousand years, shown in Figure 8. From this graph it is clear that the latter days, that is, the past twelve thousand years, have been abnormally warm. Much cooler temperatures appear to be the norm, with much greater variability. Note that the last Ice Age, with its great glacial ice sheets, was a maximum about twenty thousand years ago. Still, this is not the best we can do. We shall go back now 450,000 years, shown in Figure 9 (page 54). From this vantage point, it is quite clear that there is a distinct cyclical pattern to the earth's temperature, with a period of about 100,000 years, in which there is a sharp rise in temperatures to roughly current levels, followed quickly by a rapid decline. What is especially interesting is the relatively short time these peaks persist, only to be followed by some type of ice age.

#### Previous temperature spikes disprove the impact

Singer 11 (S. Fred, Robert M. and Craig, PhD physics – Princeton University and professor of environmental science – UVA, consultant – NASA, GAO, DOE, NASA, Carter, PhD paleontology – University of Cambridge, adjunct research professor – Marine Geophysical Laboratory @ James Cook University, and Idso, PhD Geography – ASU, “Climate Change Reconsidered,” 2011 Interim Report of the Nongovernmental Panel on Climate Change)

Research from locations around the world reveal a significant period of elevated air temperatures that immediately preceded the Little Ice Age, during a time that has come to be known as the Little Medieval Warm Period. A discussion of this topic was not included in the 2009 NIPCC report, but we include it here to demonstrate the existence of another set of real-world data that do not support the IPCC‘s claim that temperatures of the past couple of decades have been the warmest of the past one to two millennia. In one of the more intriguing aspects of his study of global climate change over the past three millennia, Loehle (2004) presented a graph of the Sargasso Sea and South African temperature records of Keigwin (1996) and Holmgren et al. (1999, 2001) that reveals the existence of a major spike in surface air temperature that began sometime in the early 1400s. This abrupt and anomalous warming pushed the air temperatures of these two records considerably above their representations of the peak warmth of the twentieth century, after which they fell back to pre-spike levels in the mid-1500s, in harmony with the work of McIntyre and McKitrick (2003), who found a similar period of higher-than-current temperatures in their reanalysis of the data employed by Mann et al. (1998, 1999).

#### No impact to warming

Idso and Idso 11 (Craig D., Founder and Chairman of the Board – Center for the Study of Carbon Dioxide and Global Change, and Sherwood B., President – Center for the Study of Carbon Dioxide and Global Change, “Carbon Dioxide and Earth’s Future Pursuing the Prudent Path,” February, <http://www.co2science.org/education/reports/> prudentpath/prudentpath.pdf)

As presently constituted, earth’s atmosphere contains just slightly less than 400 ppm of the colorless and odorless gas we call carbon dioxide or CO2. That’s only four-hundredths of one percent. Consequently, even if the air's CO2 concentration was tripled, carbon dioxide would still comprise only a little over one tenth of one percent of the air we breathe, which is far less than what wafted through earth’s atmosphere eons ago, when the planet was a virtual garden place. Nevertheless, a small increase in this minuscule amount of CO2 is frequently predicted to produce a suite of dire environmental consequences, including dangerous global warming, catastrophic sea level rise, reduced agricultural output, and the destruction of many natural ecosystems, as well as dramatic increases in extreme weather phenomena, such as droughts, floods and hurricanes. As strange as it may seem, these frightening future scenarios are derived from a single source of information: the ever-evolving computer-driven climate models that presume to reduce the important physical, chemical and biological processes that combine to determine the state of earth’s climate into a set of mathematical equations out of which their forecasts are produced. But do we really know what all of those complex and interacting processes are? And even if we did -- which we don't -- could we correctly reduce them into manageable computer code so as to produce reliable forecasts 50 or 100 years into the future? Some people answer these questions in the affirmative. However, as may be seen in the body of this report, real-world observations fail to confirm essentially all of the alarming predictions of significant increases in the frequency and severity of droughts, floods and hurricanes that climate models suggest should occur in response to a global warming of the magnitude that was experienced by the earth over the past two centuries as it gradually recovered from the much-lower-than-present temperatures characteristic of the depths of the Little Ice Age. And other observations have shown that the rising atmospheric CO2 concentrations associated with the development of the Industrial Revolution have actually been good for the planet, as they have significantly enhanced the plant productivity and vegetative water use efficiency of earth's natural and agro-ecosystems, leading to a significant "greening of the earth." In the pages that follow, we present this oft-neglected evidence via a review of the pertinent scientific literature. In the case of the biospheric benefits of atmospheric CO2 enrichment, we find that with more CO2 in the air, plants grow bigger and better in almost every conceivable way, and that they do it more efficiently, with respect to their utilization of valuable natural resources, and more effectively, in the face of environmental constraints. And when plants benefit, so do all of the animals and people that depend upon them for their sustenance. Likewise, in the case of climate model inadequacies, we reveal their many shortcomings via a comparison of their "doom and gloom" predictions with real-world observations. And this exercise reveals that even though the world has warmed substantially over the past century or more -- at a rate that is claimed by many to have been unprecedented over the past one to two millennia -- this report demonstrates that none of the environmental catastrophes that are predicted by climate alarmists to be produced by such a warming has ever come to pass. And this fact -- that there have been no significant increases in either the frequency or severity of droughts, floods or hurricanes over the past two centuries or more of global warming -- poses an important question. What should be easier to predict: the effects of global warming on extreme weather events or the effects of elevated atmospheric CO2 concentrations on global temperature? The first part of this question should, in principle, be answerable; for it is well defined in terms of the small number of known factors likely to play a role in linking the independent variable (global warming) with the specified weather phenomena (droughts, floods and hurricanes). The latter part of the question, on the other hand, is ill-defined and possibly even unanswerable; for there are many factors -- physical, chemical and biological -- that could well be involved in linking CO2 (or causing it not to be linked) to global temperature. If, then, today's climate models cannot correctly predict what should be relatively easy for them to correctly predict (the effect of global warming on extreme weather events), why should we believe what they say about something infinitely more complex (the effect of a rise in the air’s CO2 content on mean global air temperature)? Clearly, we should pay the models no heed in the matter of future climate -- especially in terms of predictions based on the behavior of a non-meteorological parameter (CO2) -- until they can reproduce the climate of the past, based on the behavior of one of the most basic of all true meteorological parameters (temperature). And even if the models eventually solve this part of the problem, we should still reserve judgment on their forecasts of global warming; for there will yet be a vast gulf between where they will be at that time and where they will have to go to be able to meet the much greater challenge to which they aspire

## K

### AT FW – New

#### **-- Counter interpretation – aff must defend their discourse. The judge is an academic challengning the values and assumptions of the entire text of the 1AC.**

#### -- Predictable – aff gets to pick their aff and gets strategic gains from reading hyperbolic impact scenarios

#### -- Education outweighs – it’s the only terminal impact – your exclusive focus on policymaking crowds outs critical questioning.

Biswas 7 [Shampa, Professor of Politics – Whitman College, “Empire and Global Public Intellectuals: Reading Edward Said as an International Relations Theorist”, Millennium, 36(1), p. 117-125]

It has been 30 years since Stanley Hoffman accused IR of being an ‘American social science’ and noted its too close connections to US foreign policy elites and US preoccupations of the Cold War to be able to make any universal claims,7 yet there seems to be a curious amnesia and lack of curiosity about the political history of the discipline, and in particular its own complicities in the production of empire.8 Through what discourses the imperial gets reproduced, resurrected and re-energised is a question that should be very much at the heart of a discipline whose task it is to examine the contours of global power. Thinking this failure of IR through some of Edward Said’s critical scholarly work from his long distinguished career as an intellectual and activist, this article is an attempt to politicise and hence render questionable the disciplinary traps that have, ironically, circumscribed the ability of scholars whose very business it is to think about global politics to actually think globally and politically. What Edward Said has to offer IR scholars, I believe, is a certain kind of global sensibility, a critical but sympathetic and felt awareness of an inhabited and cohabited world. Furthermore, it is a profoundly political sensibility whose globalism is predicated on a cognisance of the imperial and a firm non-imperial ethic in its formulation. I make this argument by travelling through a couple of Said’s thematic foci in his enormous corpus of writing. Using a lot of Said’s reflections on the role of public intellectuals, I argue in this article that IR scholars need to develop what I call a ‘global intellectual posture’. In the 1993 Reith Lectures delivered on BBC channels, Said outlines three positions for public intellectuals to assume – as an outsider/exile/marginal, as an ‘amateur’, and as a disturber of the status quo speaking ‘truth to power’ and self-consciously siding with those who are underrepresented and disadvantaged.9 Beginning with a discussion of Said’s critique of ‘professionalism’ and the ‘cult of expertise’ as it applies to International Relations, I first argue the importance, for scholars of global politics, of taking *politics* seriously. Second, I turn to Said’s comments on the posture of exile and his critique of identity politics, particularly in its nationalist formulations, to ask what it means for students of global politics to take the *global* seriously. Finally, I attend to some of Said’s comments on humanism and contrapuntality to examine what IR scholars can learn from Said about *feeling and thinking globally* concretely, thoroughly and carefully. IR Professionals in an Age of Empire: From ‘International Experts’ to ‘Global Public Intellectuals’ One of the profound effects of the war on terror initiated by the Bush administration has been a **significant constriction of a democratic public sphere**, which has included the active and aggressive curtailment of intellectual and political dissent and a sharp delineation of national boundaries along with concentration of state power. The academy in this context has become a particularly embattled site with some highly disturbing onslaughts on academic freedom. At the most obvious level, this has involved fairly well-calibrated neoconservative attacks on US higher education that have invoked the mantra of ‘liberal bias’ and demanded legislative regulation and reform10, an onslaught supported by a well-funded network of conservative think tanks, centres, institutes and ‘concerned citizen groups’ within and outside the higher education establishment11 and with considerable reach among sitting legislators, jurists and policy-makers as well as the media. But what has in part made possible the encroachment of such nationalist and statist agendas has been a larger history of the corporatisation of the university and the accompanying ‘professionalisation’ that goes with it. Expressing concern with ‘academic acquiescence in the decline of public discourse in the United States’, Herbert Reid has examined the ways in which the university is beginning to operate as another transnational corporation12, and critiqued the consolidation of a ‘culture of professionalism’ where academic bureaucrats engage in bureaucratic role-playing, minor **academic turf battles mask the larger managerial power play** on campuses and the increasing influence of a relatively autonomous administrative elite and the rise of insular ‘expert cultures’ have led to academics relinquishing their claims to public space and authority.13 While it is no surprise that the US academy should find itself too at that uneasy confluence of neoliberal globalising dynamics and exclusivist nationalist agendas that is the predicament of many contemporary institutions around the world, there is much reason for concern and an urgent need to rethink the role and place of intellectual labour in the democratic process. This is especially true for scholars of the global writing in this age of globalisation and empire. Edward Said has written extensively on the place of the academy as one of the few and increasingly precarious spaces for democratic deliberation and argued the necessity for public intellectuals immured from the seductions of power.14 Defending the US academy as one of the last remaining utopian spaces, ‘the one public space available to real alternative intellectual practices: no other institution like it on such a scale exists anywhere else in the world today’15, and lauding the remarkable critical theoretical and historical work of many academic intellectuals in a lot of his work, Said also complains that ‘the American University, with its munificence, utopian sanctuary, and remarkable diversity, has defanged (intellectuals)’16. The most serious threat to the ‘intellectual vocation’, he argues, is ‘professionalism’ and mounts a pointed attack on the proliferation of ‘specializations’ and the ‘cult of expertise’ with their focus on ‘relatively narrow areas of knowledge’, ‘technical formalism’, ‘impersonal theories and methodologies’, and most worrisome of all, their ability and willingness to be **seduced by power**.17 Said mentions in this context the funding of academic programmes and research which came out of the exigencies of the Cold War18, an area in which there was considerable traffic of political scientists (largely trained as IR and comparative politics scholars) with institutions of policy-making. Looking at various influential US academics as ‘organic intellectuals’ involved in a dialectical relationship with foreign policy-makers and examining the institutional relationships at and among numerous think tanks and universities that create convergent perspectives and interests, Christopher Clement has studied US intervention in the Third World both during and after the Cold War made possible and justified through various forms of ‘intellectual articulation’.19 This is not simply a matter of scholars working for the state, but indeed a larger question of intellectual orientation. It is not uncommon for IR scholars to feel the need to formulate their scholarly conclusions in terms of its relevance for global politics, where ‘relevance’ is measured entirely in terms of policy wisdom. Edward Said’s searing indictment of US intellectuals – policy-experts and Middle East experts - in the context of the first Gulf War20 is certainly even more resonant in the contemporary context preceding and following the 2003 invasion of Iraq. The space for a critical appraisal of the motivations and conduct of this war has been considerably diminished by the expertise-framed national debate wherein certain kinds **of ethical questions** irreducible **to formulaic ‘for or against’ and** ‘costs and benefits’ analysiscan simply **not be raised**. In effect, what Said argues for, and IR scholars need to pay particular heed to, is an understanding of ‘intellectual relevance’ that is larger and more worthwhile, that is about the posing of critical, historical, ethical and perhaps unanswerable questions rather than the offering of recipes and solutions, that is about politics (rather than techno-expertise) in the most fundamental and important senses of the vocation.21

#### That’s key to avoid inevitable policy failure

**Reus-Smit 12** – Professor of International Relations at the European University Institute, Florence (Christian, 6/2012, “International Relations, Irrelevant? Don’t Blame Theory”, Millennium Journal of International Studies 40(3), EBSCO)

However widespread it might be, the notion that IR’s lack of practical relevance stems from excessive theorising rests more on **vigorous assertion** than weighty evidence. As noted above, we lack good data on the field’s practical relevance, and the difficulties establishing appropriate measures are all too apparent in the fraught attempts by several governments to quantify the impact of the humanities and social sciences more generally. Beyond this, though, we lack any credible evidence that any fluctuations in the field’s relevance are due to more or less high theory. We hear that policymakers complain of not being able to understand or apply much that appears in our leading journals, but it is unclear why we should be any more concerned about this than physicists or economists, who take theory, even high theory, to be the bedrock of advancement in knowledge. Moreover, there is now a **wealth of research**, inside and outside IR, that shows that policy communities are not open epistemic or cognitive realms, simply awaiting well-communicated, non-jargonistic knowledge – they are bureaucracies, deeply susceptible to groupthink, that filter information through their own intersubjective frames. 10 Beyond this, however, there are good reasons to believe that precisely the reverse of the theory versus relevance thesis might be true; that theoretical inquiry may be a necessary prerequisite for the generation of practically relevant knowledge. I will focus here on the value of metatheory, as this attracts most contemporary criticism and would appear the most difficult of theoretical forms to defend. Metatheories take other theories as their subject. Indeed, their precepts establish the conditions of possibility for second-order theories. In general, metatheories divide into three broad categories: epistemology, ontology and meta-ethics. The first concerns the nature, validity and acquisition of knowledge; the second, the nature of being (what can be said to exist, how things might be categorised and how they stand in relation to one another); and the third, the nature of right and wrong, what constitutes moral argument, and how moral arguments might be sustained. Second-order theories are constructed within, and on the basis of, assumptions formulated at the metatheoretical level. Epistemological assumptions about what constitutes legitimate knowledge and how it is legitimately acquired delimit the questions we ask and the kinds of information we can enlist in answering them. 11 Can social scientists ask normative questions? Is literature a valid source of social-scientific knowledge? Ontological assumptions about the nature and distinctiveness of the social universe affect not only what we ‘see’ but also how we order what we see; how we relate the material to the ideational, agents to structures, interests to beliefs, and so on. If we assume, for example, that individuals are rational actors, engaged in the efficient pursuit of primarily material interests, then phenomena such as faith-motivated politics will remain at the far periphery of our vision. 12 Lastly, meta-ethical assumptions about the nature of the good, and about what constitutes a valid moral argument, frame how we reason about concrete ethical problems. Both deontology and consequentialism are meta-ethical positions, operationalised, for example, in the differing arguments of Charles Beitz and Peter Singer on global distributive justice. 13 Most scholars would acknowledge the background, structuring role that metatheory plays, but argue that we can take our metatheoretical assumptions off the shelf, get on with the serious business of research and leave explicit metatheoretical reflection and debate to the philosophers. If practical relevance is one of our concerns, however, there are several reasons why this is misguided. Firstly, whether IR is practically relevant depends, in large measure, on the kinds of questions that animate our research. I am not referring here to the commonly held notion that we should be addressing questions that practitioners want answered. Indeed, our work will at times be most relevant when **we pursue questions that policymakers** and others **would prefer left buried**. My point is a different one, which I return to in greater detail below. It is sufficient to note here that being practically relevant involves asking questions of practice; not just retrospective questions about past practices – their nature, sources and consequences – but prospective questions about what human agents should do. As I have argued elsewhere, being practically relevant means asking questions of how we, ourselves, or some other actors (states, policymakers, citizens, NGOs, IOs, etc.) should act. 14 Yet our ability, nay willingness, to ask such questions is determined by the metatheoretical assumptions that structure our research and arguments. This is partly an issue of ontology – what we see affects how we understand the conditions of action, rendering some practices possible or impossible, mandatory or beyond the pale. If, for example, we think that political change is driven by material forces, then we are unlikely to see communicative practices of argument and persuasion as potentially successful sources of change. More than this, though, it is also an issue of epistemology. If we assume that the proper domain of IR as a social science is the acquisition of empirically verifiable knowledge, then we will struggle to comprehend, let alone answer, normative questions of how we should act. We will either reduce ‘ought’ questions to ‘is’ questions, or place them off the agenda altogether. 15 Our metatheoretical assumptions thus determine the macro-orientation of IR towards questions of practice, directly affecting the field’s practical relevance. Secondly, metatheoretical revolutions license new second-order theoretical and analytical possibilities while foreclosing others, directly affecting those forms of scholarship widely considered most practically relevant. The rise of analytical eclecticism illustrates this. As noted above, Katzenstein and Sil’s call for a pragmatic approach to the study of world politics, one that addresses real-world problematics by combining insights from diverse research traditions, resonates with the mood of much of the field, especially within the American mainstream. Epistemological and ontological debates are widely considered irresolvable dead ends, grand theorising is unfashionable, and gladiatorial contests between rival paradigms appear, increasingly, as unimaginative rituals. Boredom and fatigue are partly responsible for this new mood, but something deeper is at work. Twenty-five years ago, Sil and Katzenstein’s call would have fallen on deaf ears; the neo-neo debate that preoccupied the American mainstream occurred within a metatheoretical consensus, one that combined a neo-positivist epistemology with a rationalist ontology. This singular metatheoretical framework defined the rules of the game; analytical eclecticism was unimaginable. The Third Debate of the 1980s and early 1990s destabilised all of this; not because American IR scholars converted in their droves to critical theory or poststructuralism (far from it), but because metatheoretical absolutism became less and less tenable. The anti-foundationalist critique of the idea that there is any single measure of truth did not produce a wave of relativism, but it did generate a widespread sense that battles on the terrain of epistemology were unwinnable. Similarly, the Third Debate emphasis on identity politics and cultural particularity, which later found expression in constructivism, did not vanquish rationalism. It did, however, establish a more pluralistic, if nevertheless heated, debate about ontology, a terrain on which many scholars felt more comfortable than that of epistemology. One can plausibly argue, therefore, that the metatheoretical struggles of the Third Debate created a space for – even made possible – the rise of analytical eclecticism and its aversion to metatheoretical absolutes, a principal benefit of which is said to be greater practical relevance. Lastly, most of us would agree that for our research to be practically relevant, it has to be good – it has to be the product of sound inquiry, and our conclusions have to be plausible. The pluralists among us would also agree that different research questions require different methods of inquiry and strategies of argument. Yet across this diversity there are several practices widely recognised as essential to good research. Among these are clarity of purpose, logical coherence, engagement with alternative arguments and the provision of good reasons (empirical evidence, corroborating arguments textual interpretations, etc.). Less often noted, however, is the importance of metatheoretical reflexivity. If our epistemological assumptions affect the questions we ask, then **being conscious of** these **assumptions** is necessary to ensure that we are not fencing off questions of importance, and that if we are, we can justify our choices. Likewise, if our ontological assumptions affect how we see the social universe, determining what is in or outside our field of vision, then reflecting on these assumptions can prevent us being blind to things that matter. A similar argument applies to our meta-ethical assumptions. Indeed, if deontology and consequentialism are both meta-ethical positions, as I suggested earlier, then reflecting on our choice of one or other position is part and parcel of weighing rival ethical arguments (on issues as diverse as global poverty and human rights). Finally, our epistemological, ontological and meta-ethical assumptions are not metatheoretical silos; assumptions we make in one have a tendency to shape those we make in another. The oft-heard refrain that ‘if we can’t measure it, it doesn’t matter’ is an unfortunate example of epistemology supervening on ontology, something that metatheoretical reflexivity can help guard against. In sum, like clarity, coherence, consideration of alternative arguments and the provision of good reasons, metatheoretical reflexivity is part of keeping us honest, making it practically relevant despite its abstraction.

### AT Reps Irrelevant

#### Not just a question of representation – the alternative rejects the aff’s security discourse – this encompasses reps as well as the epistemological and ontological focus behind the aff – means we still get all of our impacts

#### **Representations must precede policy discussion – it determines what is politically thinkable**

Crawford 2 -- Neta,PhD MA MIT, BA Brown, Prof. of poli sci at boston univ. Argument and Change in World Politics, p. 19-21

**Coherent arguments** are unlikely to take place unless and until actors, at least on some level, agree on what they are arguing about. The at least temporary resolution of meta-arguments- regarding the nature of the good (the content of prescriptive norms); what is out there, the way we know the world, how we decide between competing beliefs (ontology and epistemology); and the nature of the situation at hand( the proper frame or representation)- **must occur before specific arguments that could lead to decision and action may take place.** Meta-arguments over epistemology and ontology, relatively rare, occur in instances where there is a fundamental clash between belief systems and not simply a debate within a belief system. Such arguments over the nature of the world and how we come to know it are **particularly rare in politics** though they are more frequent in religion and science. Meta-arguments over the “good” are contests over what it is good and right to do, and even how we know the good and the right. They are about the nature of the good, specifically, defining the qualities of “good” so that we know good when we see it and do it. Ethical arguments are about how to do good in a particular situation. **More common** are meta-arguments over representations or frames- about how we out to understand a particular situation. Sometimes actors agree on how they see a situation. More often there are different possible interpretations. Thomas Homer-Dixon and Roger karapin suggest, “Argument and debate occur when people try to gain acceptance for their interpretation of the world”. For example, “is the war defensive or aggressive?”. Defining and controlling representations and images, or the frame, affects whether one thinks there is an issue at stake and **whether a particular argument applies** to the case. An actor fighting a defensive war is within international law; an aggressor may legitimately be subject to sanctions. Framing and reframing involve mimesis or putting forward representations of what is going on. In mimetic meta-arguments, actors who are struggling to characterize or frame the situation accomplish their ends by drawing vivid pictures of the “reality” through **exaggeration**, analogy, or differentiation. Representations of a situation **do not re-produce accurately** so much as they **creatively re-present** situations in a way that makes sense. “mimesis is a metaphoric or ‘iconic argumentation of the real.’ Imitating not the effectivity of events but their logical structure and meaning.” Certain features are emphasized and others de-emphasized **or completely ignored** as their situation is recharacterized or reframed. Representation thus **becomes a “constraint on reasoning in that it limits understanding to a specific organization of conceptual knowledge**.” The dominant representation delimits which arguments will be considered legitimate, framing how actors see possibities. As Roxanne Doty argues, “the possibility of practices presupposes the ability of an agent to imagine certain courses of action. Certain background meanings, kinds of social actors and relationships, must already be in place.” If, as Donald Sylvan and Stuart Thorson argue, “politics involves the selective privileging of representations, “it **may not matter whether one representation or another is true or not**. **Emphasizing whether frames articulate accurate or inaccurate perceptions misses the rhetorical import** of representation- how frames affect what is seen or not seen, and subsequent choices. **Meta-arguments over representation are thus crucial elements of political argument** because an actor’s arguments about what to do will be more persuasive if their characterization or framing of the situation holds sway. But, as Rodger Payne suggests, “No frame is an omnipotent persuasive tool that can be decisively wielded by norm entrepreneurs without serious political wrangling.” Hence framing is a meta-argument.

#### Broader studies are intimately tied to national policy – they establish, support and foreclose policy decisions

Morrissey 2011 (John, Director of the MA in Environment, Society and Development at NUI Galway and Acting Head of Geography, PhD (University of Exeter), "Architects of Empire: The Military–Strategic Studies Complex and the Scripting of US National Security," Antipode, Vol 43, No. 2)

In the power–knowledge symmetry of the academic–military world, strategic studies discourses do vital geopolitical work: they prioritize, disguise, legitimize and characterize entire conflicts; they reduce political and cultural geographical knowledges of distant places; and they erase the signature of, and accountability for, “our” violence. In a world of euphemisms and neologisms, well paid mercenary soldiers become “contractors” or “security employees”; ungovernable spaces of abject violence andmisery become areas currently experiencing “a slight uptick in violence”; and waterboarding becomes “simulated drowning”, not actual drowning interrupted or torture. As David Bromwich (2008) succinctly puts it, the “‘global war on terrorism’ promotes a mood of comprehension in the absence of perceived particulars, and that is a mood in which euphemisms may comfortably take shelter”. He points out that critical accounts of US foreign policy and its consequences and accountability are limited to popular academic works such as Chalmers Johnson’s *Blowback* or Robert Pape’s *Dying toWin* (Johnson 2000; Pape 2005).23 The reductive “imaginative geographies” of the military–strategic studies complex not only support the operations of US geopolitical and geoeconomic calculation in the Middle East; they also contribute to a pervasive and predominant cultural discourse on the region that has all the hallmarks of Orientalism (Gregory 2004; Little 2002; Said 2003; Shapiro 1997). National security “specialist” commentaries have long enunciated the threat of Islamic fundamentalism in the Middle East and linked it to the feared potential of new political and economic orders emerging in the region (Lewis 1995; Roberts 1995). Since the war on terrorism began, such sentiment has been relentlessly championed in broader popular media circles; a development that has had grave consequences. As Stephen Graham (2005:6, 8) notes, the result of the “combined vitriol of a whole legion of US military “commentators” who enjoy huge coverage, exposure, and influence in the US media” is a world in which whole populations are positioned as unworthy of any “political or human rights”: 24 In the construction of people as inhuman “terrorist” barbarians understanding little but force, and urban places as animalistic labyrinths or “nests” demanding massive military assault, Islamic cities, and their inhabitants, are, in turn, cast out beyond any philosophical, legal, or humanitarian definitions of humankind or “civilisation”. Russell Smith (2003b) was in the minority in lamenting the standard and integrity of US reporting during the early stages of the Iraq War: “North American reporting, and in particular on the US television stations, has been cravenly submissive to the Pentagon and the White House”. As Smith dolefully observes, both the embedded and studio reporting of Fox, CNN and others “dutifully” used the “language chosen by people in charge of ‘media relations’ at the Pentagon”— describing, for example, the exploding of Iraqi soldiers in their bunkers as “softening up”, or referring to slaughtered Iraqi units as “degraded”. Reifying military sentiment rather than critical journalism resulted in the production and circulation of prioritized strategic and geopolitical discourses that worked to foster a reductive public understanding of the conflict (Pred 2007). In such a simplified discursive world, a closeup photograph of a battle-weary, frontline American infantry soldier— Marine Lance Corporal James Blake Miller—during the second Fallujah offensive in Iraq in November 2004 became the “Face of Fallujah” on CBS News, and on the front page of the *Los Angeles Times*, *New York Post* and more than 150 other American newspapers (Sinco 2007a). From the rubble and carnage of Fallujah, it was Miller’s image that became “iconic”; not, as Naomi Klein (2004) points out, an altogether different and proportionately more relevant image—that of “a dead child lying in the street, clutching the headless body of an adult”. The photograph of Lance Corporal Miller was ultimately mobilized into a well established scripting of US national security strategy in which young American men and women each play a heroic part in the defense of freedom overseas for all those who enjoy it at home.25 The recent work of Simon Dalby, Stephen Graham, Derek Gregory and others is both insightful and urgent in illuminating the “huge discursive efforts” in the US-led war on terror in “constructing and reconstructing” key spaces of the Middle East “as little more than receiving points for US military ordnance” (Graham 2005:6; cf Dalby 2007b; Gregory 2004). As outlined earlier, there is of course a long history of the US military, and its strategic studies advisors, mobilizing abstract geostrategic discourses of the Middle East (Klein 1994). The lead-up to the Gulf War in 1991, for example, was a particularly fertile period for airing reductive military visions (Sidaway 1998); and there is a continuum of essentialist scriptings of the Middle East that extend back to at least the late 1970s when the military–strategic studies complex began to assiduously assert US geopolitical and geoeconomic designs for the region in the name of national security (Morrissey 2008). These strategic studies scriptings have collectively served to establish a register of ageographical spaces, have long spoken of terrains and not worlds, and have been typically indifferent to the lives of “Others” (Epstein 1987; Record 1981a; Ullman et al 1996). Critical to our reading of the military–strategic studies complex, moreover, is the recognition that it does not operate outside of the political, decision-making process; as shown above in relation to the Center for Strategic and Budgetary Assessments. Upon taking up office in 1981, the Reagan administration actively consulted with the Institute for Foreign Policy Analysis in planning an effective US geopolitical strategy for the Middle East, and promptly followed its recommendations (and those of its chief specialist, Jeffrey Record) in initiating, and budgeting for, US Central Command as a military necessity to defend US national interests in the Gulf (Record 1981a). The long-standing influence on US foreign policy of American pro-Israel lobby groups and think tanks has been recently demonstrated by John Mearsheimer and Stephen Walt (2006). Others have shown the influence of the Project for the New American Century on the current Bush administration’s particular brand of aggressive foreign policy (Dalby 2006). And one of the architects of that policy, Donald Rumsfeld, as Secretary of Defense, was not averse to sitting down for panel discussions to review the findings of, for example, Brookings Institution surveys (US Department of Defense 2003). It is important to remember too that many of the leading Pentagon and Congressional advisors on the Middle East, such as Kenneth Katzman, for instance, are typically also research analysts in strategic studies institutes (Katzman is an external researcher for the Strategic Studies Institute at the US Army War College); thus enabling the “government–strategic studies” loop (Katzman 2006). Thomas Barnett, too, who worked as the Assistant for Strategic Futures in the Office of Force Transformation at the DoD from the end of 2001 to mid 2003 simultaneously held a professorship in strategic studies at the WarfareAnalysis and Research Department at theUSNavalWar College in Newport, Rhode Island. His combined DoD and strategic studies work culminated in the publication of his influential and commercially successful *The Pentagon’s New Map*s in 2004, in which he envisages a new grand strategy for the USA in a post-Cold War and post-9/11 age: closing the gaps of neoliberal economic order across the globe (Barnett 2004; cf Dalby 2007a). Such “academic” strategic scriptings of US national security have long proved a supporting and legitimating intellectual cache for military action; they have been instrumental in the advancement of what Bradley Klein calls a “cultural hegemony of organized state violence” (1988a:136). A recent case in point was provided by the current Commander of the Multi-National Force in Iraq, General David Petraeus. Writing in 2006, the much-heralded military saviour for the Iraq War did not just see an infantry surge as the key to success. He recognized too the importance of what has become a buzz word in US military circles in recent years, “culture”: Knowledge of the cultural terrain can be as important as, and sometimes even more important than, the knowledge of the geographical terrain. This observation acknowledges that people are, in many respects, the decisive terrain, and that we must study that terrain in the same way that we have always studied the geographical terrain (2006:51). A subsequent publication of a Professor of East Asian Studies at Oberlin College in Ohio, entitled *On the Uses of Cultural Knowledge*, variously echoed and held up Petraeus’ sentiments. In it, Dr Sheila Jager (2007:1) sets the tone for her appraisal of the importance of “culture” for the Iraq War thus: Faced with a brutal war and insurgency in Iraq, the many complex political and social issues confronted by U.S. military commanders on the ground have given rise to a new awareness that a cultural understanding of an adversary society is imperative if counterinsurgency is to succeed. Dr Jager was writing from, and for, the Strategic Studies Institute of the U.S. Army War College, where she was then a Visiting Fellow in National Security Studies. She concluded her analysis of the “uses of cultural knowledge” for the US military by suggesting that “perhaps it not too late [sic.] for culture to also rescue the United States from the *strategic* failures of the Bush Doctrine” (2007:24; emphasis added).26 As Derek Gregory (2008a:8) correctly notes, the recent development of “culture-centric warfare” did not emanate from “academics, military theorists or think-tanks”; it emerged largely from the “improvised tactics developed and shared by responsive commanders in the field”. However, themilitary’s “cultural turn”was quickly supported, expedited and legitimized by strategic studies. For both Jager and Petraeus, the cultural terrain of the military landscape now needs to be increasingly studied—strategically. Moreover, as Gregory has also shown, the US military’s cultural turn “does not dispense with killing” but rather is “a prerequisite for its refinement” (2008a:10). That the US military has reached a dangerously clinical appreciation of culture, and why knowledge of it matters in wartime, should shock us but it should not surprise us. What is even more troubling is that uncritical elements of the intellectual academy—from East Asian studies to geography, from international relations to psychology—are being increasinglymobilized in the service, support and sustenance of the military; developments that are of course entirely consistent with the increased neoliberalization of war and use of private contractors.

### AT Perm – Do Both

#### 1. Cross-apply framework – the aff must prove there’s value in incorporating their discourse and epistemology. Testing competitiveness with the plan is nonsensical because our kritik is about their scholarship.

#### 2. Theory – permutations must include 1AC representations, they’re the majority of the opening speech. Severance makes the aff a moving target and being neg becomes impossible. The aff isn’t selected in a vacuum, they had infinite prep to select advantages they had defenses of.

#### 3. Liberal policy option ward off critique

Burke 7 – Associate Professor of Politics and International Relations in the University of New South Wales (Anthony, Beyond Security, Ethics and Violence, p. 3-4)

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

**4. Multiple perms are a VI – no risk option for the aff that demands lots of block time and are impossible to generate offense against, sandbags explanation to the 1AR screwing the neg, ci – they get 1 permutation.**

#### Embedded in their 1ac discourse –

### Kent GR – Ex Poste

#### Mapping --

#### Brezinski -- worried that the rise of India and China are shifting global power -- says these countries resemble a threat similar to Soviet Russia – Deng and Stalin are pretty different – this invokes a cold-war mentality that allows for escalation

#### Turns the advantage -- means we do covert actions like spying and Iraq which are what fractured the alliance – conceive even allies like India as peoblems

#### Benign imperialism – faith in multilateralism prevents questioning imperial domination

**Shaikh 7** (Nermeen, Asia Source, “Interrogating Charity and the Benevolence of Empire”, Development, 50, Palgrave Journals)

And where, again, does this power for benevolent goodwill reside? In the post-war period, and especially after the collapse of the Soviet Union and the end of the Cold War, it is the United States that sees itself increasingly as the vanguard of human emancipation, John Winthrop's 'city upon a hill'. This is also its rightful place, having emerged from a unique tradition (political, social, cultural and religious), which has brought it to its current position of freedom and leadership. And so it is the US, sometimes in the guise of multilateralism, most recently not as much, that exercises the **most power globally**. The liberal, democratic-capitalist political system is triumphant. How, then, does one interrogate American intervention in the world according to its own standards? How does one hold the US accountable precisely for the goodwill it professes? Can the US hold itself accountable in any meaningful sense? Collateral damage One clue as to the possibility of such an auto-critique lies in a phrase that has become part of the popular political imaginary: collateral damage. This term, inaugurated during the Cold War, is perhaps the euphemism par excellence: it contains within it the **cleansing**, indeed the impossibility, **of culpability;** it must be assumed that the US is always acting with good intentions, and if events unfold in such a way as to suggest otherwise, then each instance is simply a betrayal of the original intent, which is itself beyond reproach – or at the very least, **absolved of the worst offences**. In certain readings, the various forms of oppression and exclusion that make up the collateral damage of imperial power might also be interpreted as **constitutive of the order** in which they occur. In the economic realm, Joseph Stiglitz, for instance, argues that the West has used its disproportionate share of economic power to maintain its position, most notably when it comes to determining the terms of trade as well as the limits of free trade (an essential ingredient of the present liberal-capitalist dispensation) (Stiglitz, 2002). This often, and perhaps unsurprisingly, results in a distinct advantage for richer countries. In other readings, intentions may be harder to determine, but given that the term collateral damage includes within it the possibility of its own exoneration, what can be said about the likelihood of justice in such a system? If every inequality, every abuse, every infraction is seen as an aberration, as a demonstration of the fact that the order **has not yet reached its full potential,** are we to hope that this same order will eventually be equal to its own avowed aspirations? The response to the latter question is of course widely affirmative. The problem is that it is predicated on the claims of the dispensers of benevolent intervention themselves. But it is necessary to interrogate these very claims to bring out the more **egregious and systematic forms of collateral damage** and thereby question the very possibility of justice within this order. On the one hand, as Stiglitz also points out, there is some hope: whereas previously only the radical left was critical of the World Bank and IMF, now these critiques are far more widespread. On the other hand, the possibility of a global, socialist revolution is scarcely found anywhere. Attempting to speak from the perspective of the recipients of goodwill immediately, then, begs the question: is radical structural change necessary before the possibility of justice in the realm of collateral damage can be born?

#### Orientalism --

#### Dengler -- the Taliban manipulates stats, Pakistan ignores how successful drones are – this erases their sovereignty, allows the US to impose colonialism by saying “we know better”

#### Saying drones are precise if used well ignores their negative effect, causes serial policy failure

Cavallaro et al 12 (This report is the result of nine months of research by the International Human Rights and Conflict Resolution Clinic of Stanford Law School (Stanford Clinic) and the Global Justice Clinic at New York University School of Law (NYU Clinic). Professor James Cavallaro and Clinical Lecturer Stephan Sonnenberg led the Stanford Clinic team; Professor Sarah Knuckey led the NYU Clinic team. Adelina Acuña, Mohammad M. Ali, Anjali Deshmukh, Jennifer Gibson, Jennifer Ingram, Dimitri Phillips, Wendy Salkin, and Omar Shakir were the student research team at Stanford; Christopher Holland was the student researcher from NYU,

“Living Under Drones: Death, Injury, and Trauma to Civilians from US Drone Practices in Pakistan,” September 12, http://livingunderdrones.org/wp-content/uploads/2012/09/Stanford\_NYU\_LIVING\_UNDER\_DRONES.pdf)

In the United States, the dominant narrative about the use of drones in Pakistan is of a surgically precise and effective tool that makes the US safer by enabling “**targeted killing**” of terrorists, with minimal downsides or collateral impacts. 1 This narrative is false. Following nine months of intensive research—including two investigations in Pakistan, more than 130 interviews with victims, witnesses, and experts, and review of thousands of pages of documentation and media reporting—this report presents evidence of the **damaging** and counterproductive effects of current US drone strike policies. Based on extensive interviews with Pakistanis living in the regions directly affected, as well as humanitarian and medical workers, this report provides new and firsthand testimony about the negative impacts US policies are having on the civilians living under drones. Real threats to US security and to Pakistani civilians exist in the Pakistani border areas now targeted by drones. It is crucial that the US be able to protect itself from terrorist threats, and that the great harm caused by terrorists to Pakistani civilians be addressed. However, in light of significant evidence of harmful impacts to Pakistani civilians and to US interests, current policies to address terrorism through targeted killings and drone strikes must be carefully re-evaluated. It is essential that public debate about US policies take the negative effects of current policies into account.

#### Boyle – the problem is that Pakistan is not perceived as having autonomy – they never will if the US plans their counter-terror

#### Twining and Hundley -- could cause a wave of violent extremism, miscalc and loose nukes could occur because "panic" -- you cause that panic -- eerily mirrors reps of Afghanistan and Iraq prior to invasion

#### Be highly skeptical – Western representations exaggerate Central Asian threats

Heathershaw and Megoran, 11 – Lecturer in International Relations at the University of Exeter, working on the politics of aid and conflict resolution in Central Asia; and political geography lecturer at Newcastle Univerity, in the school of Geography, Politics and Sociology (John and Nick, 6/16. Central Asia: the discourse of danger,” <http://www.opendemocracy.net/od-russia/john-heathershaw-nick-megoran/central-asia-discourse-of-danger>.)

Question: What do a recently-released International Crisis Group report (‘Tajikistan: the changing insurgent threats’) and the latest Red River computer game (‘Operation Flashpoint’) have in common? Answer: They both feature Islamist insurgents infiltrating Tajikistan and posing a threat to Western security. In fact such portrayals of Central Asia are commonplace in the West, from popular culture to the quasi-academic work of policy analysts. In research conducted since the 1990s, we have charted how UK and US representations of Central Asia routinely present it as especially dangerous, fusing the traditional insecurities of the Orient to dysfunctional post-Soviet authoritarianism.  This has elicited a small debate on the margins of Central Asian studies about the significance of the discourse of danger. In response, we wrote a paper on the subject that was presented at Chatham House and recently published in the journal International Affairs (‘Contesting danger: a new agenda for policy and scholarship on Central Asia’), outlining three features of the Western discourse of danger on Central Asia.  By ‘Western discourse of danger on Central Asia’ we mean how Western policy, popular and even academic accounts identify Central Asia as obscure, ethnically and politically fractious, essentially Oriental and—for these reasons—dangerous.  Typically, Central Asia is spuriously identified as a source of a considerable Islamic terrorist threat as in the recent International Crisis Group report on Tajikistan. It can also mean that ethnic conflict is misread and great power conflict is assumed where in fact it may not exist.  Why does the overlap between popular culture and policy analysis matter?  The link we make between computer games and policy reports may seem trite. Surely these are incommensurable genres of discourse for quite diverse audiences and with wholly different intentions? Surely one is primarily for the entertainment of adolescent males, and the other seeks serious understanding in order to change policy?  We should not be too quick to dismiss the effect of popular culture on policy making. Many of the Western military misadventures which have been undertaken since the end of the Cold War may have been made more likely by the feeling of interconnectedness generated by new technologies and cultural forms such as the internet. The portrayal of the military and intelligence services in the era of the ‘war on terror’ are often critical, but most ascribe to governments an ability to get things done which far exceeds what is practically possible in a globalised world.  There are three reasons why popular culture matters in policymaking, and which justify the making of links between forms of representations from quite different genres.  Firstly, there is the basic point that in Western democracies government are more or less responsive to public opinion. If citizens feel Afghanistan is an essentially dangerous place then they are more likely to accept the problematic argument of their governments that threats to the West will continue to come from that country unless we offer military support to a government we have placed in power.  On the other hand, public interest in Central Asia is so limited that few votes are cast and few letters are sent to MPs on the basis of concern about the region. Public opinion only indirectly affects foreign policy and we should not overstate the link between the two. In many respects it is the effect of popular culture on those that do research and make decisions, in governments and non-governmental organisations, that is most significant. Secondly, the dearth of knowledge on the region amongst so-called experts means that popular culture and quasi-academic studies have greater significance. Misguided applications of the ‘great game’ or the idea of Muslim radicalisation are frequently left unchallenged.   Moreover, even powerful Western governments have relatively few people with knowledge of the region and its languages. Area studies has been in decline for decades and nowhere is the phenomenon more acute than Central Asia where there was very little knowledge of the region even during the Cold War when funding was poured into the development of Sovietology.   Finally, and most importantly, knowledge is produced interpretatively. This means that where ideas about the region emerge that associate it with conflict, Islamism and great power conflict they are often difficult to shift even when academic knowledge seems to refute these claims.

#### Heg –

#### Kagan’s ideology mistakes how much the U.S. can shape the world and makes war inevitable

Kupchan 12 [Charles A. Kupchan is a professor of international affairs at Georgetown University and the Whitney Shepardson senior fellow at the Council on Foreign Relations, March 16 2012, “Second Mates”, <http://www.nationaljournal.com/magazine/is-american-primacy-really-diminishing--20120315>]

Kagan begs to differ. He contends that U.S. primacy is undiminished and that Americans, as long as they set their minds to it, are poised to sit atop the global pecking order for the indefinite future. The nation’s share of global economic output has been holding steady, and its military strength “remains unmatched.” China, India, Brazil, Turkey, and other emerging powers are certainly on the move, Kagan acknowledges, but he maintains that only China will compromise U.S. interests. The others will either align with the United States or remain on the geopolitical sidelines. The biggest threat to U.S. hegemony is that “Americans may convince themselves that decline is indeed inevitable”—and choose to let it happen. Kagan wants to persuade them otherwise and to call forth the political energies needed to ensure that the United States remains “the world’s predominant power.” Although it sounds reassuring, Kagan’s argument is, broadly, wrong. It’s true that economic strength and military superiority will preserve U.S. influence over global affairs for decades to come, but power is undeniably flowing away from the West to developing nations. If history is any guide, the arrival of a world in which power is more widely distributed will mean a new round of jockeying for position and primacy. While it still enjoys the top rank, the United States should do its best to ensure that this transition occurs peacefully and productively. The worst thing to do is to pretend it’s not happening. By overselling the durability of U.S. primacy, Kagan’s analysis breeds an illusory strategic complacency: There is no need to debate the management of change when one denies it is taking place. Even worse, the neoconservative brain trust to which Kagan belongs chronically overestimates U.S. power and its ability to shape the world. The last time that like-minded thinkers ran the show—George W. Bush’s first term as president—they did much more to undermine American strength than to bolster it. Neoconservative thinking produced an assertive unilateralism that set the rest of the world on edge; led to an unnecessary and debilitating war in Iraq, the main results of which have been sectarian violence and regional instability; and encouraged fiscal profligacy that continues to threaten American solvency. Kagan would have us fritter away the nation’s resources in pursuit of a hollow hegemony. Instead, it is time for thrift: Washington should husband its many strengths, be more sparing with military force, and rely on judicious diplomacy to tame the onset of a multipolar world.

#### US hegemony maps the world as a source of danger and insecurity. These representations produce the world that they claim to describe.

Campbell et al. 7 [David, Professor of Cultural and Political Geography at Durham University, Luiza Bialasiewicz, Senior Lecturer in the Department of Geography at Royal Holloway University of London, Stuart Elden, Professor in the Department of Geography at Durham University, Stephen Graham, Professor of Human Geography in the Department of Geography at Durham University, Alex Jeffrey, Lecturer in the School of Geography, Politics and Sociology at Newcastle University, Alison J. Williams, Post-Doctoral Research Associate in the International Boundaries Research Unit of the Geography Department at Durham University, Political Geography 26, “Performing security: The imaginative geographies of current US strategy,” p. 409-411]

It is important to highlight the way performativity’s idea of reiteration calls attention to changes in historically established imaginative geographies. While US foreign policy has been traditionally written in the context of identity/difference expressed in self/other relationships (Campbell, 1992), we detect in recent strategic performances a different articulation of America’s relationship to the world. Signified by the notion of integration we identify elements in the formation of a new imaginative geography which enable the US to draw countries into its spheres of influence and control. We show how integration (and its coeval strategies of exclusion) has been enunciated over the last 15 years through popular-academic books, think-tank documents, policy programmes and security strategies, as well as popular geopolitical sources. This concept of integration, we argue, is enacted through a number of practices of representation and coercion that encourage countries to adopt a raft of US attitudes and ways of operating or else suffer the consequences. As such, we are witnessing the performance of a security problematic that requires critical perspectives to move beyond a simple ideal/material dichotomy in social analysis in order to account for more complex understandings of opposition, including the emergence of new, mobile geographies of exclusion.¶ Non-state scribes¶ To understand the power of the imaginative geographies guiding current US strategy it is important to look back at the recitation, reiteration and resignification of previous strategic formulations. During the Clinton years, a number of figures who had been involved in various guises in previous Republican administrations wrote widely on the geopolitical opportunities and threats of a post-Cold War era. From specifications of the threat posed by international terrorism, ‘failed states’ and ‘rogue regimes’, to the dangers posed by cultural/civilisational conflicts. The individuals and institutions we choose to examine in this section are those whose geographical imaginations have been central in laying the ground for some of the securitizing strategies of the current Bush administration and, specifically, whose work has been key in specifying the importance of ‘‘integrating’’ a chaotic world where conflict is inevitable.¶ The writers whose work we highlight here occupy a liminal position within policy circles. While not paid members of the administration, they have either occupied such positions in the past or were aspiring to them in the future. They do not, therefore, directly speak for the state (a position that grants them a veneer of ‘‘objectivity’’), and they navigate in the interstices between academic and ‘‘policy-oriented’’ research: a location that, in turn, absolves them from the rigors of a scholarly discipline, including disciplinary critique. By the term ‘non-state scribes’ we wish to indicate those who occupy a liminal zone between academic and non-academic work, working in a range of governmental and private research centres, think-tanks and study groups. What we would like to highlight are some of the ways in which their influence problematises simple, secure understandings of the state and the constitution of ‘state-interest’. While these individuals appear as impartial commentators-cum-advisers-cum-analysts, their access to policy circles is open, if not privileged. To the extent that their geographical imaginations are invoked by state power, they are also today’s consummate ‘‘intellectuals of statecraft’’: those who ‘‘designate a world and ‘fill’ it with certain dramas, subjects, histories and dilemmas’’ (O ́ Tuathail & Agnew, 1992: 192).¶ Certainly the most prominent self-styled ‘community of experts’ intersecting with the Bush administration is the Project for a New American Century (for critical analysis see Sparke, 2005). The PNAC, founded in the spring of 1997, defines itself as a ‘‘non-profit, educational organization whose goal is to promote American global leadership’’ (see PNAC, 2006). Putatively lying outside ‘‘formal’’ policy networks, the Project from its inception has aimed to provide the intellectual basis for continued US military dominance – and especially the willingness to use its military might.¶ As sole hegemon, PNAC argued, the US could not ‘‘avoid the responsibilities of global leadership’’. But it should not simply ‘‘react’’ to threats as they present themselves: it should, rather, actively shape the global scenario before such threats emerge: ‘‘the history of the 20th century should have taught us that it is important to shape circumstances before crises emerge, and to meet threats before they become dire’’ (PNAC, 2000: i).¶ The resonance of these views with those of the Bush administration should come as no surprise: among the Project’s founders were individuals who had held posts in previous Republican administrations and went on to serve in Bush’s cabinet: Vice-President Dick Cheney, former Defense Secretary Donald Rumsfeld and his deputy and now World Bank President Paul Wolfowitz, along with the former ambassador to Iraq (and soon to be US Ambassador to the UN) Zalmay Khalilzad, in addition to well known neoconservatives shaping policy debates in the US today, including Francis Fukuyama, Norman Podhoretz, and William Kristol (see Fukuyama, 2006; Williams, 2005). Unsurprisingly, the most explicit formulation of what would become goals of the Bush administration can be found in the PNAC’s manifesto Rebuilding America’s Defenses, which appeared in the election year of 2000. Here and in subsequent documents, the PNAC envisages the US military’s role to be fourfold: ‘‘Defend the American Homeland’’; ‘‘fight and decisively win multiple, simultaneous major theatre wars’’; ‘‘perform the ‘constabulary’ duties associated with shaping the security environment in critical regions’’; and ‘‘transform U.S. forces to exploit the ‘revolution in military affairs’’’ (PNAC, 2000: iv, 5; cf. The White House, 2002b: 30).¶ It is telling just how spatialised some of these specifications become when worked through in detail. Already in 2000, PNAC argued that the major military mission is no longer to deter Soviet expansionism, but to ‘‘secure and expand zones of democratic peace; deter rise of new great-power competitor; defend key regions; exploit transformation of war’’ (PNAC, 2000: 2). They suggested that rather than the Cold War’s ‘‘potential global war across many theatres’’, the concern now is for several ‘‘potential theatre wars spread across the globe’’ fought against ‘‘separate and distinct adversaries pursuing separate and distinct goals’’ (2000: 2, 3). To counter such threats, the US needs to station its troops broadly, and their presence ‘‘in critical regions around the world is the visible expression of the extent of America’s status as a superpower and as the guarantor of liberty, peace and stability’’ (2000: 14). They claimed that while US security interests have ‘‘expanded’’, and that its forces ‘‘provide the first line of defense in what may be described as the ‘American security perimeter’’’, at the same time ‘‘the worldwide archipelago of U.S. military installations has contracted’’ (2000: 14, 15). Because the security perimeter ‘‘has expanded slowly but inexorably’’ since the end of the Cold War, US forces – ‘‘the cavalry on the new American frontier’’ – ‘‘must be positioned to reflect the shifting strategic landscape’’ (2000: 14, 15). Equally, their use of the term ‘homeland’ drew strongly on its use in the Clinton administration – and prefigured the creation of the Office for Homeland Security under G.W. Bush, with the concept strengthened by both the PATRIOT acts and the establishment of U.S. Northern Command.¶ Again, it is essential that we conceptualize these strategies as both containing and making imaginative geographies; specifying the ways ‘‘the world is’’ and, in so doing, actively (re)-making that same world. This goes beyond merely the military action or aid programmes that governments follow, but indicates a wider concern with the production of ways of seeing the world, which percolate through media, popular imaginations as well as political strategy. These performative imaginative geographies are at the heart of this paper and will re-occur throughout it. Our concern lies specifically with the ways in which the US portrays – and over the past decade has portrayed – certain parts of the world as requiring involvement, as threats, as zones of instability, as rogue states, ‘‘states of concern’’, as ‘‘global hotspots’’, as well as the associated suggestion that by bringing these within the ‘‘integrated’’ zones of democratic peace, US security – both economically and militarily – can be preserved. Of course, the translation of such imaginations into actual practice (and certainly results) is never as simple as some might like to suggest. Nonetheless, what we wish to highlight here is how these strategies, in essence, produce the effect they name. This, again, is nothing new: the United States has long constituted its identity at least in part through discourses of danger that materialize others as a threat (see Campbell, 1992). Equally, much has been written about the new set of threats and enemies that emerged to fill the post-Soviet void – from radical Islam through the war on drugs to ‘‘rogue states’’ (for a critical analyses see, among others, Benjamin & Simon, 2003; Stokes, 2005; on the genealogies of the idea of ‘‘rogue states’’ see Blum, 2002; Litwak, 2000).

#### Warming --

#### Flourney -- Extinction of human species means the risk is simply to high to take chances – disallows us to deliberate and create solutions to structural causes

#### This legitimizes the military and use of force to solve the issue – makes it intractable

Gilbert 12 [Emily, Director of the Canadian Studies Program in the Graduate Program in Geography at the University of Toronto, ACME: An International E-Journal for Critical Geographies, 11(1), “The Militarization of Climate Change,” p. 1-10]

Climate change has been identified as a top military concern. We should be worried. In his acceptance speech for the Nobel Peace Prize in December 2009, US President Barack Obama stressed the importance of climate change to national security, and the military’s growing interest in the issue.2 Then, on February 1, 2010 the US Pentagon released its Quadrennial Defence Review (QDR) that includes, for the first time ever, climate change as a military concern.3. The QDR is a powerful document that shapes the military’s operating principles and budgets for the next four years. The 2010 QDR argues that military roles and missions on the battlefield will need to be reformulated to address changing environmental conditions. Climate change is presented as a ‘threat multiplier’ that will propel food and water scarcity, environmental degradation, poverty, the spread of disease, and mass migration. Each of these could contribute to ‘failed state’ scenarios which will demand military intervention. In an earlier report of high-ranking admirals and generals at the Center for Naval Analyses, upon which the QDR builds, this ‘threat multiplier’ effect and ‘failed state’ scenario is also directly linked to future acts of extremism and terrorism (CNA, 2007; see also CNA, 2009; Korb et al, 2009; Warner and Singer, 2009; Parthemore and Rogers, 2010).¶ While the US military’s interest in climate change has escalated, it is not alone. In 2007, the Australian Defence Force produced a 12 page study, Climate Change, the Environment, Resources and Conflict that proposed a new role for the military in resource protection, eg tackling illegal fishing as fish stocks relocate due to the changing climate. Two years later, a Department of Defence white paper identified climate change as a ‘threat multiplier,’ especially in the ‘fragile states’ of its neighbouring South Pacific islands (Australian Government, 2009). In the UK, the DCDC Global Strategic Trends Programme 2007-2036 report—issued from within the Ministry of Defence (MoD) and considered to be a source document for national defence policy—has asserted a future role for military engagement in climate change-related scenarios around humanitarian and disaster relief, and for protecting oil and gas resources in insecure areas (see also MoD, 2010). The DCDC report even indicated that intervention in outer space might be required so as ‘to mitigate the effects of climate change, or to harness climatological features in the support of military or strategic advantage’ (MoD 2006: 65). Other governments discussing militarization include Germany, France, and perhaps also, secretly, India and China (Mabey 2007: 9). Military experts from across Africa, Asia, Europe, Latin America and the US have issued a joint statement warning of the impending security impact of climate change.4 There was even a special session on “Climate change and the military” organized by the Brookings Institution, Chatham House, and the Institute for Environmental Security at the COP15 meetings in Copenhagen in December 2009.5¶ What to make of this growing military interest in climate change? There is a longstanding literature that addresses the linking of environment and security discourses (eg Käkönen, 1994; Deudney, 1999; Homer-Dixon, 1999; Barnett, 2001, 2006; Dalby, 2002, 2009; Davis, 2007). Although cautionary in their approach, many of these authors suggest that linking the two concepts makes it possible to open up questions around both security and the environment. Ragnhild Nordås and Nils Petter Gleditsch, for example, broaden the security debate to address human security, which takes account of matters relating to issues such as migration, disease, food security (Nordås and Gleditsch, 2007). Others argue that hiving climate change to national security discourses may galvanize more public interest (Dalby, 2009)—something that has been attempted with the Kerry-Graham-Lieberman climate bill in the US. But while the literature on security and environment raises some important questions, I want to problematize both the way that security is being constituted through the military, and the concept of the environment that is being mobilized, by paying particular attention to how militarization is unfolding in the US.¶ First, the military’s interest in climate change resurrects a narrow concept of security. Although the 2010 QDR recognizes impending concerns associated with human security (eg migration, disease and food security), it models the anticipated conflict through a traditional state-to-state war scenario, refracted through a neo-Malthusian conflict over resources (Dalby, 2009; Homer-Dixon, 1999). Resource conflict and other climate change impacts are mapped onto already vulnerable places in Sub Saharan Africa, the Middle East, and South and Southeast Asia (Broder, 2009; CNA, 2007; Podesta and Ogden, 2007-08; Werz and Manlove, 2009), where, it is argued, they will act as ‘threat multipliers’ that will escalate into ‘failed state’ scenarios. This perpetuates a model whereby the enemy to the nation is elsewhere, and that ‘environmental threats are something that foreigners do to Americans or to American territory,’ not as a result of domestic policies (Eckersley 2009: 87). In this vein, the CIA has established a Center on Climate Change and National Security to collect foreign ‘intelligence’ on the national security impact of environmental change in other parts of the world.6¶ The bifurcation of domestic security and external threat reinforces a fiction of territorial and nationalist integrity, and works against thinking about climate change as a global problem with a need for global responsibility and global solutions (Dalby 2009: 50; Deudney 1999: 189).7 Moreover, the model of external threats coheres easily with the competitive frame that has been established between China and the US, as they vie not only for economic ascendency and resource-acquisition, but also for energy security and environmental policies and initiatives.8 In this vein, Thomas Freidman has proposed a militant green nationalism, something along the lines of a triumphalist Green New Deal that will recapture US global hegemony (Friedman, 2009).9 Achieving this result requires, however, more political agreement across US Democrats and Republicans, and it is precisely here that reframing climate change as a military issue seems to be an effective strategy for cross-partisan agreement.10 But what are the costs when militarization becomes necessary to legitimize climate change action?¶ The upshot is that the military is also legitimized, to the detriment of formal and informal politics. In a secretive and hierarchical military framework there is limited scope for public participation or legislative debate (UNEP 2007: 403). Militaries are about the ‘maintenance of elite power’ (Barnett 2001: 25). Issues regarding social justice are disregarded in favour of national objectives, while the vulnerabilities institutionalized through climate change are perpetuated (Barnett, 2006). This is particularly apparent vis-à-vis environmental refugees, which the Intergovernmental Panel on Climate Change estimates will swell to 150 million by 2050 (Reuveny, 2007). Militarism encourages the use of force against foreigners, with barriers erected to exclude those who bear the immediate impact of climate change, even though they are usually the least responsible for climate change. As Paul Smith notes, Operation Seal Signal, which the US deployed in 1994 to deal with 50,000 refugees from Haiti and Cuba, offers an instructive example of how the military addresses refugees, most of whom were held at Guantanamo Bay while their cases were processed (Smith, 2007). The responses to human tragedy in Haiti and Hurricane Katrina, when military priorities took hold over the immediate needs of the racialized, impoverished victims, speaks to the dangers of concocting security threats so that abandonment is prioritized over assistance (Giroux, 2006; Hallward, 2010). This is part of a worrisome trend of the rise of an ‘aid-military complex’ and military ‘encroachment’ on civilian-sponsored development (Hartmann 2010: 240).¶ Finally, the military’s approach to climate change does not lend itself to addressing fundamental social structures that perpetuate environmental degradation: oil dependency, oil colonialism, and the deepening international fragmentation of rich and poor. The conditions that entrench insecurity are thus left unchallenged. Rather, attention is directed to long term defensive planning and risk scenarios around potential disaster outcomes with the military presented as the only, or simply the best and most capable, institution for dealing with the scope of the adversity (QDR 2010: 86). Since Robert Kaplan’s polemic ‘The Coming Anarchy,’ much of the literature invokes similar disaster scenarios (Kaplan, 1994, see also 2008; Schwartz and Randall, 2003; Campbell et al, 2007; Dwyer, 2008). Security exercises are used to model these disasters; eg a 2008 exercise at the National Defense University in Washington that anticipated that refugees escaping flooding in Bangladesh would lead to religious and political conflict at the Indian border (Werz and Manlove, 2009). Worst possible outcomes are thus anticipated, and they these become the basis for actions in the present (de Goede 2008: 159). As Melinda Cooper writes vis-à-vis the worst-case security scenarios of the Schwartz and Randall report, ‘It recommends that we intervene in the conditions of emergence of the future before it gets a chance to befall us; that we make an attempt to unleash transformative events on a biospheric scale before we get dragged away by nature’s own acts of emergence’ (Cooper 2006: 126).¶ Cooper’s argument introduces my second concern regarding the militarization of climate change: the ways that the environment is being mobilized. As noted above, the focus on resource wars casts the environment as a ‘hostile power’ (Eckersley 2009: 87). Or, scarcity and degradation are ‘naturalised,’ while institutional causes are obscured (Hartmann 2010: 235). Either way, nature is an externality to be managed as the resurrection of the concept of ‘the commons’ in these debates affirms (see Posen, 2003). Advocacy groups and government representatives alike are using the ‘commons’ to inform their perspectives on climate change security. Abraham Denmark and James Mulvenon explicitly delineate the concept’s legacy to Garrett Hardin’s controversial piece, ‘The tragedy of the commons,’ and his argument that ‘Freedom in a commons brings ruins to all’ (Denmark and Mulvenon 2010: 7-8). Rather than privatization, the contemporary version of the polemic posits that military force is necessary to prevent the misuse and abuse of navigable passageways. In a web article entitled ‘The Contested Commons’ that is linked to the QDR2010, Undersecretary of Defense for Policy of the United States Michèle Flournoy and Shawn Brimley suggest that since WWII, US grand strategy has ‘centered on creating and sustaining an international system that facilitates commerce, travel, and thus the spread of Western values including individual freedom, democracy, and liberty.’11 This ‘uncontested access to and stability within the global commons’ of air, sea, space and cyberspace has only been possible because of US military power. As the emergent multipolar world challenges its hegemony, they argue, it is in the US’s interest to shore up its military and defend the ‘global commons,’ in partnership with its allies (see also Denmark and Mulvenon, 2010).12 The military build-up in the Arctic, where states are jockeying over access to previously unnavigable passageways and resources, is held out as an example of how emergent resource conflicts are taking shape, but also the need for a coordinated US approach to protect its interests (Carmen et al, 2010; Paskal, 2007).¶ The discourse around the ‘commons’ reinforces the idea that the environment is to be controlled and managed. This is equally the case with respect to how the militarization of climate change is also reshaping domestic politics and society. Catherine Lutz reflects that ‘As or more important than the efficacy of a mode of warfare... has been the form of life it has encouraged inside the nation waging it’ (Lutz 2002: 727). Her own critical work on militarism examines the social formations that are organized around the military, eg the racialized and gender labour economies of suburban US formed around the production of nuclear weapons. Environmental relations need also be taken into consideration: they are constituted through the military which is charged with bringing nature under control: to model it, to manage it and to make it predictable in the name of security, albeit an anthropocentric security that is only ‘understood in human terms’ (Barnett 2001: 65; emphasis in the original). That the US military is increasingly becoming a site and source for new ‘green’ technologies is just one such manifestation of the orchestration of life for military purposes, and is suggestive of the problematic deepening and extension of the military-industrial-academic-scientific complex.¶ The QDR sets out the complex web of collaborations that will tackle climate change: the ‘DoD will partner with academia, other U.S. agencies, and international partners to research, develop, test, and evaluate new sustainable energy technologies’ (QDR 2010: 87). Military innovations such as GPS, radar and the Internet are offered as comparable examples of transformative technological innovation that have had immense social benefit (Warner and Singer 2009: 6). This provides a rationalization for the millions of dollars that are being siphoned into the military so that it can be at the frontlines of developing alternative energy projects. For example, the largest existing solar panel project in the US is at the Nellis Air Force Base, Nevada, where 70,000 solar panels are spread out across 140 acres to generate 14 megawatts (about 45 million KWh) a year.13 A $2 billion agreement signed in 2009 between DoD and Irwin Energy Security Partners will make Fort Irwin—the army’s largest training camp located in California’s Mojave Desert— energy independent by 2022, with a 500MW solar project on 21 square miles.14 Zero-energy homes are being built on US military bases.15 A project is underway to introduce 4,000 electric cars into the armed forces to create one of the largest such fleets in the world (Pew 2010: 13). The first hybrid Navy vessel, a Wasp class amphibious assault ship, is already on the water (Rosenthal, 2010). In Iraq, the Tactical Garbage to Energy Refinery (or ‘tiger’) is converting garbage to biofuel to power generators.16 In Helmand Province, Afghanistan, solar panels are being used on tents, for recharging computers and other equipment (Rosenthal, 2010). The Defense Advanced Research Projects Agency (DARPA)—the research and development office of the military in change of technological advancement—is developing alternative fuel sources, from products such as algae and rapeseed that are less carbon-intensive.17 The objective of biofuels development is to make military transport more sustainable, like the ‘Great Green Fleet’ of aircraft carriers and support ships that is in development for 2016 (Shachtman, 2010).¶ It is not that this ‘greening’ of the military is unwarranted, or that these technological developments are not desirable. If there is to be a military at all, it might as well be more sustainable. As it is, the US military is the world’s single largest energy consumer—it consumes more than any other private or public institution, and more than 100 nations (Warner and Singer 2009: 1; see also Deloitte, 2009; Sanders, 2009). This comprises 0.8% of total US energy, and about 78% of government energy use—roughly 395,000 barrels of oil a day, equivalent to all of Greece (Warner and Singer 2009: 2). Its operations abroad are equally rapacious. In the first-ever energy audit in a war zone it was revealed that US marines in Afghanistan used 800,000 gallons of fuel each day.18 Figures from Iraq show that between 2003 and 2007 the war generated 141 million metric tons of carbon dioxide equivalent—more than 139 countries (Reisch and Kretzmann 2008: 4). There is thus a clear case for reducing the military’s damaging impact on the landscape.¶ The question that the ‘greening’ of the military sidesteps, however, is whether there should indeed be a military at all. Moreover, even if the military persists, should it be where climate change innovations are located? Should public funds be directed into the military to fight climate change? In a speech on energy security in March, 2010, President Obama lauded the $2.7 billion already spent that year by the DoD on energy efficiency measures.19 This investment is being used to support select military partnerships, with a strong emphasis on privatization. The solar panel project at Nellis Air Force Base Nevada, mentioned above, is a privately financed and owned initiative by MMA Renewables, with equity investments from Citi and Allstate.20 The panels will be owned by the financiers; Nellis will lease the land, and purchase the power. The Fort Irwin project agreed to in October 2009 operates along similar lines, and is a partnership with the Clark Energy Group and Acciona Solar Power.21 The zero-energy homes being installed in Kentucky are a public-private partnership between the US Army and Actus Lend Lease.22 Universities are also complicit: the Tactical Garbage to Energy Refinery at¶ the Victory Base Camp in Baghdad, for example, has been developed in conjunction with Purdue University.23¶ When environmental issues are filtered through the military, however, less money is available for innovation in other sectors, unless they are working in partnership with the military. Military investment in green initiatives, for example, is not likely to develop innovations around public transport, but rather focus on the kind of transportation required for military needs, which will then become available to consumers—much as Sports Utility Vehicles (SUVs) are an offshoot of four-wheel drive military vehicles. Moreover, a military-driven agenda contributes to a more protectionist approach around technological innovation that is exacerbated alongside an uneven landscape of investment (UNEP 2007: 404).24¶ The priorities around climate change are thus skewed by the military. As President Obama affirmed in his March 2010 speech, the primary national interest is really with energy independence, not energy reduction.25 At the same time that he was applauding the greening of the military, the President announced the expansion of offshore oil and gas exploration, including in the Bay of Mexico. (This expansion was later suspended in wake of the BP Deepwater Horizon disaster, before being resumed.) The military has also presented a case for mitigating the reliance on (foreign) oil and developing renewable energy, which has more to do with the impact on military personnel in the field than with ecological principles. In the last five years, fuel consumption at US forward operating bases in conflict zones has increased from 50 million gallons to 500 million gallons a year (Deloitte 2009: 15). This creates a dangerous situation for the ‘long tail’ of convoys that are needed to supply these bases (Pew 2010: 7). Some reports indicate that more than three quarters of US casualties in war zones are the result of supply vehicles that have been targeted by improvised explosive devices (IEDs), and convoys have been identified by Commandant General James Conway as ‘one of his most pressing problems related to risk of casualties’ (Deloitte 2009: 15; see also CNA, 2009). Shachtman (2010) reports that in Iraq, ‘In one month, 44 trucks and 220,000 gallons of fuel were lost.’ This is a problem that the QDR takes explicitly on board. Whereas climate change is presented as a ‘threat multiplier,’ energy efficiency is described as a ‘force multiplier, because it increases the range and endurance of forces in the field and can reduce the number of combat forces diverted to protect energy supply lines, which are vulnerable to both asymmetric and conventional attacks and disruptions’ (QDR 2010: 87). The reduction of casualties is thus propelling much of the impetus for renewable energy, even though it is couched in climate change rhetoric (see also Warner and Singer 2009: 2; Deloitte 2009: 27). Notably, there is no mention, across any of the policy documents that have appeared, about the devastating environmental impact of war upon the landscapes where it takes place, and the need to prevent or even mitigate this destruction.¶ Back at home, military personnel returning from war are being enrolled as climate ‘warriors.’ During the 2009 election campaign Obama announced a ‘Green Vets Initiative’ that would provide ‘green’ training and jobs in the private sector for the 837,000 vets of Iraq and Afghanistan. While this exact initiative has not been introduced, the government has promoted ‘Green Energy Jobs’ through its Veterans Workforce Investment Program and through the American Recovery and Reinvestment Act.26 This is a reconfiguration, and privatization, of the civilian-military pact of cradle-to-grave provision of social welfare (see Lutz 2002: 730). To this end, programs have begun popping up across the US. The ‘Green Collar Vets’ is a non-profit organization in Texas that helps retrain and reskill vets for the green economy.27 The organization ‘Veterans Green Jobs,’ in partnership with several educational institutions and organizations such as Walmart, Whole Foods, and the Sierra Club, provides vets of four states with training opportunities for the ‘green’ economy. What differentiates their program, they argue, is that their keystone course ‘Green 101,’ makes explicit the links between green programs and national security. 28 Veterans are also taking on a more activist role to promote the shift to renewable energy. A group of US Vets, sponsored by Operation Free (whose mission is ‘to secure America with clean energy’), travelled to Copenhagen to discuss the national security dimensions of climate change (and groups have also travelled across the US to visit Senate Offices, and to the White House).29¶ Domestic programs for vets, and resource and research investments for ‘greening’ the military point to some fundamental ways that domestic social formations are being reorganized in support of the militarization of climate change. This is part of militarism’s typical ‘double move’: on the one hand, war is projected as being ‘over there’ while the ‘second move saturates our daily lives with war-ness’ (Ferguson 2009: 478). Domestic measures to address energy security are put forward as calculable, rational and even compassionate measures, while the ‘foreign’ threat is presented as non-state, elusive, and undetermined—and hence coherent with much of the discourse around diffuse ‘new wars’ and terrorist threats (Kaldor, 2006). At the same time, there is also greater convergence between the inside and the outside, and between the environment and the military in the ways that the discourses are mobilized and mapped out (Cooper, 2006). Indeed, as Mikkel Vedby Rasmussen notes, there is a coherence between pre-emptive military doctrines and precautionary environmental strategies: both are based upon a rationale for urgent action based on anticipated future disaster scenarios (Rasmussen 2006: 124). Notably, however, it is only when environmental issues are harnessed to security claims that the precautionary approach gains traction.¶ Hiving climate change to national security ensures that environmental issues will garner more attention, as is argued by many of the experts on the environment and security noted above. But as I have sought to illustrate in this paper, instead of opening up questions regarding security or the environment, these are foreclosed by a military approach. It reduces the concept of security to a nationalist, defensive strategy modelled on future disaster scenarios of resource conflict. Moreover, it perpetuates an externalized concept of nature that is to be commanded and controlled, with no real sense of ecological prioritization. Rather, energy security emerges as the primary focus for innovation and investment to combat geopolitical concerns around the reliance on foreign oil and the threat to military personnel in the field. At the same time, increased spending on the military is legitimized as it becomes a source of ‘green’ initiatives. Where does this leave politics, and more precisely, as Melinda Cooper asks, ‘What becomes of an anti-war politics when the sphere of military action infiltrates the ‘grey areas’ of everyday life, contaminating our ‘quality of life’ at the most elemental level?’ (Cooper 2006: 129). If we support climate change initiatives, are we then pro-military? If we are anti-military, do we jeopardize climate change action? As the militarization of climate change unfolds, it is this interpenetration that needs to be disrupted, both with respect to martial approaches to the environment, and with respect to the troubling attempts to use the mobilization of climate change to re-moralize war and the military.

### Cede the Political

#### 1. 1NC straight-turns this – the politics of the Aff results in hyper-conservativism – the logic of security and state-centrism inevitably privileges a closed and exclusionary politics – that’s Neoclous – only the alt’ solves political engagement because it informs vita aspects of decision-making.

#### 2. Non-unique – Obama is getting controlled by the military now – Middle East strategy and restriction of civil liberties proves

#### 3. Broadening the scope of politics is key to effective engagement

Grondin 4 [David, master of pol sci and PHD of political studies @ U of Ottowa “(Re)Writing the “National Security State”: How and Why Realists (Re)Built the(ir) Cold War,” <http://www.er.uqam.ca/nobel/ieim/IMG/pdf/rewriting_national_security_state.pdf>]

A poststructuralist approach to international relations reassesses the nature of the political. Indeed, it calls for the **repoliticization** of practices of world politics that have been treated as if they were not political. For instance, limiting the ontological elements in one’s inquiry to states or great powers is a political choice. As Jenny Edkins puts it, we need to “bring the political back in” (Edkins, 1998: xii). For most analysts of International Relations, the conception of the “political” is **narrowly restricted** to politics as practiced by politicians. However, from a poststructuralist viewpoint, the “political” acquires a broader meaning, especially since practice is not what most theorists are describing as practice. Poststructuralism sees theoretical discourse not only as discourse, but also as political practice. **Theory therefore becomes practice**. The political space of poststructuralism is not that of exclusion; it is the political space of postmodernity, a dichotomous one, where one thing always signifies at least one thing and another (Finlayson and Valentine, 2002: 14). **Poststructuralism thus gives primacy to the political**, since it acts on us, while we act in its name, and leads us to identify and differentiate ourselves from others. This political act is never complete and celebrates undecidability, whereas decisions, when taken, express the political moment. It is a critical attitude which encourages dissidence from traditional approaches (Ashley and Walker, 1990a and 1990b). It does not represent one single philosophical approach or perspective, nor is it an alternative paradigm (Tvathail, 1996: 172). It is a nonplace, a border line falling between international and domestic politics (Ashley, 1989). The poststructuralist analyst questions the borderlines and dichotomies of modernist discourses, such as inside/outside, the constitution of the Self/Other, and so on. In the act of definition, difference – thereby the discourse of otherness – is highlighted, since one always defines an object with regard to what it is not (Knafo, 2004). As Simon Dalby asserts, “It involves the social construction of some other person, group, culture, race, nationality or political system as different from ‘our’ person, group, etc. Specifying difference is a linguistic, epistemological and, most importantly, a political act; it constructs a space for the other distanced and inferior from the vantage point of the person specifying the difference” (Dalby, cited in Tvathail, 1996: 179). Indeed, poststructuralism offers no definitive answers, but leads to new questions and new unexplored grounds. This makes the commitment to the incomplete nature of the political and of political analysis so central to poststructuralism (Finlayson and Valentine, 2002: 15). As Jim George writes, “It is postmodern resistance in the sense that while it is directly (and sometimes violently) engaged with modernity, it seeks to go beyond the repressive, closed aspects of modernist global existence. It is, therefore, not a resistance of traditional grand-scale emancipation or conventional radicalism imbued with authority of one or another sovereign presence. Rather, in opposing the large-scale brutality and inequity in human society, it is a resistance active also at the everyday, com- munity, neighbourhood, and interpersonal levels, where it confronts those processes that **systematically exclude people from making decisions about who they are and what they can be**” (George, 1994: 215, emphasis in original). In this light, poststructural practices are used critically to investigate how the subject of international relations is constituted in and through the discourses and texts of global politics. Treating theory as discourse opens up the possibility of historicizing it. It is a myth that theory can be abstracted from its socio-historical context, from reality, so to speak, as neorealists and neoclassical realists believe. It is a political practice which needs to be contextualized and stripped of its purportedly neutral status. It must be understood with respect to its role in **preserving and reproducing the structures and power relations present in all language forms.** Dominant theories are, in this view, dominant discourses that shape our view of the world (the “subject”) and our ways of understanding it.

#### 4. Only resistance to security logic can generate genuine political thought

Neocleous 8 – Mark Neocleous, Prof. of Government @ Brunel, 2008 [Critique of Security, 185-6]

The only way out of such a dilemma, to escape the fetish, is perhaps to eschew the logic of security altogether - to reject it as so ideologically loaded in favour of the state that any real political thought other than the authoritarian and reactionary should be pressed to give it up. That is clearly something that can not be achieved within the limits of bourgeois thought and thus could never even begin to be imagined by the security intellectual. It is also something that the constant iteration of the refrain 'this is an insecure world' and reiteration of one fear, anxiety and insecurity after another will also make it hard to do. But it is something that the critique of security suggests we may have to consider if we want a political way out of the impasse of security. This impasse exists because security has now become so all-encompassing that it marginalises all else, most notably the constructive conflicts, debatesand discussionsthat animate political life. The constant prioritising of a mythical security as a political end - as the political end constitutes a rejection of politics in any meaningful sense of the term. That is, as a mode of action in which differences can be articulated, in which the conflicts and struggles that arise from such differences can be fought for and negotiated, in which people might come to believe that another world is possible - that they might transform the world and in turn be transformed. Security politics simply removes this; worse, it remoeves it while purportedly addressing it. In so doing it suppresses all issues of power and turns political questions into debates about the most efficient way to achieve 'security', despite the fact that we are never quite told - never could be told - what might count as having achieved it. Security politics is, in this sense, an anti-politics,"' dominating political discourse in much the same manner as the security state tries to dominate human beings, reinforcing security fetishism and the monopolistic character of security on the political imagination. We therefore need to get beyond security politics, not add yet more 'sectors' to it in a way that simply expands the scope of the state and legitimises state intervention in yet more and more areas of our lives. Simon Dalby reports a personal communication with Michael Williams, co-editor of the important text Critical Security Studies, in which the latter asks: if you take away security, what do you put in the hole that's left behind? But I'm inclined to agree with Dalby: maybe there is no hole."' The mistake has been to think that there is a hole and that this hole needs to be filled with a new vision or revision of security in which it is re-mapped or civilised or gendered or humanised or expanded or whatever. All of these ultimately remain within the statist political imaginary, and consequently end up reaffirming the state as the terrain of modern politics, the grounds of security. The real task is not to fill the supposed hole with yet another vision of security, but to fight for an alternative political language which takes us beyond the narrow horizon of bourgeois security and which therefore does not constantly throw us into the arms of the state. That's the point of critical politics: to develop a new political language more adequate to the kind of society we want. Thus while much of what I have said here has been of a negative order, part of the tradition of critical theory is that the negative may be as significant as the positive in setting thought on new paths. For if security really is the supreme concept of bourgeois society and the fundamental thematic of liberalism, then to keep harping on about insecurity and to keep demanding 'more security' (while meekly hoping that this increased security doesn't damage our liberty) is to blind ourselves to the possibility of building real alternatives to the authoritarian tendencies in contemporary politics. To situate ourselves against security politics would allow us to circumvent the debilitating effect achieved through the constant securitising of social and political issues, debilitating in the sense that 'security' helps consolidate the power of the existing forms of social domination and justifies the short-circuiting of even the most democratic forms. It would also allow us to forge another kind of politics centred on a different conception of the good. We need a new way of thinking and talking about social being and politics that moves us beyond security. This would perhaps be emancipatory in the true sense of the word. What this might mean, precisely, must be open to debate. But it certainly requires recognising that security is an illusion that has forgotten it is an illusion; it requires recognising that security is not the same as solidarity; it requires accepting that insecurity is part of the human condition, and thus giving up the search for the certainty of security and instead learning to tolerate the uncertainties, ambiguities and 'insecurities' that come with being human; it requires accepting that 'securitizing' an issue does not mean dealing with it politically, but bracketing it out and handing it to the state; it requires us to be brave enough to return the gift."'

### Stuff

#### Don’t multiply probability times magnitude – methodological black-mail that causes error replication and sereal policy failure

Hagmann & Cavelty 12 – \*senior researcher at the Center for Security Studies, lecturer at the Department of Humanities, Social and Political Sciences, ETH Zürich, holds a Doctorate and an MA in International Relations from the Graduate Institute of International and Development Studies in Geneva AND \*\*lecturer for security studies and a senior researcher in the field of risk and resilience at the Center for Security Studies, PhD, studied International Relations, History, and International Law at the University of Zurich (Jonas and Myriam Dunn, 2/15/2012, "National risk registers: Security scientism and the propagation of permanent insecurity," Security Dialogue 43(1), Sage)

Risk registers’ adoption of conventional risk-assessment methodology – the formula that defines risk as **likelihood multiplied by impact** – also has a distinct influence on how insecurity is to be understood and handled. On the one hand, the emphasis on ‘likelihood’ initiates a consequential rationalization of danger occurrence. This rationalization, of course, is geared towards forecasting future developments. It is methodologically grounded in an in-depth analysis of danger’s ‘natural’ patterns of manifestation. As already mentioned, existing datasets and historical case studies are central elements in the identification of these patterns. The rationalization of risks based on past events is analytically efficacious, given that it empowers a projection of the past into the future. There is an implicit argument in the methodological measurement of ‘likelihood’ to the effect that the future essentially emulates history – the risk themes described in risk registers are extrapolations of misfortunes already experienced (Bigo, 2007; Jasanoff, 2009). Focusing on these risk themes, then, not only means focusing on past insecurities. It also means that, as technologies, risk registers project the very same insecurities into the future. With this, the very variable of ‘likelihood’ empowers an inert view of reality. This is problematic in the case of those risks that openly rely on, or are mediated by, social actors. Social actors are capable of adopting new types of behaviour over time. The risk of terrorism, for instance, can only be regarded as a persistent one under the assumption that terrorists will never cease, or be induced to cease, their activities. Given their commitment to engineering and econometric risk-assessment methodology, then, risk registers advance a regularized assessment of future practices. They **leave little room for contingency, change and alternative trajectories**, and so they tend to project a rather fatalist account of public insecurity. Another effect then adds to this projection. The reliance on past experiences as proof of the existence of risks negates the need to test their current viability. There is no requirement to prove that these issues will ever ‘actually’ become relevant in the future. Together with risk registers’ reliance on probability syllogisms, this causes these projected risks to gain a very specific kind of traction in the present. As risks are claimed to exist, but their date and place of **materialization are held impossible to predict**, a sense of comprehensive and ever-present insecurity is created. Insecurity comes to be regarded as substantial if not all-encompassing, always present and always possible – an understanding that directly **caters to the permanent mobilization of a** comprehensive kind of **security dispositif**. On the other hand, the focus on ‘impact’ as a determinant of risks also implies larger analytical claims. The problem here is the intimate focus of risk registers on damaging effects as such. The focus on material damage and financial costs in particular raises difficult questions as to what kinds of harmful effects can be claimed to be relevant to human beings and political collectives. In the risk registers, this question is simply delegated to the underlying risk formula. There are no selection criteria underlying risk registers other than a cost–benefit rationale, which comes into play when everything that seemed relevant to experts is compared by its calculated magnitude in the risk matrix. Another problematic aspect is the fact that while analyses of quantities of harm reveal a lot about damage, such an approach is of limited use in understanding how public dangers are created in the first place. The classic lines of enquiry in risk assessment are: ‘What can go wrong? What is the likelihood of it going wrong? What are the consequences if it goes wrong?’ (Haimes, 1998: 54–5). This means that risk assessments do not ask why something can go wrong, or how one’s own actions might be complicit in engendering such dangers. The focus on risk as harmful ‘impact’, then, not only implies debatable assumptions about relevant measures. Its focus on **the consequences of risks and ignorance of their origins** also poses limits to the reflexivity with which risks are approached.

#### Security necessitates calculation – that outweighs war

Burke 7 – Associate Professor of Politics and International Relations in the University of New South Wales (Anthony “What security makes possible,” Working Paper 2007 p.11-12)

**Even if threats are credible and existential**, I do not believe that they warrant invoking the ‘state of exception’, which has in our time been more commonly enacted in the detention and rendition of terrorism suspects, immigration detention centres and the use of arbitrary arrest and deportation powers. The ‘state of exception’ also haunts much legial innovation in counter-terrorism policy. And, as Agamben, Judith Butler and Arendt have argued, such approaches have their roots in processes (namely colonialism and the Holocaust) that **systematically dehumanized their victims producing lives that were ‘bare’, ‘ungreivable’, ‘unliveable’ and ‘superfluous’**. If nothing else, it ought to raise serious doubts as to how securitization theory can be helpful in resignifying security as emancipation. It also precludes the ability to speak of human or environmental security in terms consistent with democratic political processes in a state of normalacy. The existential threat of human beings may be real enough, but it should generate a **very different policy logic** than outlined by the Copenhagen School. As Rocanne Lynn Doty and Karin Fierke have argued, the Copenhagen School’s conceptualization blocks the path to human security. This would seem to be implicit in the way Waever, in his 1995 article, attempts to provide security with ontological grounding. There he states that ‘as concepts, neither individual nor international security exist’: National security, that is the security of a state, is the name of an ongoing debate, tradition, an established set of practices ... there is no literature, no philosophy, no tradition of security in non-state terms ... the concept of security refers to the state.36

### 2NC Alt Solvency

#### The alternative reject's the affirmative's security discourse – think of the alternative as a broader process rather thean a finished product – our untimely rejection in the face of impending threats overturn what it means to be relevant – only a rupture of the political imaginary can challenge the confinement of the present to security – refusing to take part in security politics is our only hope for a counter-discourse – tha's **Calkivik**

#### Only resistance to security logic can generate genuine political thought

Neocleous 8 – Mark Neocleous, Prof. of Government @ Brunel, 2008 [Critique of Security, 185-6]

The only way out of such a dilemma, to escape the fetish, is perhaps to eschew the logic of security altogether - to reject it as so ideologically loaded in favour of the state that any real political thought other than the authoritarian and reactionary should be pressed to give it up. That is clearly something that can not be achieved within the limits of bourgeois thought and thus could never even begin to be imagined by the security intellectual. It is also something that the constant iteration of the refrain 'this is an insecure world' and reiteration of one fear, anxiety and insecurity after another will also make it hard to do. But it is something that the critique of security suggests we may have to consider if we want a political way out of the impasse of security. This impasse exists because security has now become so all-encompassing that it marginalises all else, most notably the constructive conflicts, debatesand discussionsthat animate political life. The constant prioritising of a mythical security as a political end - as the political end constitutes a rejection of politics in any meaningful sense of the term. That is, as a mode of action in which differences can be articulated, in which the conflicts and struggles that arise from such differences can be fought for and negotiated, in which people might come to believe that another world is possible - that they might transform the world and in turn be transformed. Security politics simply removes this; worse, it remoeves it while purportedly addressing it. In so doing it suppresses all issues of power and turns political questions into debates about the most efficient way to achieve 'security', despite the fact that we are never quite told - never could be told - what might count as having achieved it. Security politics is, in this sense, an anti-politics,"' dominating political discourse in much the same manner as the security state tries to dominate human beings, reinforcing security fetishism and the monopolistic character of security on the political imagination. We therefore need to get beyond security politics, not add yet more 'sectors' to it in a way that simply expands the scope of the state and legitimises state intervention in yet more and more areas of our lives. Simon Dalby reports a personal communication with Michael Williams, co-editor of the important text Critical Security Studies, in which the latter asks: if you take away security, what do you put in the hole that's left behind? But I'm inclined to agree with Dalby: maybe there is no hole."' The mistake has been to think that there is a hole and that this hole needs to be filled with a new vision or revision of security in which it is re-mapped or civilised or gendered or humanised or expanded or whatever. All of these ultimately remain within the statist political imaginary, and consequently end up reaffirming the state as the terrain of modern politics, the grounds of security. The real task is not to fill the supposed hole with yet another vision of security, but to fight for an alternative political language which takes us beyond the narrow horizon of bourgeois security and which therefore does not constantly throw us into the arms of the state. That's the point of critical politics: to develop a new political language more adequate to the kind of society we want. Thus while much of what I have said here has been of a negative order, part of the tradition of critical theory is that the negative may be as significant as the positive in setting thought on new paths. For if security really is the supreme concept of bourgeois society and the fundamental thematic of liberalism, then to keep harping on about insecurity and to keep demanding 'more security' (while meekly hoping that this increased security doesn't damage our liberty) is to blind ourselves to the possibility of building real alternatives to the authoritarian tendencies in contemporary politics. To situate ourselves against security politics would allow us to circumvent the debilitating effect achieved through the constant securitising of social and political issues, debilitating in the sense that 'security' helps consolidate the power of the existing forms of social domination and justifies the short-circuiting of even the most democratic forms. It would also allow us to forge another kind of politics centred on a different conception of the good. We need a new way of thinking and talking about social being and politics that moves us beyond security. This would perhaps be emancipatory in the true sense of the word. What this might mean, precisely, must be open to debate. But it certainly requires recognising that security is an illusion that has forgotten it is an illusion; it requires recognising that security is not the same as solidarity; it requires accepting that insecurity is part of the human condition, and thus giving up the search for the certainty of security and instead learning to tolerate the uncertainties, ambiguities and 'insecurities' that come with being human; it requires accepting that 'securitizing' an issue does not mean dealing with it politically, but bracketing it out and handing it to the state; it requires us to be brave enough to return the gift."'

### Stuff

#### Prefer our disjunctive scenarios to their short-term conjunctive scenarios.

Yudkowsky 6 – Research Fellow & Director @ Singularity Institute for Artificial Intelligence (Eliezer, 8/31/. Palo Alto, CA. “Cognitive biases potentially affecting judgment of global risks,” Forthcoming in Global Catastrophic Risks, eds. Nick Bostrom and Milan Cirkovic, singinst.org/upload/cognitive-biases.pdf)

The conjunction fallacy similarly applies to futurological forecasts. Two independent sets of professional analysts at the Second International Congress on Forecasting were asked to rate, respectively, the probability of "A complete suspension of diplomatic relations between the USA and the Soviet Union, sometime in 1983" or "A Russian invasion of Poland, and a complete suspension of diplomatic relations between the USA and the Soviet Union, sometime in 1983". The second set of analysts responded with significantly higher probabilities. (Tversky and Kahneman 1983.) In Johnson et. al. (1993), MBA students at Wharton were scheduled to travel to Bangkok as part of their degree program. Several groups of students were asked how much they - 6 - were willing to pay for terrorism insurance. One group of subjects was asked how much they were willing to pay for terrorism insurance covering the flight from Thailand to the US. A second group of subjects was asked how much they were willing to pay for terrorism insurance covering the round-trip flight. A third group was asked how much they were willing to pay for terrorism insurance that covered the complete trip to Thailand. These three groups responded with average willingness to pay of $17.19, $13.90, and $7.44 respectively. According to probability theory, adding additional detail onto a story must render the story less probable. It is less probable that Linda is a feminist bank teller than that she is a bank teller, since all feminist bank tellers are necessarily bank tellers. Yet human psychology seems to follow the rule that adding an additional detail can make the story more plausible. People might pay more for international diplomacy intended to prevent nanotechnological warfare by China, than for an engineering project to defend against nanotechnological attack from any source. The second threat scenario is less vivid and alarming, but the defense is more useful because it is more vague. More valuable still would be strategies which make humanity harder to extinguish without being specific to nanotechnologic threats - such as colonizing space, or see Yudkowsky (this volume) on AI. Security expert Bruce Schneier observed (both before and after the 2005 hurricane in New Orleans) that the U.S. government was guarding specific domestic targets against "movie-plot scenarios" of terrorism, at the cost of taking away resources from emergency-response capabilities that could respond to any disaster. (Schneier 2005.) Overly detailed reassurances can also create false perceptions of safety: "X is not an existential risk and you don't need to worry about it, because A, B, C, D, and E"; where the failure of any one of propositions A, B, C, D, or E potentially extinguishes the human species. "We don't need to worry about nanotechnologic war, because a UN commission will initially develop the technology and prevent its proliferation until such time as an active shield is developed, capable of defending against all accidental and malicious outbreaks that contemporary nanotechnology is capable of producing, and this condition will persist indefinitely." Vivid, specific scenarios can inflate our probability estimates of security, as well as misdirecting defensive investments into needlessly narrow or implausibly detailed risk scenarios. More generally, people tend to overestimate conjunctive probabilities and underestimate disjunctive probabilities. (Tversky and Kahneman 1974.) That is, **people tend to overestimate the probability that**, e.g., **seven events of 90% probability will all occur**. Conversely, **people tend to underestimate the probability that at least one of seven events of 10% probability will occur**. Someone judging whether to, e.g., incorporate a new startup, must evaluate the probability that many individual events will all go right (there will be sufficient funding, competent employees, customers will want the product) while also considering the likelihood that at least one critical failure will occur (the bank refuses - 7 - a loan, the biggest project fails, the lead scientist dies). This may help explain why only 44% of entrepreneurial ventures3 survive after 4 years. (Knaup 2005.) Dawes (1988) observes: 'In their summations lawyers avoid arguing from disjunctions ("either this or that or the other could have occurred, all of which would lead to the same conclusion") in favor of conjunctions. Rationally, of course, disjunctions are much more probable than are conjunctions.' The scenario of humanity going extinct in the next century is a disjunctive event. It could happen as a result of any of the existential risks discussed in this book - or some other cause which none of us foresaw. Yet for a futurist, disjunctions make for an awkward and unpoetic-sounding prophecy.

#### The 1AC harms claims are manufactured – the threat industry fabricates danger to justify military expansion.

Pieterse 7 [Jan Nederveen, professor of sociology at the University of Illinois, Review of International Political Economy, Vol. 14, No. 3, Aug., “Political and Economic Brinkmanship,” p. 473-4]

Brinkmanship and producing instability carry several meanings. The American military spends 48% of world military spending (2005) and rep resents a vast, virtually continuously growing establishment that is a world in itself with its own lingo, its own reasons, internecine battles and projects. That this large security establishment is a bipartisan project makes it politically relatively immune. That for security reasons it is an insular world shelters it from scrutiny. For reasons of 'deniability' the president is insulated from certain operations (Risen, 2006). That it is a completely hierarchical world onto itself makes it relatively unaccountable. Hence, to quote 'stuff happens'. In part this is the familiar theme of the Praetorian Guard and the shadow state (Stockwell, 1991). It includes a military on the go, a military that seeks career advancement through role expansion, seeks expansion through threat inflation, and in inflated threats finds rationales for ruthless action and is thus subject to feedback from its own echo chambers. Misinformation broadcast by part of the intelligence apparatus blows back to other security circles where it may be taken for real (Johnson, 2000). Inhabiting a hall of mirrors this apparatus operates in a perpetual state of self hypnosis with, since it concerns classified information and covert ops, limited checks on its functioning.¶ The military stages phirric victories that come at a price of lasting instability. In Afghanistan the US staged a swift settlement by backing and funding the Northern Alliance, which brought warlords and drug lords to power and a corrupt power structure that eventually precipitated the comeback of the Taliban. In Iraq the US backed the Kurds and permitted Shiite militias to operate (until the Samarra bombing of April 2006) and thus created conditions for lasting instability.¶ The American rules of engagement are self-serving. But because the military inhabits a parallel universe and the media are clogged with 'defense experts', discussion of these tactics and hence the capacity for self-correction is limited.¶ Part of the backdrop is the trend of the gradual erosion of state capacities because of 25 years, since the Reagan era, of cutting government services except the military and security. The laissez-faire state in the US has created an imbalance in which the military remains the major growing state capability, which leaves military power increasingly unchecked because **monitoring institutions have been downsized or dismantled** too. When recently the Pentagon wanted to review all the subcontracts it has outsourced this task was outsourced too. This redistribution of power within the US government played a key part leading up to the war and in the massive failure in Iraq. Diplomacy was under resourced, intelligence was manipulated and the Pentagon and the Office of Strategic Planning ignored experts' advice and State Department warnings on the need for postwar planning (Packer, 2005; Lang, 2004).

#### Focus on short-term impacts is epistemologically bankrupt – greater attention to structural conditions and root causes is key.

Bilgin & Morton 4 [Pinar, Associate Professor of International Relations at Bilkent University, & Adam David, Lecturer in the Department of Politics and International Relations at Lancaster University, Politics, 24(3), “From ‘Rogue’ to ‘Failed’ States? The Fallacy of Short-termism,” p. 176-178]

Calls for alternative approaches to the phenomenon of state failure are often met with the criticism that such alternatives could only work in the long term whereas ‘something’ needs to be done here and now. Whilst recognising the need for immediate action, it is the role of the political scientist to point to the fallacy of ‘short-termism’ in the conduct of current policy. Short-termism is defined by Ken Booth (1999, p. 4) as ‘approaching security issues within the time frame of the next election, not the next generation’. Viewed as such, short-termism is the enemy of true strategic thinking. The latter requires policymakers to rethink their long-term goals and take small steps towards achieving them. It also requires heeding against taking steps that might eventually become self-defeating.¶ The United States has presently fought three wars against two of its Cold War allies in the post-Cold War era, namely, the Iraqi regime of Saddam Hussein and the Taliban in Afghanistan. Both were supported in an attempt to preserve the delicate balance between the United States and the Soviet Union. The Cold War policy of supporting client regimes has eventually backfired in that US policymakers now have to face the instability they have caused. Hence the need for a comprehensive understanding of state failure and the role Western states have played in failing them through varied forms of intervention. Although some commentators may judge that the road to the existing situation is paved with good intentions, a truly strategic approach to the problem of international terrorism requires a more sensitive consideration of the medium-to-long-term implications of state building in different parts of the world whilst also addressing the root causes of the problem of state ‘failure’.¶ Developing this line of argument further, reflection on different socially relevant meanings of ‘state failure’ in relation to different time increments shaping policy-making might convey alternative considerations. In line with John Ruggie (1998, pp. 167–170), divergent issues might then come to the fore when viewed through the different lenses of particular time increments. Firstly, viewed through the lenses of an incremental time frame, more immediate concerns to policymakers usually become apparent when linked to precocious assumptions about terrorist networks, banditry and the breakdown of social order within failed states. Hence relevant players and events are readily identified (al-Qa’eda), their attributes assessed (axis of evil, ‘strong’/’weak’ states) and judgements made about their long-term significance (war on terrorism). The key analytical problem for policymaking in this narrow and blinkered domain is the one of choice given the constraints of time and energy devoted to a particular decision. These factors lead policymakers to bring conceptual baggage to bear on an issue that simplifies but also distorts information.¶ Taking a second temporal form, that of a conjunctural time frame, policy responses are subject to more fundamental epistemological concerns. Factors assumed to be constant within an incremental time frame are more variable and it is more difficult to produce an intended effect on ongoing processes than it is on actors and discrete events. For instance, how long should the ‘war on terror’ be waged for? Areas of policy in this realm can therefore begin to become more concerned with the underlying forces that shape current trajectories.¶ Shifting attention to a third temporal form draws attention to still different dimensions. Within an epochal time frame an agenda still in the making appears that requires a shift in decision-making, away from a conventional problem-solving mode ‘wherein doing nothing is favoured on burden-of-proof grounds’, towards a risk-averting mode, characterised by prudent contingency measures. To conclude, in relation to ‘failed states’, the latter time frame entails reflecting on the very structural conditions shaping the problems of ‘failure’ raised throughout the present discussion, which will demand lasting and delicate attention from practitioners across the academy and policymaking communities alike.

## 1NR – T, Case

### AO

**--Plan doesn’t solve this – their internal link evidence talks about the Navy and a NEPA case – can’t ‘assert the PQD spillsover to solve this case specifically**

**And their internal link evidence to submarine hulls doesn’t make AN argument**

#### No risk of accidental/unauthorized war.

Dr. Leonid Ryabikhin, General (Ret.) Viktor Koltunov and Dr. Eugene Miasnikov, June 2009. Senior Fellow at the EastWest Institute; Deputy Director, Institute for Strategic Stability of Rosatom; and Senior Research Scientist, Centre for Arms Control, Energy, and Environmental Studies, Moscow Institute of Physics and Technology. “De-alerting: Decreasing the Operational Readiness of Strategic Nuclear Forces,” Discussion paper presented at the seminar on “Re-framing De Alert: Decreasing the Operational Readiness of Nuclear Weapons Systems in the U.S.-Russia Context,” [www.ewi.info/system/files/RyabikhinKoltunovMiasnikov.pdf](http://www.ewi.info/system/files/RyabikhinKoltunovMiasnikov.pdf).

Analysis of the above arguments shows, that they do not have solid grounds. Today Russian and U.S. ICBMs are not targeted at any state. High alert status of the Russian and U.S. strategic nuclear forces has not been an obstacle for building a strategic partnership. The issue of the possibility of an “accidental” nuclear war itself is hypothetical. Both states have developed and implemented constructive organizational and technical measures that practically exclude launches resulting from unauthorized action of personnel or terrorists. Nuclear weapons are maintained under very strict system of control that excludes any accidental or unauthorized use and guarantees that these weapons can only be used provided that there is an appropriate authorization by the national leadership. Besides that it should be mentioned that even the Soviet Union and the United States had taken important bilateral steps toward decreasing the risk of accidental nuclear conflict. Direct emergency telephone “red line” has been established between the White House and the Kremlin in 1963. In 1971 the USSR and USA signed the Agreement on Measures to Reduce the Nuclear War Threat. This Agreement established the actions of each side in case of even a hypothetical accidental missile launch and it contains the requirements for the owner of the launched missile to deactivate and eliminate the missile. Both the Soviet Union and the United States have developed proper measures to observe the agreed requirements.

#### No need to de-alert --- systems stable.

William J. Perry and James R. Schlesinger et al, 2009. Former Secretary of Defense, Michael and Barbara Berberian Professor at Stanford University, senior fellow at FSI and serves as co-director of the Preventive Defense Project, and former Secretary of Defense, Secretary of Energy and Director of the Central Intelligence Agency, Counselor to the Center for Strategic and International Studies, lecturer @ SAIS, Johns Hopkins University, PhD International Relations @ UPenn. “America’s Strategic Posture,” Report of the Congressional Commission on the Strategic Posture of the United States, media.usip.org/reports/strat\_posture\_report.pdf.

The second is de-alerting. Some in the arms control community have pressed enthusiastically for new types of agreements that take U.S. and Rus- sian forces off of so-called “hair trigger” alert. This is simply an erroneous characterization of the issue. The alert postures of both countries are in fact highly stable. They are subject to multiple layers of control, ensuring clear civilian and indeed presidential decision-making. The proper focus really should be on increasing the decision time and information available to the U.S. president—and also to the Russian president—before he might autho- rize a retaliatory strike. There were a number of incidents during the Cold War when we or the Russians received misleading indications that could have triggered an accidental nuclear war. With the greatly reduced tensions of today, such risks now seem relatively low. The obvious way to further reduce such risks is to increase decision time for the two presidents. The President should ask the Commander of U.S. Strategic Command to give him an analysis of factors affecting the decision time available to him as well as recommendations on how to avoid being put in a position where he has to make hasty decisions. It is important that any changes in the decision process preserve and indeed enhance crisis stability.

### Ex-Post T – 2NC Overview

#### Topical affs must use prohibit activities currently under the president’s war powers authority – it’s best –

#### Limits – Including oversight affs explodes the topic. It adds at least three new mechanisms for every aff. Multiplying the number of mechanisms by the hundreds of affs in the four areas of the topic allows for thousands of new affs. It also allows for indirect and zero effects. Affs can have Congress create a new agency or organization to oversee and read a new advantage every week. Prohibition mandates that Congress must ban an action but regulation allows for a variety of indirect regulatory mechanisms.

#### Limits outweigh – they’re the vital access point for any theory impact – its key to fairness – huge research burdens mean we can’t prepare to compete – and its key to education – big topics cause hyper-generics, lack of clash, and shallow debate – and it destroys participation

And it doesn’t overlimit – allows for a fair number of affs at least 1 in all the topic areas that would solve back their education arguments as well as specific restrictions for each one – topical version solves – they could simply restrict the presiden’ts ability to use drones in conflicts – they justify an overwhelming caselist – any review on any of the topic areas as well as getting solvency based on any of the court cases involved in these topic areas

### Ex-Post T – A2: We Meet

#### They don’t meet – their Al-Aulaqi evidence is trash –

#### 1). It has no intent to define – it’s just uses the phrase judicial checks on executive authority and is talking aobut the fifth amendment and suspension clause in the context of Boumediene – not the plan

#### 2) It’s from a random memo in a court case – where they have an incentive to over embellish their case without facts

#### Plan doesn’t narrow Presidential authority, it just creates a mechanism for assuring that there is a review once the President goes beyond already existing authority. This is their 1AC solvency advocate.

Vladeck 13 (Steve, professor of law and the associate dean for scholarship at American University Washington College of Law, “What’s Really Wrong With the Targeted Killing White Paper”, 2/5, http://www.lawfareblog.com/2013/02/whats-really-wrong-with-the-targeted-killing-white-paper/)

First, many of us who argue for at least some judicial review in this context specifically don’t argue for ex ante review for the precise reasons the white paper suggests. Instead, we argue for ex post review–in the form of damages actions after the fact, in which liability would only attach if the government both (1) exceeded its authority; and (2) did so in a way that violated clearly established law. Whatever else might be said about such damages suits, they simply don’t raise the interference concerns articulated in the white paper, and so one would have expected some distinct explanation for why that kind of judicial review shouldn’t be available in this context. All the white paper offers, though, is its more general allusion to the political question doctrine. Which brings me to…

#### The distinction is crucial – ex post reviews assess whether a policy violates EXISTING restrictions – only ex ante approaches IMPOSE a restriction on authority.

VLR 13 (Vanderbilt Law Review, 66 VAND. L. REV. 685, “Looking For Trouble: An Exploration of How to Regulate Digital Searches”, p. 711, http://www.vanderbiltlawreview.org/content/articles/2013/03/Yeager\_66\_Vand\_L\_Rev\_6851.pdf)

Of all the ways in which courts might attempt to limit the scope of digital searches, ex ante regulations that prescribe particular search protocols are likely to be the clearest and most enforceable options. Search protocols offer bright-line rules that define reasonable behavior, and they are both easy for courts to administer and for investigators to follow. Because ex ante rules prevent investigators from employing methodologies that are not explicitly authorized, they can curtail the very act of general government searches, not just the government’s subsequent use of evidence discovered through general searches.152 It is this capacity to prevent certain government behavior, a feature that both ex post reasonableness reviews and the inadvertence requirement153 lack, that enables search protocols to provide privacy protections that the other solutions cannot.

#### Ex-post review doesn’t mandate preventing anything

Jaffer 13 (Jameel, “JUDICIAL REVIEW OF TARGETED KILLINGS”, 2013, 126 Harv. L. Rev. F. 185, lexis)

This kind of review -- ex post review in the context of a Bivens action -- could clarify the relevant legal framework in the same way that review by a specialized court could. But it also has many advantages over the kind of review that would likely take place in a specialized court. In a Bivens action, the proceedings are adversarial rather than ex parte, increasing their procedural legitimacy and improving their substantive accuracy. Hearings are open to the public, at least presumptively. [\*187] The court can focus on events that have already transpired rather than events that might or might not transpire in the future. And a Bivens action can also provide a kind of accountability that could not be supplied by a specialized court reviewing contemplated strikes ex ante: redress for family members of people killed unlawfully, and civil liability for officials whose conduct in approving or carrying out the strike violated the Constitution. (Of course, in one profound sense a Bivens action will always come too late, because the strike alleged to be unlawful will already have been carried out. Again, though, if "imminence" is a requirement, ex ante judicial review is infeasible by definition.)

#### Statutory restrictions means to forbid – conclusive evidence proves

Randolph 96 (Judge, UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT, 77 F.3d 1414; 316 U.S. App. D.C. 235; 1996 U.S. App. LEXIS 4493, Arthur David Clifford, et al., Appellants v. Federico F. Pena, Secretary, United States Department of Transportation, et al., Appellees; Consolidated with 95-5239, 95-5240, lexis)

A § 804(b) waiver relieves an operator of the restrictions imposed under § 804(a), the provision barring the operation of foreign-flag vessels competing with American-flag vessels in essential services. We must assume that § 804(a) implements at least some of the objectives set forth in § 1101. And yet we must also assume that requiring strict adherence to § 804(a) could turn out to be counterproductive. Otherwise Congress would have had no reason to enact § 804(b). It therefore does no good for the union to complain that the waiver granted to APL will not accomplish everything the Act set out to achieve, or that permitting APL to operate foreign-flag ships will contradict some of § 1101's objectives. Any waiver of a [\*\*11] statutory restriction will, by definition, allow something otherwise forbidden.

#### Statutory restrictions on authority must prohibit

Becker 74 (Edward, Judge @ UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA, 374 F. Supp. 564; 1974 U.S. Dist. LEXIS 12196; 1974-2 Trade Cas. (CCH) P75,271, lexis)

The power of title insurance companies to insure titles is statutorily defined, § 910-8. There are also further statutory restrictions on their business. They are prohibited from guaranteeing the payment of mortgages on real property, §§ 910-9, 910-10; from engaging in the banking business, § 910-11; from acting [\*\*7] as a trustee, guardian, or similar fiduciary, § 910-12; and from issuing insurance other than title insurance, § 910-13. The foregoing regulation aimed primarily at the structure and powers of title insurance companies is accompanied by extensive regulation of their title insurance operations.

#### There's a clear brightline---restrictions require a floor and a ceiling---oversight is a floor but doesn't set a cap on the President's potential actions

USCA 77, UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, 564 F.2d 292, 1977 U.S. App. LEXIS 10899,. 1978 Fire & Casualty Cases (CCH) P317

Continental argues that even if the Aetna and Continental policies provide coverage for the Cattuzzo accident, that coverage should [\*\*8] be limited to a total of $300,000 because Atlas agreed to procure "not less than" $300,000 coverage. The District Court properly found that the subcontract language does not support a restriction on the terms of Continental's policy because the subcontract only sets a floor, not a ceiling, for coverage.

### Ex-Post T – A2: CI – 2NC

#### --Doesn’t solve limits – that was in the overview

#### --Destroys ground – no stable mechanism – that’s key – core neg ground depends on the aff restricting the president – their interpretation allows for affs that don’t prevent the president from acting but increase oversight – jacks links to politics, prez powers, terrorism, and any core disad in each area because they are based on restrictions

#### On this topic neg ground outweigh aff ground – there’s a ton of affs within each category and few disads – topic explosion causes over-reliance on hyper-generics that consistently lose to aff-specific process advantages, signal advantages and answers. Plus, they get the first and last speech, persuasive value of the 2AR compensates for the neg block, and most of lit advocates decreasing war powers

#### Doesn’t solve precision – our interpretation is exclusive, has an intent to define. – we have the only evidence that defines the phrase restrictions on authority – while their ev just uses the phrase

#### Precision outweighs – accurate reading of the resolution is a pre-requisite to fairness and education – contrived interpretations make the resolution meaningless which makes limits and ground impossible. Plus the aff would always lose because the neg could always have a more limiting interpretation, even if it’s not based in the resolution or evidence

#### Statutory restrictions on authority mean laws must prevent presidential actions

Peterson 11 (Todd, Prof @ GW School of Law, Student Bar Association - George Washington School of Law, "Separation of Powers," http://www.gwsba.com/outlines/Separation%20of%20Powers/Separation%20of%20Powers%20-%20Peterson%20-%20Fall%202011.doc)

Power of each branch

* + 3 zones of executive power (J. Jackson)
    - Most authority with explicit statutory power
    - Intermediate authority (inherent power)
    - Least authority statute take away power
  + Generally, for statutory enhancements of power, the Court is more formalist
  + Generally, for statutory restrictions of power, the Court is more functionalist (Does statute prevent the branch from accomplishing its constitutional function?)

|  |  |  |  |
| --- | --- | --- | --- |
|  | Executive | Legislative | Judicial |
| Statutory Authority | Congress can delegate, box can grow indefinitely | Congress passes statutes to give itself more authority  Limited by bicameralism and presentment | Limited by case or controversy |
| No statute | President’s inherent power: In Re Neagle | Appropriations power |  |
| Statutory Restriction | Congress passes statutes to limit the president’s power |  |  |

#### Authority must be the exercise of power over others

OED 13 (http://www.oed.com/viewdictionaryentry/Entry/13349)

authority, n.

I. Power to enforce obedience.

a. Power or right to enforce obedience; moral or legal supremacy; the right to command, or give an ultimate decision.

b. in authority: in a position of power; in possession of power over others.

#### “War powers authority” covers the president’s authority to utilize military operations

Oxford International Encyclopedia of Legal History 2012

(Oxford University Press via Oxford Reference, Georgetown University library)

**The War Power in the Twenty-First Century**.

The presumption of a dual war-making role appears to have been eclipsed since 2001, during which time it has been argued by some that the president stands supreme in his war-making capacity as **commander in chief** and that he has no obligation to share such power with Congress. This view assumes that the president has all the requisite and necessary **authority to order whatever he deems necessary in terms of military operations** and that Congress can claim only the power to declare war; the resulting operational conduct is strictly a presidential prerogative. Opponents of this interpretation point to all the additional powers dealing with the military that are vested in Congress.

### Ex-Post T – A2: Reasonability

#### --They aren’t reasonable – the Aff literally explodes the topic and eviscerates ground – they lose under their own standard

#### -- Prefer competing interpretations –

#### A) Only objective standard – reasonability is arbitrary and takes the debate out of the hands of the debaters by encouraging overtly subjective decisions.

#### B) Incentivizes bad debate – Negs would read their worst strategy to prove abuse – don’t punish well-prepared teams.

#### -- Competing interpretations should be judged by both precision and limits – means debate mirrors relevant topic literature with respect to particular resolutional wording – solves race to the bottom

#### It’s arbitrary and undermines research

Resnick 1 Evan- assistant professor of political science – Yeshiva University, “Defining Engagement,” Journal of International Affairs, Vol. 54, Iss. 2

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

### Imminence

#### Status quo doesn’t trigger the internal links – we don’t overuse drones – Murphy assumes the modern US intervention strategy – we don’t overstep limits because all of our strategies rely on local support – Murphy gives us a uniqueness claim that civilian casualties are decreasing specifically in the case of drones - proves the strategy is sustainable now

#### More U---- drone strikes are declining as precision increases---the status quo resolves their whole advantage

Munter 13 (Cameron Munter 9-30, professor of practice in international relations at Pomona College, served as a U.S. Foreign Service Officer for nearly three decades, was Ambassador to Pakistan 2010-2012, 9/30/13, “Guest Post: A New Face in the U.S.-Pakistani Relationship,” http://justsecurity.org/2013/09/30/cameron-munter-pakistan-relations/)

In doing so, however, we have made the image of a soldier or a drone the image of America’s strategic vision for Pakistan and the region. As 2014 approaches, and American troops end their combat mission in Afghanistan; as drone strikes in the Pakistani tribal areas appear to be fewer in number and more precise in targeting; as the general trends of the U.S. “pivot toward Asia” become clear, the soldier and the drone will be less common. Even though the President’s commitment to U.S. security does not waver, the reminders of his commitment will be fewer and far between – at least it would seem, seen from the street in Pakistan. Will that face of America – the M-16 and flak jacket, the film of a predator strike – remain, or can we replace it with something else? A different face of commitment, one that Americans have supported throughout the last decade but which has, in the Pakistani media (fairly or not) been shoved aside by the violence in the tribal areas and unrest throughout the country? That other commitment has been enormous expenditure by the U.S. government in support of economic growth, building schools, replacing crops destroyed by floods, refurbishing power plants, and improving health delivery services, to name just a few achievements. But few Pakistanis believe this aid has made a difference. Instead, they associate us only with the manifestations of the war on terror. In the coming month this can change. No, it should not just be a PR campaign to convince Pakistanis of our commitment to what they care about (not just what we care about). Certainly, PR is necessary, but lacking a new face, it won’t be sufficient. It will require two things. First, on the policy level, we must use the changes in 2014 to wrest U.S. policy toward Pakistan from its current status as derivative of the war in Afghanistan. Of course, Pakistan has an enormous role to play in security arrangements of the region in years to come. Its relationship to India, to China, to Iran, and of course to Afghanistan are very important as the international community seeks to find a just and equitable peace in the region. But we should make every effort to consider Pakistan’s needs. Not just the needs of the Pakistani military and intelligence leadership, important as they are. Rather, the needs of a country of nearly 200 million people whose stability and prosperity will be essential to the long-term stability and prosperity of the entire region. Pakistan’s success is not a guarantee of regional peace; but Pakistani failure is certainly a guarantee of regional strife. Second, on a practical level, we should provide a face of American commitment that we know, through decades of effort, is welcome. Polling shows consistently that while most Pakistanis are angry at America (citing security policies as the reason), most Pakistanis – across the political spectrum, rural and urban, young and old – want a better relationship with us. Why? Because despite all the searing problems of the last decade, they admire us: they admire our educational institutions, our business acumen, our commitment to philanthropy. And here, I believe, they can find the practical partners to renew Pakistani understanding of American commitment to the relationship. Universities, businesses, foundations. Students and teachers, businesspeople and investors, donors and grassroots workers. These are the faces of the relationship in which America can play to its strengths, and in doing so, help build a successful Pakistan that is so necessary for us to achieve our own strategic interests in South Asia and beyond. Recent press articles highlight just how worried we’ve been about Pakistan’s nuclear arsenal. And we should be worried. We need to know if that arsenal can be misused or fall into the wrong hands. But even a massive surveillance effort, while necessary, will be insufficient. We need to take modest but purposeful measures to help Pakistan remain stable. That’s not the same as focusing so overwhelmingly on immediate security concerns. We also need to engage in Pakistani politics, economics, society, where we have a much stronger hand to play than we perhaps realize. Certainly, such changes cannot take place overnight. After all, the main reason that we see so few American university professors or businesspeople in Pakistan is that it’s still considered too dangerous. Yes, Pakistan’s government must take on the terrorist challenge, and it is enormous. And when Pakistan’s new Interior Minister propose plans to make the best use of Pakistan’s internal security forces, we should engage with him and take seriously any requests for help. But I believe we have a chance to do so, a chance afforded by the potential change in the face of America in Pakistan: difficult as it is, painful as our experiences in Pakistan have been, let’s listen to them and see if their plans to tackle terrorism have a place for our help. It’s certainly in our interest and theirs. Who knows? If Pakistan’s new leadership is able to make real progress against terrorism, there may be another new face – a face of a Pakistan that is not the negative image so common in recent years, but a Pakistan where people of good will are determined to succeed, and ask the help of an old friend in doing so.

#### Our Pakistan evidence cites polls too – Byman cites a more recent poll as well and assumes the arguments their uathors use – they are all based on biased samples to justify interventions – the only thing causing instability is corruption weak institutions and no economic growth – drone program doesn’t effect any of those things

#### No public backlash in Pakistan or Yemen---just as many people love them as hate them

Boot 13 (Max Boot, the Jeane J. Kirkpatrick Senior Fellow in National Security Studies at the Council on Foreign Relations, 2/6/13, “Obama Drone Memo is a Careful, Responsible Document,” http://www.commentarymagazine.com/2013/02/06/obama-drone-memo-is-a-careful-responsible-document/)

Drone strikes are by no means risk free, the biggest risk being that by killing innocent civilians they will cause a backlash and thereby create more enemies for the U.S. than they eliminate. There is no doubt that some of these strikes have killed the wrong people–as the New York Times account highlights in one incident in Yemen. There is also little doubt, moreover, that drone strikes are no substitute for a comprehensive counterinsurgency and state-building policy designed to permanently safeguard vulnerable countries such as Pakistan, Yemen, Somalia, Libya, and Mali from the incursions of radical jihadists. But drone strikes have been effective in disrupting al-Qaeda operations and they have been conducted with less collateral damage and more precision than in the past.

It is hard to assess what impact they have had on public opinion in countries such as Yemen and Pakistan, but there is at least as much evidence that these strikes are applauded by locals who are terrorized by al-Qaeda thugs as there is evidence that the strikes are reviled for killing fellow clansmen. As the Times notes: “Although most Yemenis are reluctant to admit it publicly, there does appear to be widespread support for the American drone strikes that hit substantial Qaeda figures like Mr. Shihri, a Saudi and the affiliate’s deputy leader, who died in January of wounds received in a drone strike late last year.”

#### No impact to Pakistan instability- their ev is hype

Hundley 12(Before joining the Pulitzer Center, Tom Hundley was a newspaper journalist for 36 years, including nearly two decades as a foreign correspondent for the Chicago Tribune. During that time he served as the Tribune’s bureau chief in Jerusalem, Warsaw, Rome and London, reporting from more than 60 countries. He has covered three wars in the Persian Gulf, the Arab-Israeli conflict and the rise of Iran’s post-revolutionary theocracy. His work has won numerous journalism awards. He has taught at the American University in Dubai and at Dominican University in River Forest, Illinois. He has also been a Middle East correspondent for GlobalPost and a contributing writer for the Chicago News Cooperative. Tom graduated from Georgetown University and holds a master’s degree in international relations from the University of Pennsylvania. He was also National Endowment for the Humanities journalism fellow at the University of Michigan. Published September 5, 2012

With both sides armed to the teeth, **it is easy to exaggerate the fears** and much harder to pinpoint where the real dangers lie. For the United States, the nightmare scenario is that some of Pakistan's warheads or its fissile material falls into the hands of the Taliban or al Qaeda -- or, worse, that the whole country falls into the hands of the Taliban. For example, Rolf Mowatt-Larssen, a former CIA officer now at Harvard University's Belfer Center for Science and International Affairs, has warned of the "lethal proximity between terrorists, extremists, and nuclear weapons insiders" in Pakistan. This is a reality, but on the whole, Pakistan's nuclear arsenal appears to be reasonably secure against internal threats, according to those who know the country best. To **outsiders**, Pakistan **appears** to be permanently teetering on the **brink** of collapse. The fact that large swaths of the country are literally beyond the control of the central government is not reassuring. But a weak state **does not mean** a **weak society**, and **powerful internal dynamics based** largely on kinship and tribe **make it highly unlikely** that Pakistan would **ever fall** under the control of an outfit like the Taliban. During the country's intermittent bouts of democracy, its civilian leaders have been consistently incompetent and corrupt, but **even in the worst of times,** the military has maintained a high standard of professionalism. And there is **nothing** that **matters more** to the Pakistani military than keeping the nuclear arsenal -- **its crown jewels** -- out of the hands of India, the United States, and homegrown extremists. "Pakistan struggled to acquire these weapons against the wishes of the world. Our nuclear capability comes as a result of great sacrifice. It is our most precious and powerful weapon -- for our defense, our security, and our political prestige," Talat Masood, a retired Pakistani lieutenant general, told me. "We keep them safe." Pakistan's nuclear security is in the responsibility of the Strategic Plans Division**,** which appears to function pretty much as **a separate branch** of the military. It has its **own training facility and an elaborate set of controls** and screening proceduresto keep track of **all warheads and fissile material** and to monitor **any blips** in the behavior patterns of its personnel. The 15 or so sites where weapons are stored **are the mostly heavily guarded § Marked 12:37 §** in the country. **Even if** some group managed to steal or commandeer a weapon, **it is highly unlikely the group would be able to use it**. The greater danger is the theft of fissile material, which could be used to make a crude bomb. "With 70 to 80 kilos of highly enriched uranium, it would be fairly easy to make one in the basement of a building in the city of your choice," said Pervez Hoodbhoy, a distinguished nuclear physicist at Islamabad's Quaid-i-Azam University. At the moment, Pakistan has a stockpile of about 2.75 tons -- or some 30 bombs' worth -- of highly enriched uranium. It does not tell Americans where it is stored. "All nuclear countries are conscious of the risks, nuclear weapons states especially so," said Gen. Ehsan ul-Haq, who speaks with the been-there-done-that authority of a man who has served as both chairman of Pakistan's Joint Chiefs of Staff Committee and head of the ISI, its controversial spy agency. "Of course there are concerns. Some are genuine, butmuch of what you read in the U.S. media is **irrational and reflective of paranoia**. Rising radicalism in Pakistan? Yes, this is true, and the military is very conscious of this." Perhaps **the most credible endorsement** of Pakistan's nuclear security regime comes from its **most steadfast enemy.** The **consensus among India's top generals and defense experts** is that Pakistan's nukes are pretty secure. "No one can be 100 percent secure, but I think they are **more than 99 percent secure**," said Shashindra Tyagi, a former chief of staff of the Indian Air Force. "They keep a very close watch on personnel. All of the steps that could be taken have been taken. This business of the Taliban taking over -- it can't be ruled out, but I think **it's unlikely**. **The** Pakistani **military understands the threats** they face better than anyone, **and** they **are smart enough to take care it."** Yogesh Joshi, an analyst at the Institute for Defense Studies and Analyses in New Delhi, agrees: "Different states have different perceptions of risk. The U.S. has contingency plans [to secure Pakistan's nukes] because its nightmare scenario is that Pakistan's weapons fall into terrorist hands. The view from India over the years is that **Pakistan,** probably **more than any other nuclear** weapons **state, has taken measures to secure its weapons.** At the political level here, there's a lot of confidence that Pakistan's nuclear weapons are secure."

#### Deterrence solves India Pakistan war – status quo proves multiple conflicts have come up and none have been acted upon – they have to win that the threat would be enough to overcome the use of nuclear weapons – that’s Giorgio

**No regional spillover**

Gwynne **Dyer, 02** Ph.D. in war studies from the University of London, serves on the Board of Governors of Canada’s Royal Military College, independent journalist, May 24, 2002, Hamilton Spectator, “Nuclear war a possibility over Kashmir,” p. Lexis

For those who do not live in the subcontinent, the most important fact is that the damage would be largely confined to the region. The Cold War is over, the strategic understandings that once tied India and Pakistan to the rival alliance systems have all been cancelled, and no outside powers would be drawn into the fighting. The detonation of a hundred or so relatively small nuclear weapons over India and Pakistan would not cause grave harm to the wider world from fallout.

# Rd 6 vs. Vandy SW

## 1NC

## \Off

### 1

#### The court will strike down aggregate limits now – it’ll be close

Chemerinsky, 8-12 (Erwin, American lawyer and law professor. He is a prominent scholar in United States constitutional law and federal civil procedure. He is the current and founding dean of the University of California, Irvine School of Law, “Symposium: The distinction between contribution limits and expenditure limits,” http://www.scotusblog.com/2013/08/symposium-the-distinction-between-contribution-limits-and-expenditure-limits/)

For almost forty years, since Buckley v. Valeo in 1976, campaign finance law has been based on the distinction between contribution limits and expenditure limits. In Buckley, the Court held that contribution limits – restrictions on the amount that a person gives to a candidate or a committee – are generally constitutional. But expenditure limits – restrictions on what a person spends overall – are unconstitutional. Citizens United v. Federal Elections Commission in 2010 applied this distinction and held that limits on independent expenditures by corporations violate the First Amendment.¶ McCutcheon v. Federal Election Commission provides the Supreme Court with an occasion to reconsider this distinction. The issue in McCutcheon is whether aggregate limits on contributions are constitutional. Specifically, the plaintiffs are challenging the Bipartisan Campaign Reform Act’s $74,600 two-year ceiling on contributions to non-candidate committees and the $48,600 two-year ceiling on donations to candidate organizations.¶ Options: The Court could say . . .¶ The Court certainly could rule on this, even declaring it unconstitutional, without calling into question the constitutionality of all contribution limits. In fact, in Randall v. Sorrell (2006), the Court found Vermont’s limits on contributions to be so restrictive as to violate the First Amendment without reconsidering the basic distinction between limits on contributions and limits on expenditures. Vermont law restricted contributions so that the amount that any single individual could contribute to the campaign of a candidate for state office during a “two-year general election cycle” was $400 for governor, lieutenant governor, and other statewide offices; $300 for state senator; and $200 for state representative. The Court noted that the contribution limits in the Vermont law were lower than those upheld in Buckley or in any other Supreme Court decision, that they were the lowest in the country, and that they were not indexed to keep pace with inflation.¶ The aggregate contribution limits being challenged in McCutcheon are much higher and the Court therefore could distinguish Randall, follow Buckley, and uphold them. Or the Court could strike them down, invalidating aggregate limits as a violation of the First Amendment, but without calling into question all contribution limits. Buckley was based, in part, on the view that large contributions to candidates risk corruption and the appearance of corruption. The Court explained that “[t]o the extent that large contributions are given to secure a political quid pro quo from current and potential office holders, the integrity of our system of representative democracy is undermined. . . . Of almost equal concern as the danger of actual quid pro quo arrangements is the impact of the appearance of corruption stemming from public awareness of the opportunities for abuse inherent in a regime of large individual financial contributions.’’¶ The Court in McCutcheon could say that aggregate limits on the amount that can be contributed do not help to prevent such corruption or appearance of corruption. The Court could say that aggregate limits on contributions are really much more akin to expenditure limits and therefore unconstitutional. The Court could say that the real purpose of aggregate limits is to equalize political influence, a justification for campaign finance laws that the Court expressly rejected in Citizens United. Or the Court could distinguish aggregate limits to candidate committees from those to non-candidate committees, such as political parties.¶ Five votes to reconsider Buckley?¶ Underlying McCutcheon, though, is the question of whether the five conservative Justices want to reconsider Buckley’s holding that contribution limits are generally constitutional. In assessing this, it is important to note that three of these Justices – Antonin Scalia, Anthony Kennedy, and Clarence Thomas – have already called for the distinction between contribution and expenditure limits to be overruled. In his separate opinion in Colorado Republican Federal Campaign Committee v. Federal Election Commission, Justice Thomas declared: “I would reject the framework established by Buckley v. Valeo. . . . Instead, I begin with the premise that there is no constitutionally significant difference between campaign contributions and expenditures: both forms of speech are central to the First Amendment.’’¶ In Nixon v. Shrink Missouri Government PAC (2000), the Supreme Court reaffirmed Buckley’s distinction between contributions and expenditures, but four Justices sharply disagreed. Three Justices – Kennedy, Scalia, and Thomas – expressly declared their desire to overrule Buckley’s approval of contribution limits. Justice Kennedy wrote a strong dissent in which he lamented that ‘‘[t]he Court’s decision has lasting consequences for political speech in the course of elections, the speech upon which democracy depends.’’ He accused the Court of being “almost indifferent’’ to freedom of speech and said that he would overrule Buckley. Justice Thomas, joined by Justice Scalia, wrote a lengthier dissent, which began by declaring: “In the process of ratifying Missouri’s sweeping repression of political speech, the Court today adopts the analytical fallacies of our flawed decision in Buckley v. Valeo….Under the guise of applying Buckley, the Court proceeds to weaken the already enfeebled constitutional protection that Buckley afforded campaign contributions. As I indicated [previously], our decision in Buckley was in error, and I would overrule it.”¶ Therefore, it is likely that Justices Scalia, Kennedy, and Thomas are votes to strike down the aggregate contribution limits in McCutcheon and more generally to find contribution limits to violate the First Amendment. The crucial question in McCutcheon will be whether Chief Justice John Roberts and Justice Samuel Alito will join them and how far they are willing to go in reconsidering the distinction between contributions and expenditures.¶ The Chief Justice and Justice Alito were with Justices Scalia, Kennedy, and Thomas in Citizens United in its strong endorsement of the view that spending of money in election campaigns is political speech protected by the First Amendment and in invalidating limits on independent corporate political expenditures. Roberts and Alito also were with Scalia, Kennedy, and Thomas in Davis v. Federal Election Commission (2008), in declaring unconstitutional the “millionaire’s provision” of the Bipartisan Campaign Finance Reform Act unconstitutional. This provision increased contribution limits for opponents of a candidate who spent more than $350,000 of his or her personal funds. Most recently, in Arizona Free Enterprise Club’s Freedom Club PAC v. Bennett (2011), these five Justices were in the majority to declare unconstitutional a public funding system that increased the contribution and spending limits for those not taking public money based on the amount spent by opponents.¶ By contrast, Justices Ruth Bader Ginsburg, Stephen Breyer, and Sonia Sotomayor strongly dissented in Citizens United, and Justice Elena Kagan, who as Solicitor General argued for the constitutionality of the law in Citizens United, wrote the dissent in Arizona Free Enterprise Club. They are obviously much more likely to uphold the challenged provisions in McCutcheon and to adhere to Buckley’s distinction between contributions and expenditures.¶ What seems absent on the current Court is any Justice who takes the position espoused by Justice John Paul Stevens, that there is no meaningful distinction between contribution and expenditure limits and that expenditure limits should be constitutional. This long has been my view. Elected officials can be influenced by who spends money on their behalf, just as they can be influenced by who directly contributes money to them. The perception of corruption might be generated by large expenditures for a candidate, just as it can be caused by large contributions. Moreover, I agree with Justice Stevens’s statement in his concurrence in Nixon v. Shrink that “[m]oney is property; it is not speech. . . . These property rights are not entitled to the same protection as the right to say what one pleases.’’¶ Prediction¶ Predicting Supreme Court decisions is always tempting and always dangerous. But for what it’s worth, my prediction is that the Court will vote five-four to strike down the aggregate contribution limits being challenged in McCutcheon and that it will do so without overruling the distinction between contributions and expenditures that is at the core of Buckley. When faced to confront the question in some future case, I fear that the Chief Justice and Justice Alito will join Justices Scalia, Kennedy, and Thomas in rejecting this distinction and they well might signal this in McCutcheon.

#### Capital key to strike down aggregate limits --- Citizens United proves

Gora 8-15 (Joel, professor of law at Brooklyn Law School, “Symposium: McCutcheon v. FEC and the fork in the road,” http://www.scotusblog.com/2013/08/symposium-mccutcheon-v-fec-and-the-fork-in-the-road/#more-168568)

The future of Buckley? Will the McCutcheon case disturb that Buckley equilibrium and call into question the continued validity of contribution limits in general, as some fear? The challengers say it is not necessary to reach that question because, even viewed as contribution limits under the Buckley framework (which they contend requires a much more probing analysis than commonly thought), the aggregate limits are clearly unconstitutional. The aggregate candidate limits are not required to prevent quid pro quo corruption because every separate contribution to a candidate is within the legal base limit. And the aggregate committee caps, claimed to be anti-circumvention safeguards, are constitutionally unnecessary and defective because of all the other statutory and regulatory safeguards in place to insure that the base contribution amount that any one contributor can give to any one party committee cannot be used as a conduit for corruption.¶ But the challengers also contend that the aggregate limits really operate like expenditure limits – i.e., limiting the donor’s overall ability to support a message they endorse, and controlling not just how much can be contributed, but how many candidates and committees the contributor can express support for. Given that, strict scrutiny is the standard of review. To the extent that some of the briefs supporting the law fret that eliminating those aggregate limits will give the wealthy too much political influence and sway, they seem to underscore that these can be viewed as questionable expenditure limits designed to “level the playing field” – the kiss of death for any campaign finance law. Either way, the challengers say, whether viewed as contribution controls or expenditure limits, a careful analysis of the interlocking statutory protections against corruption will show that the aggregate limits fail strict or even close scrutiny and must be struck down.¶ Enter the Roberts Court Of course, the $64,000 question is how the Roberts Court is likely to view these issues. The Court has certainly developed a decided track record on campaign finance issues. Five cases, five decisions striking down various campaign finance mechanisms as violating the First Amendment. Pervading these cases is the application of real strict scrutiny to campaign finance laws, measuring the burdens they impose on candidates, parties and groups, carefully probing in great detail the weight of the justifications offered for the mechanism at issue and showing a deep distrust and a severe skepticism of those justifications. Chief Justice John Roberts wrote a very muscular decision in the Arizona public financing case striking down a scheme that merely gave publicly funded candidates more government financing to counter spending by privately funded candidates. Even that was too much of a burden on the right of the privately funded candidate to spend their own money on their campaign. Here the restrictions are direct and potent and tell the contributor: You’ve expressed enough support for the candidates and party of your choice.¶ As is so often the case, the disposition may come down to Justice Anthony Kennedy. He, of course, is the author of the notorious Citizens United v. Federal Elections Commission (2010) decision, for which, despite its support in some quarters as a proper vindication of core First Amendment rights of all groups and individuals, the Court has taken a brutal battering in the court of public opinion.¶ Many are already raising the specter of the McCutcheon case being another Citizens United, this time dramatically changing the basic law on contribution limits. But McCutcheon and the RNC are not making that argument and are not challenging the validity of the base limits on contributions to candidates or parties. They think they can win within the traditional Buckley framework that permits contribution regulation, but only if properly justified. And Justice Kennedy in Citizens United went out of the way to say that the case involved independent expenditures only, with no direct impact on the validity of contribution limits. But one of the linchpins of his decision was that the only compelling interest that justifies campaign finance limitations is preventing direct quid pro quo corruption. To the extent the supporters of the law seem to be claiming that contributors like McCutcheon might have greater access to and influence on Republican elected officials, these days that does not seem to be much of a winning argument in the Supreme Court.¶ Finally, a win for McCutcheon and the RNC would have one other positive effect. It might give parties and candidates more financial wherewithal to counter the recent rise of “super PACs,” as exaggerated as their electoral impact seemed to be.

#### Expansive readings of the Posterity Clause spark backlash

Greabe 8 (John, Prof of Law @ Univ. of Vermont, "Taking Posterity Seriously: Intergenerational Justice," http://webcache.googleusercontent.com/search?q=cache:xP3aKea\_4y8J:vlscli.wordpress.com/2008/01/28/taking-posterity-seriously-intergenerational-justice/+&cd=1&hl=en&ct=clnk&gl=us)

3. Given these potential objections and the strength of the charges of judicial activism to which they may lead, might it not be more useful to confine use of the Posterity Clause to arguments in favor of broadening the standing doctrine so as to support the justiciability of statutory and common law claims against rapacious \*private\* actors? Otherwise, doesn’t one run the risk of backlash — i.e., of having the rejection of constitutional claims of the sort you posit being used as precedent to reject (on justiciability grounds) statutory and common law claims against private actors on behalf of future generations?

#### Key to domestic political moderation – stops the Tea Party

Sides 10/16 (John, Associate Professor of Political Science – George Washington University, “Why striking down campaign contribution limits might make politics better,” Washington Post, <http://www.washingtonpost.com/blogs/monkey-cage/wp/2013/10/16/why-striking-down-campaign-contribution-limits-might-make-politics-better/>)

Finally, I want to say more about why striking down aggregate contribution limits might actually attenuate ideological extremism (assuming I’m mostly wrong on my first point that people will not try to circumvent contribution limits!). The current campaign finance system – with its emphasis on interest group spending — favors highly ideological factions that have the means and motive to run independent campaigns. Rules that channel more money through party organizations and candidates might dampen the power of groups like the Tea Party. Against this claim, Bob suggests that political parties ran ads in 2012 that were just as “aggressive” and negative as interest groups. Research by the Wesleyan Media Project indicates that this is not true. But this finding is not relevant to my argument. My point about moderation is not about the tone or content of political ads, but is tied to the nomination process where party factions fight their ideological battles. A generation ago, such battles were waged internally in the proverbial smoke-filled rooms. Today they might be hashed out in the open through primary elections. The advantage goes to the interest group that can raise a lot of money and mobilize its partisan faction of voters. Ideological moderation seems more plausible when political resources are controlled primarily by party leaders whose chief incentive is to win elections rather than take positions. Like Bob, I support reasonable contribution limits, but I do not think the retention of aggregate limits on party committees and candidates improves the current campaign finance system. I certainly do not think, as Bob suggests, that a favorable ruling for McCutcheon will encourage “more money from fewer sources to flow more freely.” That dynamic was partially spurred by Citizens United. If anything removing the aggregate limits could make the system more accountable by channeling funds to political committees that are transparent, particularly party and candidate committees, which must face the voters at the ballot box.

#### That will result in protectionism

Lighthizer 10 (Robert, deputy trade representative in the Reagan administration, “Throwing Free Trade Overboard,” November 12, <http://www.nytimes.com/2010/11/13/opinion/13lighthizer.html>)

But those expectations could be upset by an unexpected force: the Tea Party. Strangely, for a movement named after an 18th-century protest against import levies, Tea Partyers are largely skeptical about free trade’s benefits — according to a recent poll by NBC and The Wall Street Journal, 61 percent of Tea Party sympathizers believe it has hurt the United States. The movement has already forced the Republicans to alter their agenda in several policy areas. Should the same thing happen with free trade, America’s stance toward open markets and globalization could shift drastically. At first glance, the Tea Party’s position may seem contradictory: its small-government, pro-business views usually go hand in hand with free trade. But if you consider the dominant themes underlying its agenda, it makes sense that the movement would be wary about free-trade policies. For starters, Tea Partyers are frustrated with Washington, and that includes its failure to make free trade work for America. Our trade deficit in manufactured goods was about $4.3 trillion during the last decade, and the country lost some 5.6 million manufacturing jobs. And while the Tea Party supports market outcomes, its members appear to believe that the rest of the world is stacking the free-trade deck against us. They have a point: most policymakers agree that the Chinese currency is grossly and deliberately undervalued, that China fails to respect intellectual property rights and that it uses government subsidies to protect its own manufacturing base. Meanwhile, the movement says, the United States does virtually nothing in response. The Republican establishment will argue that its trade agenda is consistent with Tea Party ideals, that its goal is to get government out of the way and allow American companies to thrive in competitive markets. But Tea Partyers will ask, what good does it do to reduce the role of our government if foreign governments are free to rig the rules, attack American industries and take American jobs? As a result, the otherwise pro-market Tea Party may find its economic program far more at home with a nationalist trade policy that confronts foreign abuses and fights for American companies. Tea Partyers also have an instinctive aversion to deficits, and they are undoubtedly concerned that our enormous trade imbalances — which require us to sell hundreds of billions of dollars in assets each year — will leave our children dependent on foreign decision makers. Indeed, the value of foreign investments in the United States now exceeds the value of American investments abroad by $2.74 trillion, and China alone has roughly $2.5 trillion in foreign currency reserves, primarily dollars. Deficits, moreover, aren’t just a statistic; they raise serious concerns about America’s global leadership role. The Tea Party will demand to know why, if our trade policy is so successful, so many experts believe that the 21st century will belong to China, not the United States. And the Republican establishment will have to deal with the fact that Tea Party heroes like Alexander Hamilton, Theodore Roosevelt and Ronald Reagan had no problem restricting imports to promote our national interest. Given the Tea Party’s desire to restore America’s greatness, it will push Washington to stand up to China and re-establish American pre-eminence, even at the cost of the country’s free-trade record. Finally, trade is an issue where Tea Party concerns about “elites” thwarting the will of the voters will resonate. In this case, the elites include both Democrats and Republicans. You would need a high-powered microscope to tell the difference between Bill Clinton and George W. Bush on the subject of trade. Even during this slow economic recovery, Mr. Obama is pushing for a new market-opening round of talks at the World Trade Organization. Among Republicans, not one major elected figure expresses the skepticism toward free trade held by over three-fifths of Tea Partyers. In the face of soaring trade deficits and talk of American decline, the Tea Party may ask whether this is yet another area where the establishment has simply gotten it wrong. In short, the apparent contradiction between the Tea Party’s fiscal conservatism and its skepticism about free trade may not be a contradiction at all. If the Tea Party continues to influence the Republican agenda, it may not only spell bad news for the South Korea free trade agreement — it could also mean a fundamental reorientation of our country’s attitude toward trade and globalization.

#### Trade leadership solves war

**Panitchpakdi 4** (DG Supachai, Former Director-General – World Trade Organization, “American Leadership and the World Trade Organization: What is the Alternative?”, National Press Club, 2-26, http://www.wto.org/french/ news\_f/spsp\_f/spsp22\_f.htm)

I can sum up my message today in three sentences: The United States, more than any single country, created the world trading system. The US has never had more riding on the strength of that system. And US leadership — especially in the current Doha trade talks — is indispensable to the system's success. It is true that as the WTO's importance to the world economy increases, so too does the challenge of making it work: there are more countries, more issues, trade is in the spot light as never before. But the fiction that there is an alternative to the WTO — or to US leadership — is both naïve and dangerous. Naïve because it fails to recognize that multilateralism has become more — not less — important to advancing US interests. Dangerous because it risks undermining the very objectives the US seeks — freer trade, stronger rules, a more open and secure world economy. The Doha Round is a crucial test. The core issues — services, agriculture, and industrial tariffs — are obviously directly relevant to the US. America is highly competitive in services — the fastest growing sector of the world economy, and where the scope for liberalization is greatest. In agriculture too the US is competitive across many commodities — but sky-high global barriers and subsidies impede and distort agricultural trade. Industrial tariffs also offer scope for further liberalization — especially in certain markets and sectors. But what is at stake in these talks is more than the economic benefits that would flow from a successful deal. The real issue is the relevance of the multilateral trading system. Its expanded rules, broader membership, and binding dispute mechanism means that the new WTO — created less than ten years ago — is pivotal to international economic relations. But this means that the costs of failure are also higher — with ramifications that can be felt more widely. Advancing the Doha agenda would confirm the WTO as the focal point for global trade negotiations, and as the key forum for international economic cooperation. The credibility of the institution would be greatly enhanced. But if the Doha negotiations stumble, doubts may grow, not just about the WTO's effectiveness, but about the future of multilateralism in trade. This should be a major concern to the US for two reasons: First, the US is now integrated with the world economy as never before. A quarter of US GDP is tied to international trade, up from 10 per cent in 1970 — the largest such increase of any developed economy over this period. A third of US growth since 1990 has been generated by trade. And America's trade is increasingly global in scope — 37 per cent with Canada and Mexico, 23 per cent with Europe, 27 per cent with Asia. Last year alone, exports to China rose by almost 30 per cent. The US has also grown more reliant on the rules of the multilateral system to keep world markets open. Not only has it initiated more WTO dispute proceedings than any other country — some 75 since 1995 — according to USTR it has also won or successfully settled most of the cases it has brought. The point is this: even the US cannot achieve prosperity on its own; it is increasingly dependent on international trade, and the rules-based economic order that underpins it. As the biggest economy, largest trader and one of the most open markets in the world, it is axiomatic that the US has the greatest interest in widening and deepening the multilateral system. Furthermore, expanding international trade through the WTO generates increased global prosperity, in turn creating yet more opportunities for the US economy. The second point is that strengthening the world trading system is essential to America's wider global objectives. Fighting terrorism, reducing poverty, improving health, integrating China and other countries in the global economy — all of these issues are linked, in one way or another, to world trade. This is not to say that trade is the answer to all America's economic concerns; only that meaningful solutions are inconceivable without it. The world trading system is the linchpin of today's global order — underpinning its security as well as its prosperity. A successful WTO is an example of how multilateralism can work. Conversely, if it weakens or fails, much else could fail with it. This is something which the US — at the epicentre of a more interdependent world — cannot afford to ignore. These priorities must continue to guide US policy — as they have done since the Second World War. America has been the main driving force behind eight rounds of multilateral trade negotiations, including the successful conclusion of the Uruguay Round and the creation of the WTO. The US — together with the EU — was instrumental in launching the latest Doha Round two years ago. Likewise, the recent initiative, spearheaded by Ambassador Zoellick, to re-energize the negotiations and move them towards a successful conclusion is yet another example of how essential the US is to the multilateral process — signalling that the US remains committed to further liberalization, that the Round is moving, and that other countries have a tangible reason to get on board. The reality is this: when the US leads the system can move forward; when it withdraws, the system drifts. The fact that US leadership is essential, does not mean it is easy. As WTO rules have expanded, so too has as the complexity of the issues the WTO deals with — everything from agriculture and accounting, to tariffs and telecommunication. The WTO is also exerting huge gravitational pull on countries to join — and participate actively — in the system. The WTO now has 146 Members — up from just 23 in 1947 — and this could easily rise to 170 or more within a decade. Emerging powers like China, Brazil, and India rightly demand a greater say in an institution in which they have a growing stake. So too do a rising number of voices outside the system as well. More and more people recognize that the WTO matters. More non-state actors — businesses, unions, environmentalists, development NGOs — want the multilateral system to reflect their causes and concerns. A decade ago, few people had even heard of the GATT. Today the WTO is front page news. A more visible WTO has inevitably become a more politicized WTO. The sound and fury surrounding the WTO's recent Ministerial Meeting in Cancun — let alone Seattle — underline how challenging managing the WTO can be. But these challenges can be exaggerated. They exist precisely because so many countries have embraced a common vision. Countries the world over have turned to open trade — and a rules-based system — as the key to their growth and development. They agreed to the Doha Round because they believed their interests lay in freer trade, stronger rules, a more effective WTO. Even in Cancun the great debate was whether the multilateral trading system was moving fast and far enough — not whether it should be rolled back. Indeed, it is critically important that we draw the right conclusions from Cancun — which are only now becoming clearer. The disappointment was that ministers were unable to reach agreement. The achievement was that they exposed the risks of failure, highlighted the need for North-South collaboration, and — after a period of introspection — acknowledged the inescapable logic of negotiation. Cancun showed that, if the challenges have increased, it is because the stakes are higher. The bigger challenge to American leadership comes from inside — not outside — the United States. In America's current debate about trade, jobs and globalization we have heard a lot about the costs of liberalization. We need to hear more about the opportunities. We need to be reminded of the advantages of America's openness and its trade with the world — about the economic growth tied to exports; the inflation-fighting role of imports, the innovative stimulus of global competition. We need to explain that freer trade works precisely because it involves positive change — better products, better job opportunities, better ways of doing things, better standards of living. While it is true that change can be threatening for people and societies, it is equally true that the vulnerable are not helped by resisting change — by putting up barriers and shutting out competition. They are helped by training, education, new and better opportunities that — with the right support policies — can flow from a globalized economy. The fact is that for every job in the US threatened by imports there is a growing number of high-paid, high skill jobs created by exports. Exports supported 7 million workers a decade ago; that number is approaching around 12 million today. And these new jobs — in aerospace, finance, information technology — pay 10 per cent more than the average American wage. We especially need to inject some clarity — and facts — into the current debate over the outsourcing of services jobs. Over the next decade, the US is projected to create an average of more than 2 million new services jobs a year — compared to roughly 200,000 services jobs that will be outsourced. I am well aware that this issue is the source of much anxiety in America today. Many Americans worry about the potential job losses that might arise from foreign competition in services sectors. But it’s worth remembering that concerns about the impact of foreign competition are not new. Many of the reservations people are expressing today are echoes of what we heard in the 1970s and 1980s. But people at that time didn’t fully appreciate the power of American ingenuity. Remarkable advances in technology and productivity laid the foundation for unprecedented job creation in the 1990s and there is no reason to doubt that this country, which has shown time and again such remarkable potential for competing in the global economy, will not soon embark again on such a burst of job-creation. America's openness to service-sector trade — combined with the high skills of its workforce — will lead to more growth, stronger industries, and a shift towards higher value-added, higher-paying employment. Conversely, closing the door to service trade is a strategy for killing jobs, not saving them. Americans have never run from a challenge and have never been defeatist in the face of strong competition.

Part of this challenge is to create the conditions for global growth and job creation here and around the world. I believe Americans realize what is at stake. The process of opening to global trade can be disruptive, but they recognize that the US economy cannot grow and prosper any other way. They recognize the importance of finding global solutions to shared global problems. Besides, what is the alternative to the WTO? Some argue that the world's only superpower need not be tied down by the constraints of the multilateral system. They claim that US sovereignty is compromised by international rules, and that multilateral institutions limit rather than expand US influence. Americans should be deeply sceptical about these claims. Almost none of the trade issues facing the US today are any easier to solve unilaterally, bilaterally or regionally. The reality is probably just the opposite. What sense does it make — for example — to negotiate e-commerce rules bilaterally? Who would be interested in disciplining agricultural subsidies in a regional agreement but not globally? How can bilateral deals — even dozens of them — come close to matching the economic impact of agreeing to global free trade among 146 countries? Bilateral and regional deals can sometimes be a complement to the multilateral system, but they can never be a substitute. There is a bigger danger. By treating some countries preferentially, bilateral and regional deals exclude others — fragmenting global trade and distorting the world economy. Instead of liberalizing trade — and widening growth — they carve it up. Worse, they have a domino effect: bilateral deals inevitably beget more bilateral deals, as countries left outside are forced to seek their own preferential arrangements, or risk further marginalization. This is precisely what we see happening today. There are already over two hundred bilateral and regional agreements in existence, and each month we hear of a new or expanded deal. There is a basic contradiction in the assumption that bilateral approaches serve to strengthen the multilateral, rules-based system. Even when intended to spur free trade, they can ultimately risk undermining it. This is in no one's interest, least of all the United States. America led in the creation of the multilateral system after 1945 precisely to avoid a return to hostile blocs — blocs that had done so much to fuel interwar instability and conflict. America's vision, in the words of Cordell Hull, was that “enduring peace and the welfare of nations was indissolubly connected with the friendliness, fairness and freedom of world trade”. Trade would bind nations together, making another war unthinkable. Non-discriminatory rules would prevent a return to preferential deals and closed alliances. A network of multilateral initiatives and organizations — the Marshal Plan, the IMF, the World Bank, and the GATT, now the WTO — would provide the institutional bedrock for the international rule of law, not power. Underpinning all this was the idea that freedom — free trade, free democracies, the free exchange of ideas — was essential to peace and prosperity, a more just world. It is a vision that has emerged pre-eminent a half century later. Trade has expanded twenty-fold since 1950. Millions in Asia, Latin America, and Africa are being lifted out of poverty, and millions more have new hope for the future. All the great powers — the US, Europe, Japan, India, China and soon Russia — are part of a rules-based multilateral trading system, greatly increasing the chances for world prosperity and peace. There is a growing realization that — in our interdependent world — sovereignty is constrained, not by multilateral rules, but by the absence of rules. All of these were America’s objectives. The US needs to be both clearer about the magnitude of what it has achieved, and more realistic about what it is trying to — and can — accomplish. Multilateralism can be slow, messy, and tortuous. But it is also indispensable to managing an increasingly integrated global economy. Multilateralism is based on the belief that all countries — even powerful countries like the United States — are made stronger and more secure through international co-operation and rules, and by working to strengthen one another from within a system, not outside of it. Multilateralism's greatest ideal is the ideal of negotiation, compromise, consensus, not coercion. As Churchill said of democracy, it is the worst possible system except for all the others. I do not believe America's long-term economic interests have changed. Nor do I believe that America's vision for a just international order has become blurred. If anything, the American vision has been sharpened since the terrorist attacks on New York and Washington; sharpened by the realization that there is now a new struggle globally between the forces of openness and modernity, and the forces of separatism and reaction. More than ever, America's interests lie in an open world economy resting on the foundation of a strong, rules-based multilateral system. More and more, America's growth and security are tied to the growth and security of the world economy as a whole. American leadership today is more — not less — important to our increasingly interconnected planet. A recent successful, and much needed, example is the multilateral agreement on intellectual property rights and access to medicines for poor countries, in which the US played a pivotal role. It would be a tragic mistake if the Doha Round, which offers the world a once-in-a-generation opportunity to eliminate trade distortions, to strengthen trade rules, and open markets across the world, were allowed to founder. We need courage and the collective political will to ensure a balanced and equitable outcome. What is the alternative? It is a fragmented world, with greater conflict and uncertainty. A world of the past, not the future — one that America turned away from after 1945, and that we should reject just as decisively today. America must lead. The multilateral trading system is too important to fail. The world depends on it. So does America.

### 2

#### A. Interpretation – Introduction of US armed forces means human troops – not weapons

Lorber 13 (Eric, J.D. Candidate, University of Pennsylvania Law School, Ph.D Candidate, Duke University Department of Political Science, "COMMENT: Executive Warmaking Authority and Offensive Cyber Operations: Can Existing Legislation Successfully Constrain Presidential Power?," 15 U. Pa. J. Const. L. 961, lexis)

As discussed above, critical to the application of the War Powers Resolution - especially in the context of an offensive cyber operation - are the definitions of key terms, particularly "armed forces," as the relevant provisions of the Act are only triggered if the President "introduc[es armed forces] into hostilities or into situations [of] imminent ... hostilities," n172 or if such forces are introduced "into the territory, airspace, or waters of a foreign nation, while equipped for combat, except for deployments which relate solely to supply, replacement, repair, or training of such forces." n173 The requirements may also be triggered if the United States deploys armed forces "in numbers which substantially enlarge United States Armed Forces equipped for combat already located in a foreign nation." n174 As is evident, the definition of "armed forces" is crucial to deciphering whether the WPR applies in a particular circumstance to provide congressional leverage over executive actions. The definition of "hostilities," which has garnered the majority of scholarly and political attention, n175 particularly in the recent Libyan conflict, n176 will be dealt with secondarily here because it only becomes important if "armed forces" exist in the situation.¶ As is evident from a textual analysis, n177 an examination of the legislative history, n178 and the broad policy purposes behind the creation of the Act, n179 [\*990] "armed forces" refers to U.S. soldiers and members of the armed forces, not weapon systems or capabilities such as offensive cyber weapons. Section 1547 does not specifically define "armed forces," but it states that "the term "introduction of United States Armed Forces' includes the assignment of members of such armed forces to command, coordinate, participate in the movement of, or accompany the regular or irregular military forces of any foreign country or government." n180 While this definition pertains to the broader phrase "introduction of armed forces," the clear implication is that only members of the armed forces count for the purposes of the definition under the WPR. Though not dispositive, the term "member" connotes a human individual who is part of an organization. n181 Thus, it appears that the term "armed forces" means human members of the United States armed forces. However, there exist two potential complications with this reading. First, the language of the statute states that "the term "introduction of United States Armed Forces' includes the assignment of members of such armed forces." n182 By using inclusionary - as opposed to exclusionary - language, one might argue that the term "armed forces" could include more than members. This argument is unconvincing however, given that a core principle of statutory interpretation, expressio unius, suggests that expression of one thing (i.e., members) implies the exclusion of others (such as non-members constituting armed forces). n183 Second, the term "member" does not explicitly reference "humans," and so could arguably refer to individual units and beings that are part of a larger whole (e.g., wolves can be members of a pack). As a result, though a textual analysis suggests that "armed forces" refers to human members of the armed forces, such a conclusion is not determinative.¶ An examination of the legislative history also suggests that Congress clearly conceptualized "armed forces" as human members of the armed forces. For example, disputes over the term "armed forces" revolved around who could be considered members of the armed forces, not what constituted a member. Senator Thomas Eagleton, one of the Resolution's architects, proposed an amendment during the process providing that the Resolution cover military officers on loan to a civilian agency (such as the Central [\*991] Intelligence Agency). n184 This amendment was dropped after encountering pushback, n185 but the debate revolved around whether those military individuals on loan to the civilian agency were still members of the armed forces for the purposes of the WPR, suggesting that Congress considered the term to apply only to soldiers in the armed forces. Further, during the congressional hearings, the question of deployment of "armed forces" centered primarily on past U.S. deployment of troops to combat zones, n186 suggesting that Congress conceptualized "armed forces" to mean U.S. combat troops.¶ The broad purpose of the Resolution aimed to prevent the large-scale but unauthorized deployments of U.S. troops into hostilities. n187 While examining the broad purpose of a legislative act is increasingly relied upon only after examining the text and legislative history, here it provides further support for those two alternate interpretive sources. n188 As one scholar has noted, "the War Powers Resolution, for example, is concerned with sending U.S. troops into harm's way." n189 The historical context of the War Powers Resolution is also important in determining its broad purpose; as the resolutions submitted during the Vietnam War and in the lead-up to the passage of the WPR suggest, Congress was concerned about its ability to effectively regulate the President's deployments of large numbers of U.S. troops to Southeast Asia, n190 as well as prevent the President from authorizing troop incursions into countries in that region. n191 The WPR was a reaction to the President's continued deployments of these troops into combat zones, and as such suggests that Congress's broad purpose was to prevent the unconstrained deployment of U.S. personnel, not weapons, into hostilities.¶ This analysis suggests that, when defining the term "armed forces," Congress meant members of the armed forces who would be placed in [\*992] harm's way (i.e., into hostilities or imminent hostilities). Applied to offensive cyber operations, such a definition leads to the conclusion that the War Powers Resolution likely does not cover such activities. Worms, viruses, and kill switches are clearly not U.S. troops. Therefore, the key question regarding whether the WPR can govern cyber operations is not whether the operation is conducted independently or as part of a kinetic military operation. Rather, the key question is the delivery mechanism. For example, if military forces were deployed to launch the cyberattack, such an activity, if it were related to imminent hostilities with a foreign country, could trigger the WPR. This seems unlikely, however, for two reasons. First, it is unclear whether small-scale deployments where the soldiers are not participating or under threat of harm constitute the introduction of armed forces into hostilities under the War Powers Resolution. n192 Thus, individual operators deployed to plant viruses in particular enemy systems may not constitute armed forces introduced into hostilities or imminent hostilities. Second, such a tactical approach seems unlikely. If the target system is remote access, the military can attack it without placing personnel in harm's way. n193 If it is close access, there exist many other effective ways to target such systems. n194 As a result, unless U.S. troops are introduced into hostilities or imminent hostilities while deploying offensive cyber capabilities - which is highly unlikely - such operations will not trigger the War Powers Resolution.

#### B. The Aff isn't a restriction on the introduction of armed forces into hostilities - it prevents the president from launching weapons and violating the rights of future generations.

#### Vote neg –

#### 1. Limits – affs can already restrict specific members of the armed forces and when and where they are introduced. Including weapons systems more than doubles the amount of armed force affs – key preparation and clash

#### 2. Precision – our interpretation is in the context of war powers, is exclusive, has an intent to define, and analysis proves that it’s what Congress defines as armed forces– accurate reading of the resolution is a pre-requisite to fairness and education

### 3

#### The aff doesn’t provide real reform – continued crisis discourse allows a re-expansion of executive authority

Scheuerman 12 – Professor of Political Science and West European Studies at Indiana University (William E., Summer 2012, "Emergencies, Executive Power, and the Uncertain Future of US Presidential Democracy," Law & Social Inquiry 37(3), EBSCO)

IV. REFORMISM'S LIMITS Bruce Ackerman, one of our country's most observant analysts of its clunky constitutional machinery, is similarly impatient with the "comforting notion that our heroic ancestors" created an ideal constitutional and political system (2010, 10). He even agrees that the US model increasingly seems to overlap with Schmitt's dreary vision of executive-centered plebiscitarianism motored by endless crises and emergencies (2010, 82). In sharp contrast to Posner and Vermeule, however, he not only worries deeply about this trend, but he also discards the unrealistic possibility that it might be successfully countered without recourse to legal and constitutional devices. Although Madison's original tripartite separation of powers is ill-adjusted to the realities of the modern administrative state, we need to reinvigorate both liberal legalism and checks and balances. Unless we can succeed in doing so, US citizens are likely to experience a "quantum leap in the presidency's destructive capacities" in the new century (2010, 119). Despite its alarmist tenor, for which he has been—in my view—unfairly criticized,'' Ackerman's position is grounded in a blunt acknowledgment of the comparative disadvantages of the US constitutional system. More clearly than any of the other authors discussed in this article, he breaks cleanly with the intellectual and constitutional provincialism that continues to plague so much legal and political science research on the United States. In part because as "late developers" they learned from institutional mistakes in the United States and elsewhere, more recently designed liberal democracies often do a better job than our Model T version at guaranteeing both policy effectiveness and the rule of law (2010, 120-22). Following the path-breaking work of his colleague Juan Linz, Ackerman offers a critical assessment of our presidential version of liberal democracy, where an independently elected executive regularly finds itself facing off against a potentially obstructionist Congress, which very well may seek to bury "one major presidential initiative after another" (2010, 5; see also Linz 1994). In the context of either real or imagined crises, executives facing strict temporal restraints (i.e., an upcoming election), while claiming to be the people's best protector against so-called special interests, will typically face widespread calls for swift (as well as legally dubious) action. "Crisis talk," in part endogenously generated by a flawed political system prone to gridlock rather than effective policy making, "prepares the ground for a grudging acceptance of presidential unilateralism" (2010, 6). Executives everywhere have much to gain from crisis scenarios. Yet incentives for declaring and perpetuating emergencies may be especially pronounced in our presidential system. The combination of temporal rigidity (i.e., fixed elections and terms of office) and "dual democratic legitimacy" (with both Congress and the president claiming to speak for "we the people") poses severe challenges to law-based government (Linz 1994). Criticizing US scholarship for remaining imprisoned in the anachronistic binary contrast of "US presidentialism vs. Westminster parliamentarism," Ackerman recommends that we pay closer attention to recent innovations achieved by what he describes as "constrained parliamentarism," basically a modified parliamentary system that circumvents the worst design mistakes of both Westminster parliamentarism and US presidentialism. As he has argued previously in a lengthy Harvard Law Review article, constrained parliamentarism—as found, for example, in recent democracies like Germany and Spain—locates law making in a Westminster-style popular assembly. But in contrast to the UK model, "legislative output is constrained by a higher lawmaking process" (2000, 666). The German Eederal Republic, for example, rests on a written constitution (e.g., the Basic Law) and has a powerful constitutional court. In Ackerman's view, constrained parliamentarism lacks many of the institutional components driving the growth of executive-dominated emergency govemment. Not surprisingly, he posits, it suffers to a reduced degree from many of the institutional pathologies plaguing US-style presidentialism. Ackerman argues that, in contrast, US-style presidential models have regularly collapsed elsewhere (e.g., in Latin and South American countries, where US-style presidentialism has been widely imitated [Linz and Valenzuela 1994]), devolving on occasion into unabated authoritarianism (2000, 646). Ackerman now seems genuinely concerned that a similar fate might soon befall its original version. Even if his most recent book repeats some earlier worries, he has now identified additional perils that he thinks deserve immediate attention. Not surprisingly, perhaps, his anxiety level has noticeably increased. Even Schmitt's unattractive vision of presidential authoritarianism appears "a little old-fashioned," given some ominous recent trends (2010, 82). To an extent unfathomable in Schmitt's day, the executive can exploit quasi-scientific polling data in order to gauge the public pulse. Presidents now employ a small but growing army of media gurus and consultants who allow them to craft their messages in astonishingly well-skilled—and potentially manipulative—ways. Especially during crisis moments, an overheated political environment can quickly play into the hands of a "White House propaganda machine generating a stream of sound bites" (2010, 33). Pundits and opinion makers already tend to blur the crucial divide between polling "numbers" and actual votes, with polls in both elite and popular consciousness tending not only to supplement but increasingly displace election results.'^ The decline of the print media and serious joumalism—about which Ackerman is understandably distressed—means that even the most fantastic views are taken seriously. Thus far, the Internet has failed to pick up the slack; it tends to polarize public opinion. Meanwhile, our primary system favors candidates who successfully appeal to an energized partisan base, meaning that those best able to exploit public opinion polling and the mass media, but out of sync with the median voter, generally gain the party nomination. Linz earlier pointed out that presidentialism favors political outsiders; Ackerman worries that in our emerging presidential model, the outsiders will tend to be extremists. Polling and media-savvy, charismatic, and relatively extreme figures will colonize the White House. In addition, the president's control over the massive administrative apparatus provides the executive with a daunting array of institutional weapons, while the Office of Legal Counsel (OLC) and Office of Counsel to the President offer hyperpoliticized sites from which distinctly executive-centered legal and constitutional views now are rapidly disseminated. Ackerman raises some tough questions for those who deem the OLC and related executive organs fundamentally sound institutions that somehow went haywire under David Addington and John Yoo. In his view, their excesses represent a logical result of basic structural trends currently transforming both the executive and political system as whole. OLC's partisan and sometimes quasi-authoritarian legal pronouncements are now being eagerly studied by law students and cited by federal courts (2010, 93). Notwithstanding an admirable tradition of executive deference to the Supreme Court, presidents are better positioned than ever to claim higher political legitimacy and neutralize political rivals. Backed by eager partisan followers, adept at the media game, and well armed with clever legal arguments constructed by some of the best lawyers in the country, prospective presidents may conceivably stop deferring to the Court (2010, 89). Ackerman's most unsettling amendment to his previous views is probably his discussion of the increasingly politicized character of the military—an administrative realm, by the way, ignored by other writers here, despite its huge role in modern US politics. Here again, the basic enigma is that the traditional eighteenth-century tripartite separation of powers meshes poorly with twenty-first-century trends: powerful military leaders can now regularly play different branches of govemment against one another in ways that undermine meaningful civilian oversight. Top officers possess far-reaching opportunities "to become an independent political force—allowing them to tip the balance of political support in one direction, then another," as the competing branches struggle for power (2010, 49). For Ackerman, the emergence of nationally prominent and media-savvy figures such as Colin Powell and David Petraeus, who at crucial junctures have communicated controversial policy positions to a broader public,'^ suggests that this long-standing structural flaw has recently gotten worse. The Goldwater-Nichols Act of 1996, for example, transformed the chair of the Joint Chiefs of Staff from a mediator for the competing services into the military's principal—and hugely influential—spokesperson within the National Security Council (2010, 50). Not only does the military constitute a hugely significant segment of the administrative machinery, but it is now embodied—both in govemment and the public eye—in a single leader whose views carry tremendous weight. The fact that opinion surveys show that the officer corps is increasingly conservative in its partisan orientation, Ackerman notes, only adds to the dangers. Americans need not fear an imminent military putsch, along the lines that destroyed other presidential regimes elsewhere. Nonetheless, we would do well not to be "lulled into a false sense of security" (2010, 87). Having painted a foreboding portrait of institutional trends, Ackerman points to paths we might take to ward off the worst. In light of the obvious seriousness of the illness he has diagnosed, however, his antidotes tend to disappoint: he proposes that we treat cancer with some useful but limited home remedies. Like Shane, Ackerman wants to improve popular deliberation by reforming the mass media and institutionalizing "Deliberation Day" (2010, 125-40). Yet how such otherwise potentially appealing initiatives might counteract the symbiotic relationship between presidentialism and crisis government remains ambiguous. A modernized electoral college, for example, might simply engender executives better positioned to claim to stand in for "we the people" than their historical predecessors. Given Ackerman's own worries about plebiscitarianism, this reform might compound rather than alleviate our problems. More innovatively, Ackerman endorses the idea of a quasi-judicial check within the executive branch, a "Supreme Executive Tribunal" given the task of expeditiously determining the legality of proposed executive action, whose members would be appointed to staggered terms and subject to Senate confirmation. Forced to gain a seal of approval from jurists relatively insulated from sitting presidents, the executive tribunal would act more quickly than an ordinary court and thereby help put a "brake on the presidential dynamic before it can gather steam" (2010,143). Before the president could take the first political move and potentially alter the playing field, he or she might first have to clear the move with a body of legal experts, a requirement that presumably over time would work to undergird the executive branch's commitment to legality. The proposed tribunal could allow the president and Congress to resolve many of their standoffs more expeditiously than is typical today (2010, 146). Congressional representatives, for example, might rely on the tribunal to challenge executive signing statements. Existing exemptions for a significant number of major executive-level actors (e.g., the president's National Security Advisor) from Senate confirmation also need to be abandoned, while the military should promulgate a new Canon of Military Ethics, aimed at clarifying what civilian control means in contemporary real-life settings, in order to counteract its ongoing politicization. Goldwater-Nichols could be revised so as better to guarantee the subordination of military leaders to the Secretary of Defense (2010, 153-65). Ackerman also repeats his previous calls for creating an explicit legal framework for executive emergency action: Congress could temporarily grant the president broad discretionary emergency powers while maintaining effective authority to revoke them if the executive proved unable to gain ever more substantial support from the legislature (2010, 165-70; see also Ackerman 2006). Each of these suggestions demands more careful scrutiny than possible here. Nonetheless, even if many of them seem potentially useful, room for skepticism remains. Why, for example, would the proposed executive tribunal not become yet another site for potentially explosive standoffs between presidents and Congress? Might not highlevel political conflicts end up simply taking the forms of destructive (and misleadingly legalistic) duels? To the extent that one of the tribunal's goals is to decelerate executive decision making, its creation would perhaps leave our already sluggish and slow-moving political system even less able than at the present to deal with fast-paced challenges. Faced with time constraints and the need to gain popular support, executives might then feel even more pressed than at present to circumvent legality. As Ackerman knows, even as it presently operates, the Senate confirmation process is a mess. His proposal to extend its scope might simply end up reproducing at least some familiar problems. Last but not least, given the perils he so alarmingly describes, his proposed military reforms seem unsatisfying. Why not instead simply cut our bloated military apparatus and abandon US imperial pretensions? The obvious Achilles heel is that none of the proposals really deals head-on with what Ackerman himself conceives as the fundamental root of executive-centered government: an independently elected president strictly separated from legislative bodies with which he periodically clashes in potentially destructive ways. Despite Ackerman's ambition, his proposals do not provide structural reform: he concludes that US-based reformers should "take the independently elected presidency as a fixture" (2010, 124). Thus, presidential government is here to stay; reformers can also forget about significantly altering our flawed system of presidential primaries, activist government, and powerful military that intervenes frequently abroad (2010, 124). Given contemporary political developments, one can certainly appreciate why Ackerman is skeptical that the US system might finally be ripe for a productive institutional overhaul. Nonetheless, this just makes an already rather bleak book look even bleaker. His book's title. The Decline and Fall of the Arnerican Republic, is out of step with the somewhat upbeat reformist proposals detailed in its final chapters. Regretfully, the title better captures his core message. Only Ackerman's ultimately disturbing book both adeptly rejects the tendency among recent students of executive power to revert to constitutional nostalgia while forthrightly identifying the very real dangers posed by recent institutional trends. In an age of permanent or at least seemingly endless emergencies, where the very attempt to cleanly distinguish dire crises from "normal" political and social challenges becomes exceedingly difficult, the executive threatens to become an even more predominant— and potentially lawless—institutional player Unfortunately, US-style presidential democracy may be particularly vulnerable to this trend. Ackerman proves more successful than the other authors discussed here because he is best attuned to a rich body of comparative constitutional and political science scholarship that has raised legitimate doubts about the alleged virtues of US-style liberal democracy. Not surprisingly, some of his own reform ideas—for example, his proposed system of emergency law making—draw heavily on foreign examples, including Canada and new democracies such as South Africa. He convincingly argues that we might at least ameliorate the widespread tendency among presidents to manipulate crises for narrow partisan reasons, for example, by relying on the clever idea of a supermajoritarian escalator, which would require every legislative renewal of executive emergency authority to rest on ever more numerous supermajorities (2006). Ackerman is right to suggest that the United States needs to look abroad in order to improve our rather deficient system of emergency rule (Scheuerman 2006, 2008). Our system is broken; it is time to see what can be learned from others. Ackerman's latest book's overly cautious reformism thus seems especially peculiar in light of his own powerful and indeed enthusiastic defense of constrained parliamentarism, which he quite plausibly describes as potentially offering a superior approach to emergency government. The key point is not that we can be absolutely sure that the "grass is greener" in new democracies such as postwar Germany or post-Franco Spain; existing empirical evidence offers, frankly, a mixed picture. Contemporary Germany, for example, has certainly experienced its own fair share of emergency executive excesses (Frankenberg 2010). Scholars have criticized not only the empirical thesis that presidentialism and a strict separation of powers can help explain the substantial growth of executive discretion (Carolan 2009; Gross and Ni Aolain 2006), but also more farreaching assertions about their alleged structural disadvantages (Cheibub 2006). Still others argue that parliamentary regimes even of the "old type" (i.e., the UK Westminster model) have done relatively well in maintaining the rule of law during serious crises (Ewing and Gearty 2000; Bellamy 2007, 249-53). Unfortunately, we still lack wellconceived empirical studies comparing constrained parliamentarism with US-style presidentialism. Too much existing scholarship focuses on single countries, or relies on "foreign" cases but only in a highly selective and anecdotal fashion. Until we have more properly designed comparative studies, however, it seems inaccurate to assume a priori that core institutional features of US presidential democracy are well equipped to tackle the many challenges at hand. As I have tried to argue here, a great deal of initial evidence suggests that this simply is not the case. Admittedly, every variety of liberal democracy confronts structural tendencies favoring the augmentation of executive power: many of the social and economic roots (e.g., social acceleration) of executive-centered crisis govemment represent more-or-less universal phenomena, likely to rattle even well-designed constitutional systems. One can also easily imagine that in decades to come, extreme "natural" catastrophes— increasingly misnamed, because of their links to human-based climate change— justifying declarations of martial law or states of emergency will proliferate, providing novel possibilities for executives to expand their authority.^° So it would be naive to expect any easy constitutional or political-institutional fix. However, this sobering reality should not lead us to abandon creative institutional thinking. On the contrary, it arguably requires of us that we try to come up with new institutional models, distinct both from existing US-style presidentialism and parliamentarism, constrained or otherwise.

#### Enframing of security makes macro-political violence inevitable

Burke 7 – Associate Professor of Politics and International Relations in the University of New South Wales (Anthony, Theory & Event, Volume 10, Issue 2, 2007, “Ontologies of War: Violence, Existence and Reason,” Project MUSE)

This essay develops a theory about the causes of war -- and thus aims to generate lines of action and critique for peace -- that cuts beneath analyses based either on a given sequence of events, threats, insecurities and political manipulation, or the play of institutional, economic or political interests (the 'military-industrial complex'). Such factors are important to be sure, and should not be discounted, but they flow over a deeper **bedrock of modern reason** that has not only come to form a powerful structure of common sense but **the apparently solid ground of the real itself**. In this light, the two 'existential' and 'rationalist' discourses of war-making and justification mobilised in the Lebanon war are more than merely arguments, rhetorics or even discourses. Certainly they mobilise forms of knowledge and power together; providing political leaderships, media, citizens, bureaucracies and military forces with organising systems of belief, action, analysis and rationale. But they run deeper than that. They are truth-systems of the most powerful and fundamental kind that we have in modernity: **ontologies, statements about truth and being which claim a rarefied privilege to state what is and how it must be maintained** as it is.I am thinking of ontology in both its senses: ontology as both a statement about the nature and ideality of being (in this case political being, that of the nation-state), and as a statement of epistemological truth and certainty, of methods and processes of arriving at certainty (in this case, the development and application of strategic knowledge for the use of armed force, and the creation and maintenance of geopolitical order, security and national survival). These derive from the classical idea of ontology as a speculative or positivistic inquiry into the fundamental nature of truth, of being, or of some phenomenon; the desire for a solid metaphysical account of things inaugurated by Aristotle, an account of 'being qua being and its essential attributes'.17 In contrast, drawing on Foucauldian theorising about truth and power, I see ontology as a particularly powerful claim to truth itself: a claim to the status of an underlying systemic foundation for truth, identity, existence and action; one that is not essential or timeless, but is thoroughly historical and contingent, that is deployed and mobilised in a fraught and conflictual socio-political context of some kind. In short, ontology is the 'politics of truth'18 in its most sweeping and powerful form. I see such a drive for ontological certainty and completion as particularly problematic for a number of reasons. Firstly, when it takes the form of the existential and rationalist ontologies of war, it amounts to a hard and exclusivist claim: **a drive for ideational hegemony and closure that limits debate and questioning**, **that confines it within the boundaries of a particular, closed system of logic, one that is grounded in the truth of being**, in the truth of truth as such. The second is its intimate relation with violence: the dual ontologies represent a simultaneously social and conceptual structure that generates violence. Here **we are witness to an epistemology of violence (strategy) joined to an ontology of violence (the national security state)**. When we consider their relation to war, the two ontologies are especially dangerous because each alone (and doubly in combination) tends both to **quicken the resort to war and to lead to its escalation** either in scale and duration, or in unintended effects. In such a context **violence is not so much a tool that can be picked up and used on occasion**, at limited cost and with limited impact -- **it permeates being.** This essay describes firstly the ontology of the national security state (by way of the political philosophy of Thomas Hobbes, Carl Schmitt and G. W. F. Hegel) and secondly the rationalist ontology of strategy (by way of the geopolitical thought of Henry Kissinger), showing how they crystallise into a mutually reinforcing system of support and justification, especially in the thought of Clausewitz. This creates both a profound ethical and pragmatic problem. The ethical problem arises because of their militaristic force -- they embody and reinforce a norm of war -- and because they enact what Martin Heidegger calls an 'enframing' image of technology and being in which **humans are merely utilitarian instruments** for use, control and destruction, and force -- in the words of one famous Cold War strategist -- can be thought of as a 'power to hurt'.19 The pragmatic problem arises because force so often produces neither the linear system of effects imagined in strategic theory nor anything we could meaningfully call security, but rather **turns in upon itself in a nihilistic spiral of pain and destruction**. In the era of a 'war on terror' dominantly conceived in Schmittian and Clausewitzian terms,20 the arguments of Hannah Arendt (that violence collapses ends into means) and Emmanuel Levinas (that 'every war employs arms that turn against those that wield them') take on added significance. Neither, however, explored what occurs when war and being are made to coincide, other than Levinas' intriguing comment that in war persons 'play roles in which they no longer recognises themselves, making them betray not only commitments but their own substance'. 21 What I am trying to describe in this essay is a complex relation between, and interweaving of, epistemology and ontology. But it is not my view that these are distinct modes of knowledge or levels of truth, because in the social field named by security, statecraft and violence they are made to blur together, continually referring back on each other, like charges darting between electrodes. Rather they are related systems of knowledge with particular systemic roles and intensities of claim about truth, political being and political necessity. Positivistic or scientific claims to epistemological truth supply an air of predictability and reliability to policy and political action, which in turn support larger ontological claims to national being and purpose, drawing them into a common horizon of certainty that is one of the central features of past-Cartesian modernity. Here it may be useful to see ontology as a more totalising and metaphysical set of claims about truth, and epistemology as more pragmatic and instrumental; but while a distinction between epistemology (knowledge as technique) and ontology (knowledge as being) has analytical value, it tends to break down in action. The epistemology of violence I describe here (strategic science and foreign policy doctrine) claims positivistic clarity about techniques of military and geopolitical action which use force and coercion to achieve a desired end, an end that is supplied by the ontological claim to national existence, security, or order. However in practice, technique quickly passes into ontology. This it does in two ways. First, **instrumental violence is married to an ontology of insecure national existence which itself admits no questioning**. The nation and its identity are known and essential, prior to any conflict, and the resort to violence becomes an equally essential predicate of its perpetuation. In this way knowledge-as-strategy claims, in a positivistic fashion, to achieve a calculability of effects (power) for an ultimate purpose (securing being) that it must always assume. Second, strategy as a technique not merely becomes an instrument of state power but ontologises itself in a technological image of 'man' as a maker and user of things, including **other humans, which have no essence or integrity outside their value as objects**. In Heidegger's terms, **technology becomes being; epistemology immediately becomes technique, immediately being**. This combination could be seen in the aftermath of the 2006 Lebanon war, whose obvious strategic failure for Israelis generated fierce attacks on the army and political leadership and forced the resignation of the IDF chief of staff. Yet in its wake neither ontology was rethought. Consider how a reserve soldier, while on brigade-sized manoeuvres in the Golan Heights in early 2007, was quoted as saying: 'we are ready for the next war'. Uri Avnery quoted Israeli commentators explaining the rationale for such a war as being to 'eradicate the shame and restore to the army the "deterrent power" that was lost on the battlefields of that unfortunate war'. In 'Israeli public discourse', he remarked, 'the next war is seen as a natural phenomenon, like tomorrow's sunrise.' 22 The danger obviously raised here is that these dual ontologies of war link being, means, events and decisions into a single, unbroken chain whose very process of construction cannot be examined. As is clear in the work of Carl Schmitt, being implies action, the action that is war. This chain is also obviously at work in the U.S. neoconservative doctrine that argues, as Bush did in his 2002 West Point speech, that 'the only path to safety is the path of action', which begs the question of whether strategic practice and theory can be detached from strong ontologies of the insecure nation-state.23 This is the direction taken by much realist analysis critical of Israel and the Bush administration's 'war on terror'.24 Reframing such concerns in Foucauldian terms, we could argue that obsessive ontological commitments have led to especially disturbing 'problematizations' of truth.25 However such rationalist critiques rely on a one-sided interpretation of Clausewitz that seeks to disentangle strategic from existential reason, and to open up choice in that way. However without interrogating more deeply how they form a conceptual harmony in Clausewitz's thought -- and thus in our dominant understandings of politics and war -- tragically violent 'choices' will continue to be made. The essay concludes by pondering a normative problem that arises out of its analysis: if the divisive ontology of the national security state and the violent and instrumental vision of 'enframing' have, as Heidegger suggests, come to define being and drive 'out every other possibility of revealing being', how can they be escaped?26 How can other choices and alternatives be found and enacted? How is there any scope for agency and resistance in the face of them? Their social and discursive power -- one that aims to take up the entire space of the political -- needs to be respected and understood. However, we are far from powerless in the face of them. **The need is to critique dominant images of political being and dominant ways of securing that being at the same time**, and to act and choose such that we bring into the world a more sustainable, peaceful and non-violent global rule of the political. Friend and Enemy: Violent Ontologies of the Nation-State In his Politics Among Nations Hans Morgenthau stated that 'the national interest of a peace-loving nation can only be defined in terms of national security, which is the irreducible minimum that diplomacy must defend with adequate power and without compromise'. While Morgenthau defined security relatively narrowly -- as the 'integrity of the national territory and its institutions' -- in a context where security was in practice defined expansively, as synonymous with a state's broadest geopolitical and economic 'interests', what was revealing about his formulation was not merely the ontological centrality it had, but the sense of urgency and priority he accorded to it: it must be defended 'without compromise'.27 Morgenthau was a thoughtful and complex thinker, and understood well the complexities and dangers of using armed force. However his formulation reflected an influential view about the significance of the political good termed 'security'. When this is combined with the way in which security was conceived in modern political thought as an existential condition -- a sine qua non of life and sovereign political existence -- and then married to war and instrumental action, it provides a basic underpinning for either the limitless resort to strategic violence without effective constraint, or the perseverance of limited war (with its inherent tendencies to escalation) as a permanent feature of politics. While he was no militarist, Morgenthau did say elsewhere (in, of all places, a far-reaching critique of nuclear strategy) that the 'quantitative and qualitative competition for conventional weapons is a rational instrument of international politics'.28 The conceptual template for such an image of national security state can be found in the work of Thomas Hobbes, with his influential conception of the political community as a tight unity of sovereign and people in which their bodies meld with his own to form a 'Leviathan', and which must be defended from enemies within and without. His image of effective security and sovereignty was one that was intolerant of internal difference and dissent, legitimating a strong state with coercive and exceptional powers to preserve order and sameness. This was a vision not merely of political order but of existential identity, set off against a range of existential others who were sources of threat, backwardness, instability or incongruity.29 It also, in a way set out with frightening clarity by the theorist Carl Schmitt and the philosopher Georg Hegel, exchanged internal unity, identity and harmony for permanent alienation from other such communities (states). Hegel presaged Schmitt's thought with his argument that individuality and the state are single moments of 'mind in its freedom' which 'has an infinitely negative relation to itself, and hence its essential character from its own point of view is its singleness': Individuality is awareness of one's existence as a unit in sharp distinction from others. It manifests itself here in the state as a relation to other states, each of which is autonomous vis-a-vis the others...this negative relation of the state to itself is embodied in the world as the relation of one state to another and as if the negative were something external.30 Schmitt is important both for understanding the way in which such alienation is seen as a definitive way of imagining and limiting political communities, and for understanding how such a rigid delineation is linked to the inevitability and perpetuation of war. Schmitt argued that the existence of a state 'presupposes the political', which must be understood through 'the specific political distinction...between friend and enemy'. The enemy is 'the other, the stranger; and it sufficient for his nature that he is, in a specially intense way, existentially something different and alien, so that in an extreme case conflicts with him are possible'.31 The figure of the enemy is constitutive of the state as 'the specific entity of a people'.32 Without it society is not political and a people cannot be said to exist: Only the actual participants can correctly recognise, understand and judge the concrete situation and settle the extreme case of conflict...to judge whether the adversary intends to negate his opponent's way of life and therefore must be repulsed or fought in order to preserve one's own form of existence.33 Schmitt links this stark ontology to war when he states that the political is only authentic 'when a fighting collectivity of people confronts a similar collectivity. The enemy is solely the public enemy, because everything that has a relationship to such a collectivity of men, particularly to the whole nation, becomes public by virtue of such a relationship...in its entirety the state as an organised political entity decides for itself the friend-enemy distinction'.34 War, in short, is an existential condition: the entire life of a human being is a struggle and every human being is symbolically a combatant. The friend, enemy and combat concepts receive their real meaning precisely because they refer to the real possibility of physical killing. War follows from enmity. War is the existential negation of the enemy.35 Schmitt claims that his theory is not biased towards war as a choice ('It is by no means as though the political signifies nothing but devastating war and every political deed a military action...it neither favours war nor militarism, neither imperialism nor pacifism') but it is hard to accept his caveat at face value.36 When such a theory takes the form of a social discourse (which it does in a general form) such an ontology can only support, as a kind of originary ground, the basic Clausewitzian assumption that war can be a rational way of resolving political conflicts -- because the import of Schmitt's argument is that such 'political' conflicts are ultimately expressed through the possibility of war. As he says: 'to the enemy concept belongs the ever-present possibility of combat'.37 Where Schmitt meets Clausewitz, as I explain further below, the existential and rationalistic ontologies of war join into a closed circle of mutual support and justification. This closed circle of existential and strategic reason generates a number of dangers. Firstly, the emergence of conflict can generate military action almost automatically simply because the world is conceived in **terms of the distinction between friend and enemy**; because **the very existence of the other constitutes an unacceptable threat**, rather than a chain of actions, judgements and decisions. (As the Israelis insisted of Hezbollah, they 'deny our right to exist'.) **This effaces agency, causality and responsibility from policy and political discourse: our actions can be conceived as independent of the conflict or quarantined from critical enquiry**, as necessities that achieve an instrumental purpose but do not contribute to a new and unpredictable causal chain. Similarly the Clausewitzian idea of force -- which, by transporting a Newtonian category from the natural into the social sciences, assumes the very effect it seeks -- further encourages the resort to military violence. **We ignore the complex history of a conflict, and thus the alternative paths to its resolution that such historical analysis might provide, by portraying conflict as fundamental and existential in nature; as possibly containable or exploitable, but always irresolvable**. Dominant portrayals of the war on terror, and the Israeli-Arab conflict, are arguably examples of such ontologies in action. Secondly, the militaristic force of such an ontology is visible, in Schmitt, in the absolute sense of vulnerability whereby a people can judge whether their 'adversary intends to negate his opponent's way of life'.38 Evoking the kind of thinking that would become controversial in the Bush doctrine, Hegel similarly argues that: ...a state may regard its infinity and honour as at stake in each of its concerns, however minute, and it is all the more inclined to susceptibility to injury the more its strong individuality is impelled as a result of long domestic peace to seek and create a sphere of activity abroad. ....the state is in essence mind and therefore cannot be prepared to stop at just taking notice of an injury after it has actually occurred. On the contrary, there arises in addition as a cause of strife the idea of such an injury...39 **Identity**, even more than physical security or autonomy, is put at stake in such thinking and can be defended and redeemed through warfare (or, when taken to a further extreme of an absolute demonisation and dehumanisation of the other, by mass killing, 'ethnic cleansing' or genocide). However anathema to a classical realist like Morgenthau, for whom prudence was a core political virtue, these have been influential ways of defining national security and defence during the twentieth century and persists into the twenty-first. They infused Cold War strategy in the United States (with the key policy document NSC68 stating that 'the Soviet-led assault on free institutions is worldwide now, and ... a defeat of free institutions anywhere is a defeat everywhere')40 and frames dominant Western responses to the threat posed by Al Qaeda and like groups (as Tony Blair admitted in 2006, 'We could have chosen security as the battleground. But we didn't. We chose values.')41 It has also become influential, in a particularly tragic and destructive way, in Israel, where memories of the Holocaust and (all too common) statements by Muslim and Arab leaders rejecting Israel's existence are mobilised by conservatives to justify military adventurism and a rejectionist policy towards the Palestinians. On the reverse side of such ontologies of national insecurity we find pride and hubris, the belief that martial preparedness and action are vital or healthy for the existence of a people. Clausewitz's thought is thoroughly imbued with this conviction. For example, his definition of war as an act of policy does not refer merely to the policy of cabinets, but expresses the objectives and will of peoples: When whole communities go to war -- whole peoples, and especially civilized peoples -- the reason always lies in some political situation and the occasion is always due to some political object. War, therefore, is an act of policy.42 Such a perspective prefigures Schmitt's definition of the 'political' (an earlier translation reads 'war, therefore, is a political act'), and thus creates an inherent tension between its tendency to fuel the escalation of conflict and Clausewitz's declared aim, in defining war as policy, to prevent war becoming 'a complete, untrammelled, absolute manifestation of violence'.43 Likewise his argument that war is a 'trinity' of people (the source of 'primordial violence, hatred and enmity'), the military (who manage the 'play of chance and probability') and government (which achieve war's 'subordination as an instrument of policy, which makes it subject to reason alone') merges the existential and rationalistic conceptions of war into a theoretical unity.44 The idea that national identities could be built and redeemed through war derived from the 'romantic counter-revolution' in philosophy which opposed the cosmopolitanism of Kant with an emphasis on the absolute state -- as expressed by Hegel's Philosophy of Right, Bismarkian Realpolitik and politicians like Wilhelm Von Humbolt. Humbolt, a Prussian minister of Education, wrote that war 'is one of the most wholesome manifestations that plays a role in the education of the human race', and urged the formation of a national army 'to inspire the citizen with the spirit of true war'. He stated that war 'alone gives the total structure the strength and the diversity without which facility would be weakness and unity would be void'.45 In the Phenomenology of Mind Hegel made similar arguments that to for individuals to find their essence 'Government has from time to time to shake them to the very centre by war'.46 The historian Azar Gat points to the similarity of Clausewitz's arguments that 'a people and a nation can hope for a strong position in the world only if national character and familiarity with war fortify each other by continual interaction' to Hegel's vision of the ethical good of war in his Philosophy of Right.47 Likewise Michael Shapiro sees Clausewitz and Hegel as alike in seeing war 'as an ontological investment in both individual and national completion...Clausewitz figures war as passionate ontological commitment rather than cool political reason...war is a major aspect of being.'48 Hegel's text argues that war is 'a work of freedom' in which 'the individual's substantive duty' merges with the 'independence and sovereignty of the state'.49 Through war, he argues, the ethical health of peoples is preserved in their indifference to the stabilization of finite institutions; just as the blowing of the winds preserves the sea from the foulness which would be the result of a prolonged calm, so the corruption in nations would be the product of a prolonged, let alone 'perpetual' peace.50 Hegel indeed argues that 'sacrifice on behalf of the individuality of the state is a substantial tie between the state and all its members and so is a universal duty...if the state as such, if its autonomy, is in jeopardy, all its citizens are duty bound to answer the summons to its defence'.51 Furthermore, this is not simply a duty, but a form of self-realisation in which the individual dissolves into the higher unity of the state: The intrinsic worth of courage as a disposition of mind is to be found in the genuine, absolute, final end, the sovereignty of the state. The work of courage is to actualise this end, and the means to this end is the sacrifice of personal actuality. This form of experience thus contains the harshness of extreme contradictions: a self-sacrifice which yet is the real existence of one's freedom; the maximum self-subsistence of individuality, yet only a cog playing its part in the mechanism of an external organisation; absolute obedience, renunciation of personal opinions and reasonings, in fact complete absence of mind, coupled with the most intense and comprehensive presence of mind and decision in the moment of acting; the most hostile and so most personal action against individuals, coupled with an attitude of complete indifference or even liking towards them as individuals.52 A more frank statement of the potentially lethal consequences of patriotism -- and its simultaneously physical and conceptual annihilation of the individual human being -- is rarely to be found, one that is repeated today in countless national discourses and the strategic world-view in general. (In contrast, one of Kant's fundamental objections to war was that it involved using men 'as mere machines or instruments'.53) Yet however bizarre and contradictory Hegel's argument, it constitutes a powerful social ontology: an apparently irrefutable discourse of being. It actualises the convergence of war and the social contract in the form of the national security state. Strategic Reason and Scientific Truth By itself, such an account of the nationalist ontology of war and security provides only a general insight into the perseverance of military violence as a core element of politics. It does not explain why so many policymakers think military violence works. As I argued earlier, such an ontology is married to a more rationalistic form of strategic thought that claims to link violent means to political ends predictably and controllably, and which, by doing so, combines military action and national purposes into a common -- and thoroughly modern -- horizon of certainty. Given Hegel's desire to decisively distil and control the dynamic potentials of modernity in thought, it is helpful to focus on the modernity of this ontology -- one that is modern in its adherence to modern scientific models of truth, reality and technological progress, and in its insistence on imposing images of scientific truth from the physical sciences (such as mathematics and physics) onto human behaviour, politics and society. For example, the military theorist and historian Martin van Creveld has argued that one of the reasons Clausewitz was so influential was that his 'ideas seemed to have chimed in with the rationalistic, scientific, and technological outlook associated with the industrial revolution'.54 Set into this epistemological matrix, modern politics and government engages in a sweeping project of mastery and control in which **all of the world's resources -- mineral, animal, physical, human -- are made part of a machinic process of which war and violence are viewed as normal features.** These are the deeper claims and implications of Clausewitzian strategic reason. One of the most revealing contemporary examples comes from the writings (and actions) of Henry Kissinger, a Harvard professor and later U.S. National Security Adviser and Secretary of State. He wrote during the Vietnam war that after 1945 U.S. foreign policy was based 'on the assumption that technology plus managerial skills gave us the ability to reshape the international system and to bring about domestic transformations in emerging countries'. This 'scientific revolution' had 'for all practical purposes, removed technical limits from the exercise of power in foreign policy'.55 Kissinger's conviction was based not merely in his pride in the vast military and bureaucratic apparatus of the United States, but in a particular epistemology (theory of knowledge). Kissinger asserted that the West is 'deeply committed to the notion that the real world is external to the observer, that knowledge consists of recording and classifying data -- the more accurately the better'. This, he claimed, has since the Renaissance set the West apart from an 'undeveloped' world that contains 'cultures that have escaped the early impact of Newtonian thinking' and remain wedded to the 'essentially pre-Newtonian view that the real world is almost entirely internal to the observer'.56 At the same time, Kissinger's hubris and hunger for control was beset by a corrosive anxiety: that, in an era of nuclear weapons proliferation and constant military modernisation, of geopolitical stalemate in Vietnam, and the emergence and militancy of new post-colonial states, order and mastery were harder to define and impose. He worried over the way 'military bipolarity' between the superpowers had 'encouraged political multipolarity', which 'does not guarantee stability. Rigidity is diminished, but so is manageability...equilibrium is difficult to achieve among states widely divergent in values, goals, expectations and previous experience' (emphasis added). He mourned that 'the greatest need of the contemporary international system is an agreed concept of order'.57 Here were the driving obsessions of the modern rational statesman based around a hunger for stasis and certainty that would entrench U.S. hegemony: For the two decades after 1945, our international activities were based on the assumption that technology plus managerial skills gave us the ability to reshape the international system and to bring about domestic transformations in "emerging countries". This direct "operational" concept of international order has proved too simple. Political multipolarity makes it impossible to impose an American design. Our deepest challenge will be to evoke the creativity of a pluralistic world, to base order on political multipolarity even though overwhelming military strength will remain with the two superpowers.58 Kissinger's statement revealed that such cravings for order and certainty continually confront chaos, resistance and uncertainty: clay that won't be worked, flesh that will not yield, enemies that refuse to surrender. This is one of the most powerful lessons of the Indochina wars, which were to continue in a phenomenally destructive fashion for six years after Kissinger wrote these words. Yet as his sinister, Orwellian exhortation to 'evoke the creativity of a pluralistic world' demonstrated, Kissinger's hubris was undiminished. **This is a vicious, historic irony: a desire to control nature, technology, society and human beings that is continually frustrated, but never abandoned or rethought**. By 1968 U.S. Secretary of Defense Robert McNamara, the rationalist policymaker par excellence, had already decided that U.S. power and technology could not prevail in Vietnam; Nixon and Kissinger's refusal to accept this conclusion, to abandon their Cartesian illusions, **was to condemn hundreds of thousands** **more to die** in Indochina and the people of Cambodia to two more decades of horror and misery.59 In 2003 there would be a powerful sense of déja vu as another Republican Administration crowned more than decade of failed and destructive policy on Iraq with a deeply controversial and divisive war to remove Saddam Hussein from power. In this struggle with the lessons of Vietnam, revolutionary resistance, and rapid geopolitical transformation, we are witness to an enduring political and cultural theme: of **a craving for order, control and certainty in the face of continual uncertainty**. Closely related to this anxiety was the way that Kissinger's thinking -- and that of McNamara and earlier imperialists like the British Governor of Egypt Cromer -- was embedded in instrumental images of technology and the machine: the machine as both a tool of power and an image of social and political order. In his essay 'The Government of Subject Races' Cromer envisaged effective imperial rule -- over numerous societies and billions of human beings -- as best achieved by a central authority working 'to ensure the harmonious working of the different parts of the machine'.60 Kissinger analogously invoked the virtues of 'equilibrium', 'manageability' and 'stability' yet, writing some six decades later, was anxious that technological progress no longer brought untroubled control: the Westernising 'spread of technology and its associated rationality...does not inevitably produce a similar concept of reality'.61 We sense the rational policymaker's frustrated desire: the world is supposed to work like a machine, ordered by a form of power and governmental reason which deploys machines and whose desires and processes are meant to run along ordered, rational lines like a machine. Kissinger's desire was little different from that of Cromer who, wrote Edward Said: ...envisions a seat of power in the West and radiating out from it towards the East a great embracing machine, sustaining the central authority yet commanded by it. What the machine's branches feed into it from the East -- human material, material wealth, knowledge, what have you -- is processed by the machine, then converted into more power...the immediate translation of mere Oriental matter into useful substance.62 This desire for order in the shadow of chaos and uncertainty -- the constant war with an intractable and volatile matter -- has **deep roots in modern thought**, and was a major impetus to the development of technological reason and its supporting theories of knowledge. As Kissinger's claims about the West's Newtonian desire for the 'accurate' gathering and classification of 'data' suggest, modern strategy, foreign policy and Realpolitik have been thrust deep into the apparently stable soil of natural science, in the hope of finding immovable and unchallengeable roots there. While this process has origins in ancient Judaic and Greek thought, it crystallised in philosophical terms most powerfully during and after the Renaissance. The key figures in this process were Francis Bacon, Galileo, Isaac Newton, and René Descartes, who all combined a hunger for political and ontological certainty, a positivist epistemology and a naïve faith in the goodness of invention. Bacon sought to create certainty and order, and with it a new human power over the world, through a new empirical methodology based on a harmonious combination of experiment, the senses and the understanding. With this method, he argued, we can 'derive hope from a purer alliance of the faculties (the experimental and rational) than has yet been attempted'.63 In a similar move, Descartes sought to conjure certainty from uncertainty through the application of a new method that moved progressively out from a few basic certainties (the existence of God, the certitude of individual consciousness and a divinely granted faculty of judgement) in a search for pure fixed truths. Mathematics formed the ideal image of this method, with its strict logical reasoning, its quantifiable results and its uncanny insights into the hidden structure of the cosmos.64 Earlier, Galileo had argued that scientists should privilege 'objective', quantifiable qualities over 'merely perceptible' ones; that 'only by means of an exclusively quantitative analysis could science attain certain knowledge of the world'.65 Such doctrines of mathematically verifiable truth were to have powerful echoes in the 20th Century, in the ascendancy of systems analysis, game theory, cybernetics and computing in defense policy and strategic decisions, and in the awesome scientific breakthroughs of nuclear physics, which unlocked the innermost secrets of matter and energy and applied the most advanced applications of mathematics and computing to create the atomic bomb. Yet this new scientific power was marked by a terrible irony: as even Morgenthau understood, the control over matter afforded by the science could never be translated into the control of the weapons themselves, into political utility and rational strategy.66 Bacon thought of the new scientific method not merely as way of achieving a purer access to truth and epistemological certainty, but as liberating a new power that would enable the creation of a new kind of Man. He opened the Novum Organum with the statement that 'knowledge and human power are synonymous', and later wrote of his 'determination...to lay a firmer foundation, and extend to a greater distance the boundaries of human power and dignity'.67 In a revealing and highly negative comparison between 'men's lives in the most polished countries of Europe and in any wild and barbarous region of the new Indies' -- one that echoes in advance Kissinger's distinction between post-and pre-Newtonian cultures -- Bacon set out what was at stake in the advancement of empirical science: anyone making this comparison, he remarked, 'will think it so great, that man may be said to be a god unto man'.68 We may be forgiven for blinking, but in Bacon's thought 'man' was indeed in the process of stealing a new fire from the heavens and seizing God's power over the world for itself. Not only would the new empirical science lead to 'an improvement of mankind's estate, and an increase in their power over nature', but would reverse the primordial humiliation of the Fall of Adam: For man, by the fall, lost at once his state of innocence, and his empire over creation, both of which can be partially recovered even in this life, the first by religion and faith, the second by the arts and sciences. For creation did not become entirely and utterly rebellious by the curse, but in consequence of the Divine decree, 'in the sweat of thy brow thou shalt eat bread'; she is now compelled by our labours (not assuredly by our disputes or magical ceremonies) at length to afford mankind in some degree his bread...69 There is a breathtaking, world-creating hubris in this statement -- one that, in many ways, came to characterise western modernity itself, and which is easily recognisable in a generation of modern technocrats like Kissinger. The Fall of Adam was the Judeo-Christian West's primal creation myth, one that marked humankind as flawed and humbled before God, condemned to hardship and ambivalence. Bacon forecast here a return to Eden, but one of man's own making. This truly was the death of God, of putting man into God's place, and no pious appeals to the continuity or guidance of faith could disguise the awesome epistemological violence which now subordinated creation to man. Bacon indeed argued that inventions are 'new creations and imitations of divine works'. As such, there is nothing but good in science: 'the introduction of great inventions is the most distinguished of human actions...inventions are a blessing and a benefit without injuring or afflicting any'.70 And what would be mankind's 'bread', the rewards of its new 'empire over creation'? If the new method and invention brought modern medicine, social welfare, sanitation, communications, education and comfort, it also enabled the **Armenian genocide, the Holocaust and two world wars; napalm, the B52, the hydrogen bomb, the Kalashnikov rifle and military strategy**. Indeed some of the 20th Century's most far-reaching inventions -- radar, television, rocketry, computing, communications, jet aircraft, the Internet -- would be the product of drives for national security and militarisation. Even the inventions Bacon thought so marvellous and transformative -- printing, gunpowder and the compass -- brought in their wake upheaval and tragedy: printing, dogma and bureaucracy; gunpowder, the rifle and the artillery battery; navigation, slavery and the genocide of indigenous peoples. In short, the legacy of the new empirical science would be ambivalence as much as certainty; degradation as much as enlightenment; the destruction of nature as much as its utilisation. Doubts and Fears: Technology as Ontology If Bacon could not reasonably be expected to foresee many of these developments, the idea that scientific and technological progress could be destructive did occur to him. However it was an anxiety he summarily dismissed: ...let none be alarmed at the objection of the arts and sciences becoming depraved to malevolent or luxurious purposes and the like, for the same can be said of every worldly good; talent, courage, strength, beauty, riches, light itself...Only let mankind regain their rights over nature, assigned to them by the gift of God, and obtain that power, whose exercise will be governed by right reason and true religion.71 By the mid-Twentieth Century, after the destruction of Hiroshima and Nagasaki, such fears could no longer be so easily wished away, as the physicist and scientific director of the Manhattan Project, J. Robert Oppenheimer recognised. He said in a 1947 lecture: We felt a particularly intimate responsibility for suggesting, for supporting and in the end in large measure achieving the realization of atomic weapons...In some sort of crude sense which no vulgarity, no humor, no over-statement can quite extinguish, the physicists have known sin, and this is a knowledge they cannot lose.72 Adam had fallen once more, but into a world which refused to acknowledge its renewed intimacy with contingency and evil. Man's empire over creation -- his discovery of the innermost secrets of matter and energy, of the fires that fuelled the stars -- had not 'enhanced human power and dignity' as Bacon claimed, but instead brought destruction and horror. Scientific powers that had been consciously applied in the defence of life and in the hope of its betterment **now threatened its total and absolute destruction**. This would not prevent a legion of scientists, soldiers and national security policymakers later attempting to apply Bacon's faith in invention and Descartes' faith in mathematics to make of the Bomb a rational weapon. Oppenheimer -- who resolutely opposed the development of the hydrogen bomb -- understood what the strategists could not: that the weapons resisted control, resisted utility, that 'with the release of atomic energy quite revolutionary changes had occurred in the techniques of warfare'.73 Yet Bacon's legacy, one deeply imprinted on the strategists, was his view that truth and utility are 'perfectly identical'.74 In 1947 Oppenheimer had clung to the hope that 'knowledge is good...it seems hard to live any other way than thinking it was better to know something than not to know it; and the more you know, the better'; by 1960 he felt that 'terror attaches to new knowledge. It has an unmooring quality; it finds men unprepared to deal with it.'75 Martin Heidegger questioned this mapping of natural science onto the social world in his essays on technology -- which, as 'machine', has been so crucial to modern strategic and geopolitical thought as an image of perfect function and order and a powerful tool of intervention. He commented that, given that modern technology 'employs exact physical science...the deceptive illusion arises that modern technology is applied physical science'.76 Yet as the essays and speeches of Oppenheimer attest, technology and its relation to science, society and war cannot be reduced to a noiseless series of translations of science for politics, knowledge for force, or force for good. Instead, Oppenheimer saw a process frustrated by roadblocks and ruptured by irony; in his view there was no smooth, unproblematic translation of scientific truth into social truth, and technology was not its vehicle. Rather his comments raise profound and painful ethical questions that resonate with terror and uncertainty. Yet this has not prevented technology becoming a potent object of desire, not merely as an instrument of power but as a promise and conduit of certainty itself. In the minds of too many rational soldiers, strategists and policymakers, technology brings with it the truth of its enabling science and spreads it over the world. It turns epistemological certainty into political certainty; it turns control over 'facts' into control over the earth. Heidegger's insights into this phenomena I find especially telling and disturbing -- because they underline the ontological force of the instrumental view of politics. In The Question Concerning Technology, Heidegger's striking argument was that in the modernising West technology is not merely a tool, a 'means to an end'. Rather **technology has become a governing image of the modern universe, one that has come to order, limit and define human existence as a 'calculable coherence of forces' and a 'standing reserve' of energy**. Heidegger wrote: 'the threat to man does not come in the first instance from the potentially lethal machines and apparatus of technology. The actual threat has already affected man in his essence.'77 This process Heidegger calls 'Enframing' and through it the scientific mind **demands that 'nature reports itself** in some way or other that is identifiable through calculation and remains orderable as a system of information'. Man is not a being who makes and uses machines as means, choosing and limiting their impact on the world for his ends; rather man has imagined the world as a machine and humanity everywhere becomes **trapped within its logic**. Man, he writes, 'comes to the very brink of a precipitous fall...where **he himself will have to be taken as standing-reserve**. Meanwhile Man, precisely as the one so threatened, exalts himself to the posture of lord of the earth.'78 Technological man not only becomes the name for a project of lordship and mastery over the earth, but incorporates humanity within this project as a calculable resource. **In strategy, warfare and geopolitics human bodies, actions and aspirations are caught, transformed and perverted by such calculating, enframing reason: human lives are reduced to tools, obstacles, useful or obstinate matter.** This tells us much about the enduring power of crude instrumental versions of strategic thought, which relate not merely to the actual use of force but to broader geopolitical strategies that see, as limited war theorists like Robert Osgood did, force as an 'instrument of policy short of war'. It was from within this strategic ontology that figures like the Nobel prize-winning economist Thomas Schelling theorised the strategic role of threats and coercive diplomacy, and spoke of strategy as 'the power to hurt'.79 In the 2006 Lebanon war we can see such thinking in the remark of a U.S. analyst, a former Ambassador to Israel and Syria, who speculated that by targeting civilians and infrastructure Israel aimed 'to create enough pain on the ground so there would be a local political reaction to Hezbollah's adventurism'.80 Similarly a retired Israeli army colonel told the Washington Post that 'Israel is attempting to create a rift between the Lebanese population and Hezbollah supporters by exacting a heavy price from the elite in Beirut. The message is: If you want your air conditioning to work and if you want to be able to fly to Paris for shopping, you must pull your head out of the sand and take action toward shutting down Hezbollah-land.'81 Conclusion: Violent Ontologies or Peaceful Choices? I was motivated to begin the larger project from which this essay derives by a number of concerns. I felt that the available critical, interpretive or performative languages of war -- realist and liberal international relations theories, just war theories, and various Clausewitzian derivations of strategy -- failed us, because they either perform or refuse to **place under suspicion the underlying political ontologies** that I have sought to unmask and question here. Many realists have quite nuanced and critical attitudes to the use of force, but ultimately affirm strategic thought and remain embedded within the existential framework of the nation-state. Both liberal internationalist and just war doctrines seek mainly to improve the accountability of decision-making in security affairs and to limit some of the worst moral enormities of war, but (apart from the more radical versions of cosmopolitanism) they fail to question the ontological claims of political community or strategic theory.82 In the case of a theorist like Jean Bethke Elshtain, just war doctrine is in fact allied to a softer, liberalised form of the Hegelian-Schmittian ontology. She dismisses Kant's Perpetual Peace as 'a fantasy of at-oneness...a world in which differences have all been rubbed off' and in which 'politics, which is the way human beings have devised for dealing with their differences, gets eliminated.'83 She remains a committed liberal democrat and espouses a moral community that stretches beyond the nation-state, which strongly contrasts with Schmitt's hostility to liberalism and his claustrophobic distinction between friend and enemy. However her image of politics -- which at its limits, she implies, requires the resort to war as the only existentially satisfying way of resolving deep-seated conflicts -- reflects much of Schmitt's idea of the political and Hegel's ontology of a fundamentally alienated world of nation-states, in which war is a performance of being. She categorically states that any effort to dismantle security dilemmas 'also requires the dismantling of human beings as we know them'.84 Whilst this would not be true of all just war advocates, I suspect that even as they are so concerned with the ought, moral theories of violence grant too much unquestioned power to the is. The problem here lies with the confidence in being -- of 'human beings as we know them' -- which ultimately fails to escape a Schmittian architecture and thus eternally exacerbates (indeed **reifies) antagonisms**. Yet we know from the work of Deleuze and especially William Connolly that **exchanging an ontology of being for one of becoming**, where the boundaries and nature of the self contain new possibilities through agonistic relation to others, provides a less destructive and violent way of acknowledging and dealing with conflict and difference.85 My argument here, whilst normatively sympathetic to Kant's moral demand for the eventual abolition of war, militates against excessive optimism.86 Even as I am arguing that war is not an enduring historical or anthropological feature, or a neutral and rational instrument of policy -- that it is rather the product of **hegemonic forms of knowledge** about political action and community -- my analysis does suggest some sobering conclusions about its power as an idea and formation. Neither the progressive flow of history nor the pacific tendencies of an international society of republican states will save us. The violent ontologies I have described here in fact dominate the conceptual and policy frameworks of modern republican states and have come, against everything Kant hoped for, to stand in for progress, modernity and reason. Indeed what Heidegger argues, I think with some credibility, is that the enframing world view has come to stand in for being itself. Enframing, argues Heidegger, 'does not simply endanger man in his relationship to himself and to everything that is...it **drives out every other possibility of revealing**...the rule of Enframing threatens man with the possibility that it could be denied to him to enter into a more original revealing and hence to experience the call of a more primal truth.'87 What I take from Heidegger's argument -- one that I have sought to extend by analysing the militaristic power of modern ontologies of political existence and security -- is a view that the challenge is posed not merely by a few varieties of weapon, government, technology or policy, but **by an overarching system of thinking and understanding that lays claim to our entire space of truth and existence**. Many of the most destructive features of contemporary modernity -- militarism, repression, coercive diplomacy, covert intervention, geopolitics, economic exploitation and ecological destruction -- derive not merely from particular choices by policymakers based on their particular interests, but from **calculative, 'empirical' discourses of scientific and political truth rooted in powerful enlightenment images of being. Confined within such an epistemological and cultural universe, policymakers' choices become necessities, their actions become inevitabilities, and humans suffer and die**. Viewed in this light, 'rationality' is the name we give the chain of reasoning which builds one structure of truth on another until a course of action, however violent or dangerous, becomes preordained through that reasoning's very operation and existence. It creates both discursive constraints -- available choices may simply not be seen as credible or legitimate -- and material constraints that derive from the mutually reinforcing cascade of discourses and events which then **preordain militarism and violence as necessary policy responses**, however ineffective, dysfunctional or chaotic. The force of my own and Heidegger's analysis does, admittedly, tend towards a deterministic fatalism. On my part this is quite deliberate; it is important to allow this possible conclusion to weigh on us. Large sections of modern societies -- especially parts of the media, political leaderships and national security institutions -- are utterly trapped within the Clausewitzian paradigm, within the instrumental utilitarianism of 'enframing' and the stark ontology of the friend and enemy. They are certainly tremendously aggressive and energetic in continually stating and reinstating its force. But is there a way out? Is there no possibility of agency and choice? Is this not the key normative problem I raised at the outset, of how the modern ontologies of war efface agency, causality and responsibility from decision making; the responsibility that comes with having choices and making decisions, with exercising power? (In this I am much closer to Connolly than Foucault, in Connolly's insistence that, even in the face of the anonymous power of discourse to produce and limit subjects, selves remain capable of agency and thus incur responsibilities.88) There seems no point in following Heidegger in seeking a more 'primal truth' of being -- that is to reinstate ontology and obscure its worldly manifestations and consequences from critique. However we can, while refusing Heidegger's unworldly89 nostalgia, appreciate that he was searching for a way out of the modern system of calculation; that he was searching for **a 'questioning', 'free relationship' to technology that would not be immediately recaptured by the strategic, calculating vision of enframing**. Yet his path out is somewhat chimerical -- his faith in 'art' and the older Greek attitudes of 'responsibility and indebtedness' offer us valuable clues to the kind of sensibility needed, but little more. When we consider the problem of policy, the force of this analysis suggests that choice and agency can be all too often limited; they can remain confined (sometimes quite wilfully) within the overarching strategic and security paradigms. Or, more hopefully, policy choices could aim to bring into being a more enduringly inclusive, cosmopolitan and peaceful logic of the political. But this **cannot be done without seizing alternatives from outside the space of enframing and utilitarian strategic thought**, by being aware of its presence and weight and activating a very different concept of existence, security and action.90 **This would seem to hinge upon 'questioning'** as such -- on the questions we put to the real and our efforts to create and act into it. Do security and strategic policies seek to exploit and direct humans as material, as energy, or do they seek to protect and enlarge human dignity and autonomy? Do they seek to impose by force an unjust status quo (as in Palestine), or to remove one injustice only to replace it with others (the U.S. in Iraq or Afghanistan), or do so at an unacceptable human, economic, and environmental price? Do we see our actions within an instrumental, amoral framework (of 'interests') and a linear chain of causes and effects (the idea of force), or do we see them as folding into a complex interplay of languages, norms, events and consequences which are less predictable and controllable?91 And most fundamentally: Are we seeking to coerce or persuade? Are less violent and more sustainable choices available? Will our actions perpetuate or help to end the global rule of insecurity and violence? Will our thought?

#### Reject the affirmative’s security discourse – this untimely intervention is the only chance for a counter-discourse

Calkivik 10 – PhD in Poli Sci @ Univ Minnesota (Emine Asli, 10/2010, "DISMANTLING SECURITY," PhD dissertation submitted to Univ Minnesota for Raymond Duvall, http://conservancy.umn.edu/bitstream/99479/1/Calkivik\_umn\_0130E\_11576.pdf)

It is this self-evidence of security even for critical approaches and the antinomy stemming from dissident voices reproducing the language of those they dissent from that constitutes the starting point for this chapter, where I elaborate on the meaning of dismantling security as untimely critique. As mentioned in the vignette in the opening section, the suggestion to dismantle security was itself deemed as an untimely pursuit in a world where lives of millions were rendered brutally insecure by poverty, violence, disease, and ongoing political conflicts. Colored by the tone of a call to conscience in the face of the ongoing crisis of security, it was not the time, interlocutors argued, for self-indulgent critique. I will argue that it is the element of being untimely, the effort, in the words of Walter Benjamin, “to brush history against the grain” that gives critical thinking its power.291 It might appear as a trivial discussion to bring up the relation between time and critique because conceptions of critical thinking in the discipline of International Relations already possess the notion that critical thought needs to be untimely. In the first section, I will tease out what this notion of untimeliness entails by visiting ongoing conversations within the discipline about critical thought and political time. Through this discussion, I hope to clarify what sets apart dismantling security as untimely critique from the notion of untimeliness at work in critical international relations theory. The latter conception of the untimely, I will suggest, paradoxically calls on critical thought to be “on time” in that it champions a particular understanding of what it means for critical scholarship to be relevant and responsible for its times. This notion of the untimely demands that critique be strategic and respond to political exigency, that it provide answers in this light instead of raising more questions about which questions could be raised or what presuppositions underlie the questions that are deemed to be waiting for answers. After elaborating in the first section such strategic conceptions of the untimeliness of critical theorizing, in the second section I will turn to a different sense of the untimely by drawing upon Wendy Brown’s discussion of the relation between critique, crisis, and political time through her reading of Benjamin’s “Theses on the Philosophy of History.”292 In contrast to a notion of untimeliness that demands strategic thinking and punctuality, Brown’s exegesis provides a conception of historical materialism where critique is figured as a force of disruption, a form of intervention that reconfigures the meaning of the times and “contest[s] the very senses of time invoked to declare critique ‘untimely’.”293 Her exposition overturns the view of critique as a self-indulgent practice as it highlights the immediately political nature of critique and reconfigures the meaning of what it means for critical thought to be relevant.294 It is in this sense of the untimely, I will suggest, that dismantling security as a critique hopes to recover. I should point out that in this discussion my intention is neither to construct a theory of critique nor to provide an exhaustive review and evaluation of the forms of critical theorizing in International Relations. Rather, my aim is to contribute to the existing efforts that engage with the question of what it means to be critical apart from drawing the epistemological and methodological boundaries so as to think about how one is critical.295 While I do not deny the importance of epistemological questions, I contend that taking time to think about the meaning of critique beyond these issues presents itself as an important task. This task takes on additional importance within the context of security studies where any realm of investigation quickly begets its critical counterpart. The rapid emergence and institutionalization of critical terrorism studies when studies on terrorism were proliferating under the auspices of the so-called Global War on Terror provides a striking example to this trend. 296 Such instances are important reminders that, to the extent that epistemology and methodology are reified as the sole concerns in defining and assessing critical thinking297 or “wrong headed refusals”298 to get on with positive projects and empirical research gets branded as debilitating for critical projects, what is erased from sight is the political nature of the questions asked and what is lost is the chance to reflect upon what it means for critical thinking to respond to its times. In his meditation on the meaning of responding and the sense of responsibility entailed by writing, Jean-Luc Nancy suggests that “all writing is ‘committed.’” 299 This notion of commitment diverges from the programmatic sense of committed writing. What underlies this conception is an understanding of writing as responding: writing is a response to the voice of an other.In Nancy’s words, “[w]hoever writes responds” 300 and “makes himself responsible to in the absolute sense.”301 Suggesting that there is always an ethical commitment prior to any particular political commitment, such a notion of writing contests the notion of creative autonomy premised on the idea of a free, self-legislating subject who responds. In other words, it discredits the idea of an original voice by suggesting that there is no voice that is not a response to a prior response. Hence, to respond is configured as responding to an expectation rather than as an answer to a question and responsibility is cast as an “anticipated response to questions, to demands, to still-unformulated, not exactly predictable expectations.”302 Echoing Nancy, David Campbell makes an important reminder as he suggests that as international relations scholars “we are always already engaged,” although the sites, mechanisms and quality of engagements might vary.303 The question, then, is not whether as scholars we are engaged or not, but what the nature of this engagement is. Such a re-framing of the question is intended to highlight the political nature of all interpretation and the importance of developing an “ethos of political criticism that is concerned with assumptions, limits, their historical production, social and political effects, and the possibility of going beyond them in thought and action.”304 Taking as its object assumptions and limits, their historical production and social and political effects places the relevancy of critical thought and responsibility of critical scholarship on new ground. It is this ethos of critique that dismantling security hopes to recover for a discipline where security operates as the foundational principle and where critical thinking keeps on contributing to security’s impressing itself as a self-evident condition. Critical Theory and Punctuality Within the context of International Relations, critical thought’s orientation toward its time comes out strongly in Kimberley Hutchings’s formulation.305 According to Hutchings, no matter what form it takes, what distinguishes critical international relations theory from other forms of theorizing is “its orientation towards change and the possibility of futures that do not reproduce the hegemonic power of the present.”306 What this implies about the nature of critical thought is that it needs to be not only diagnostic, but also self-reflexive. In the words of Hutchings, “all critical theories lay claim to some kind of account not only of the present of international politics and its relation to possible futures, but also of the role of critical theory in the present and future in international politics.” 307 Not only analyzing the present, but also introducing the question of the future into analysis places political time at the center of critical enterprise and makes the problem of change a core concern. It is this question of change that situates different forms of critical thinking on a shared ground since they all attempt to expose the way in which what is presented as given and natural is historically produced and hence open to change. With their orientation to change, their efforts to go against the dominant currents and challenge the hegemony of existing power relations by showing how contemporary practices and discourses contribute to the perpetuation of structures of power and domination, critical theorists in general and critical security studies specialists in particular take on an untimely endeavor. It is this understanding of the untimely aspect of critical thinking that is emphasized by Mark Neufeld, who regards the development of critical approaches to security as “one of the more hopeful intellectual developments in recent years.”308 Despite nurturing from different theoretical traditions and therefore harboring “fundamental differences between modernist and postmodernist commitments,” writes Neufeld, scholars who are involved in the critical project nevertheless “share a common concern with calling into question ‘prevailing social and power relationships and the institutions into which they are organized.’” 309 The desire for change—through being untimely and making the way to alternative futures that would no longer resemble the present—have led some scholars to emphasize the utopian element that must accompany all critical thinking. Quoting Oscar Wilde’s aphorism—a map of the world that does not include Utopia is not even worth glancing at, Ken Booth argues for the need to restore the role and reputation of utopianism in the theory and practice of international politics. 310 According to Booth, what goes under the banner of realism—“ethnocentric self-interest writ large”311 — falls far beyond the realities of a drastically changed world political landscape at the end of the Cold War. He describes the new reality as “an egg-box containing the shells of sovereignty; but alongside it a global community omelette [sic] is cooking.”312 Rather than insisting on the inescapability of war in the international system as political realists argue, Booth argues for the need and possibility to work toward the utopia of overcoming the condition of war by banking on the opportunities provided by a globalizing world. The point that critical thought needs to be untimely by going against its time is also emphasized by Dunne and Wheeler, who assert that, regardless of the form it takes, “critical theory purport[s] to ‘think against’ the prevailing current” and that “[c]ritical security studies is no exception” to this enterprise.313 According to the authors, the function of critical approaches to security is to problematize what is taken for granted in the disciplinary production of knowledge about security by “resist[ing], transcend[ing] and defeat[ing]…theories of security, which take for granted who is to be secured (the state), how security is to be achieved (by defending core ‘national’ values, forcibly if necessary) and from whom security is needed (the enemy).”314 While critical theory in this way is figured as untimely, I want to suggest that this notion of untimeliness gets construed paradoxically in a quite timely fashion. With a perceived disjuncture between writing the world from within a discipline and acting in it placed at the center of the debates, the performance of critical thought gets evaluated to the extent that it is punctual and in synch with the times. Does critical thought provide concrete guidance and prescribe what is to be done? Can it move beyond mere talk and make timely political interventions by providing solutions? Does it have answers to the strategic questions of progressive movements? Demanding that critical theorizing come clean in the court of these questions, such conceptions of the untimely demand that critique respond to its times in a responsible way, where being responsible is understood in stark contrast to a notion of responding and responsibility that I briefly discussed in the introductory pages of this chapter (through the works of Jean-Luc Nancy and David Campbell). Let me visit two recent conversations ensuing from the declarations of the contemporary crisis of critical theorizing in order to clarify what I mean by a timely understanding of untimely critique. The first conversation was published as a special issue in the Review of International Studies (RIS), one of the major journals of the field. Prominent figures took the 25th anniversary of the journal’s publication of two key texts—regarded as canonical for the launching and development of critical theorizing in International Relations—as an opportunity to reflect upon and assess the impact of critical theory in the discipline and interrogate what its future might be. 315 The texts in question, which are depicted as having shaken the premises of the static world of the discipline, are Robert Cox’s 1981 essay entitled on “Social Forces, States, and World Orders”316 and Richard Ashley’s article, “Political Realism and Human Interests.”317 In their introductory essay to the issue, Rengger and Thirkell-White suggest that the essays by Cox and Ashley—followed by Andrew Linklater’s Men and Citizens in the Theory of International Relations318 —represent “the breach in the dyke” of the three dominant discourses in International Relations (i.e., positivists, English School, and Marxism), unleashing “a torrent [that would] soon become a flood” as variety of theoretical approaches in contemporary social theory (i.e., feminism, Neo-Gramscianism, poststructuralism, and post-colonialism) would get introduced through the works of critical scholars.319 After elaborating the various responses given to and resistance raised against the critical project in the discipline, the authors provide an overview and an assessment of the current state of critical theorizing in International Relations. They argue that the central question for much of the ongoing debate within the critical camp in its present state—a question that it cannot help but come to terms with and provide a response to—concerns the relation between critical thought and political practice. As they state, the “fundamental philosophical question [that] can no longer be sidestepped” by critical International Relations theory is the question of the relation between “knowledge of the world and action in it.”320 One of the points alluded to in the essay is that forms of critical theorizing, which leave the future “to contingency, uncertainty and the multiplicity of political projects” and therefore provide “less guidance for concrete political action”321 or, again, those that problematize underlying assumptions of thought and “say little about the potential political agency that might be involved in any subsequent struggles”322 may render the critical enterprise impotent and perhaps even suspect. This point comes out clearly in Craig Murphy’s contribution to the collection of essays in the RIS’s special issue. 323 Echoing William Wallace’s argument that critical theorists tend to be “monks,”324 who have little to offer for political actors engaged in real world politics, Murphy argues that the promise of critical theory is “partially kept” because of the limited influence it has had outside the academy towards changing the world.Building a different world, he suggests, requires more than isolated academic talk; that it demands not merely “words,” but “deeds.”325 This, according to Murphy, requires providing “knowledge that contributes to change.”326 Such knowledge would emanate from connections with the marginalized and would incorporate observations of actors in their everyday practices. More importantly, it would create an inspiring vision for social movements, such as the one provided by the concept of human development, which, according to Murphy, was especially powerful “because it embodied a value-oriented way of seeing, a vision, rather than only isolated observations.”327 In sum, if critical theory is to retain its critical edge, Murphy’s discussion suggests, it has to be in synch with political time and respond to its immediate demands. The second debate that is revelatory of this conception of the timing of critical theory—i.e., that critical thinking be strategic and efficient in relation to political time—takes place in relation to the contemporary in/security environment shaped by the so-called Global War on Terror. The theme that bears its mark on these debates is the extent to which critical inquiries about the contemporary security landscape become complicit in the workings of power and what critique can offer to render the world more legible for progressive struggles.328 For instance, warning critical theorists against being co-opted by or aligned with belligerence and war-mongering, Richard Devetak asserts that critical international theory has an urgent “need to distinguish its position all the more clearly from liberal imperialism.”329 While scholars such as Devetak, Booth,330 and Fierke331 take the critical task to be an attempt to rescue liberal internationalism from turning into liberal imperialism, others announce the “crisis of critical theorizing” and suggest that critical writings on the nature of the contemporary security order lack the resources to grasp their actual limitations, where the latter is said to reside not in the realm of academic debate, but in the realm of political practice.332 It is amidst these debates on critique, crisis, and political time that Richard Beardsworth raises the question of the future of critical philosophy in the face of the challenges posed by contemporary world politics.333 Recounting these challenges, he provides the matrix for a proper form of critical inquiry that could come to terms with “[o]ur historical actuality.”334 He describes this actuality as the “thick context” of modernity (“an epoch, delimited by the capitalization of social relations,” which imposes its own philosophical problematic—“that is, the attempt, following the social consequences of capitalism, to articulate the relation between individuality and collective spirit”335 ), American unilateralism in the aftermath of the attacks on September 11, 2001, and the growing political disempowerment of people worldwide. Arguing that “contemporary return of religion and new forms of irrationalism emerge, in large part, out of the failure of the second response of modernity to provide a secular solution to the inequalities of the nation-state and colonization,”336 he formulates the awaiting political task for critical endeavors as constructing a world polity to resist the disintegration of the world under the force of capital.It is with this goal in mind that he suggests that “responsible scholarship needs to rescue reason in the face irrational war”337 and that intellectuals need to provide “the framework for a world ethical community of law, endowed with political mechanisms of implementation in the context of a regulated planetary economy.”338 He suggests that an aporetic form of thinking such as Jacques Derrida’s—a thinking that “ignores the affirmative relation between the determining powers of reason and history”339 —would be an unhelpful resource because such thinking “does not open up to where work needs to be done for these new forms of polity to emerge.”340 In other words, critical thinking, according to Beardsworth, needs to articulate and point out possible political avenues and to orient thought and action in concrete ways so as to contribute to progressive political change rather than dwelling on the encounter of the incalculable and calculation and im-possibility of world democracy in a Derridean fashion. In similar ways to the first debate on critique that I discussed, critical thinking is once again called upon to respond to political time in a strategic and efficient manner. As critical inquiry gets summoned up to the court of reason in Beardsworth’s account, its realm of engagement is limited to that which the light of reason can be shed upon, and its politics is confined to mapping out the achievable and the doable in a given historical context without questioning or disrupting the limits of what is presented as “realistic” choices. Hence, if untimely critical thought is to be meaningful it has to be on time by responding to political exigency in a practical, efficient, and strategic manner. In contrast to this prevalent form of understanding the untimeliness of critical theory, I will now turn to a different account of the untimely provided by Wendy Brown whose work informs the project of dismantling security as untimely critique. Drawing from her discussion of the relationship between critique, crisis, and political time, I will suggest that untimely critique of security entails, simultaneously, an attunement to the times and an aggressive violation of their self-conception. It is in this different sense of the untimely that the suggestion of dismantling security needs to be situated. Critique and Political Time As I suggested in the Prelude to this chapter, elevating security itself to the position of major protagonist and extending a call to “dismantle security” was itself declared to be an untimely pursuit in a time depicted as the time of crisis in security. Such a declaration stood as an exemplary moment (not in the sense of illustration or allegory, but as a moment of crystallization) for disciplinary prohibitions to think and act otherwise—perhaps the moment when a doxa exhibits its most powerful hold. Hence, what is first needed is to overturn the taken-for-granted relations between crisis, timeliness, and critique. The roots krisis and kritik can be traced back to the Greek word krinõ, which meant “to separate”, to “choose,” to “judge,” to “decide.”341 While creating a broad spectrum of meanings, it was intimately related to politics as it connoted a “divorce” or “quarrel,” but also a moment of decision and a turning point. It was also used as a jurisprudential term in the sense of making a decision, reaching a verdict or judgment (kritik) on an alleged disorder so as to provide a way to restore order. Rather than being separated into two domains of meaning—that of “subjective critique” and “objective crisis”—krisis and kritik were conceived as interlinked moments. Koselleck explains this conceptual fusion: [I]t wasin the sense of “judgment,” “trial,” “legal decision,” and ultimately “court” that crisis achieved a high constitutionalstatus, through which the individual citizen and the community were bound together. The “for and against” wastherefore present in the original meaning of the word and thisin a manner that already conceptually anticipated the appropriate judgment. 342 Recognition of an objective crisis and subjective judgments to be passed on it so as to come up with a formula for restoring the health of the polity by setting the times right were thereby infused and implicated in each other.343 Consequently, as Brown notes, there could be no such thing as “mere critique” or “untimely critique” because critique always entailed a concern with political time: “[C]ritique as political krisis promise[d] to restore continuity by repairing or renewing the justice that gives an order the prospect of continuity, that indeed ma[de] it continuous.”344 The breaking of this intimate link between krisis and kritik, the consequent depoliticization of critique and its sundering from crisis coincides with the rise of modern political order and redistribution of the public space into the binary structure of sovereign and subject, public and private.345 Failing to note the link between the critique it practiced and the looming political crisis, emerging philosophies of history, according Koselleck, had the effect of obfuscating this crisis. As he explains, “[n]ever politically grasped, [this political crisis] remained concealed in historico-philosophical images of the future which cause the day’s events to pale.”346 It is this intimate, but severed, link between crisis and critique in historical narratives that Wendy Brown’s discussion brings to the fore and re-problematizes. She turns to Walter Benjamin’s “Theses on the Philosophy of History” and challenges conventional understandings of historical materialism, which conceives of the present in terms of unfolding laws of history.347 According to Brown, the practice of critical theory appeals to a concern with time to the extent that “[t]he crisis that incites critique and that critique engages itself signals a rupture of temporal continuity, which is at the same time a rupture in political imaginary.”348 Cast in these terms, it is a particular experience with time, with the present, that Brown suggests Benjamin’s theses aim to capture. Rather than an unmoving or an automatically overcome present (a present that is out of time), the present is interpreted as an opening that calls for a response to it. This call for a response highlights the idea that, far from being a luxury, critique is non-optional in its nature. Such an understanding of critical thought is premised on a historical consciousness that grasps the present historically so as to break with the selfconception of the age. Untimely critique transforms into a technique to blow up the present through fracturing its apparent seamlessness by insisting on alternatives to its closed political and epistemological universe.349 Such a conception resonates with the distinction that Žižek makes between a political subjectivity that is confined to choosing between the existing alternatives—one that takes the limits of what is given as the limits to what is possible—and a form of subjectivity that creates the very set of alternatives by “transcend[ing] the coordinates of a given situation [and] ‘posit[ing] the presuppositions’ of one's activity” by redefining the very situation within which one is active.”350 With its attempt to grasp the times in its singularity, critique is cast neither as a breaking free from the weight of time (which would amount to ahistoricity) nor being weighed down by the times (as in the case of teleology).351 It conceives the present as “historically contoured but not itself experienced as history because not necessarily continuous with what has been.”352 It is an attitude that renders the present as the site of “non-utopian possibility” since it is historically situated and constrained yet also a possibility since it is not historically foreordained or determined.353 It entails contesting the delimitations of choice and challenging the confinement of politics to existing possibilities. Rather than positing history as existing objectively outside of narration, what Brown’s discussion highlights is the intimate relation between the constitution of political subjectivity vis-à-vis the meaning of history for the present. It alludes to “the power of historical discourse,” which Mowitt explains as a power “to estrange us from that which is most familiar, namely, the fixity of the present” because “what we believe to have happened to us bears concretely on what we are prepared to do with ourselves both now and in the future.”354 Mark Neocleous concretizes the political stakes entailed in such encounters with history—with the dead—from the perspective of three political traditions: a conservative one, which aims to reconcile the dead with the living, a fascist one, which aims to resurrect the dead to legitimate its fascist program, and a historical materialist one, which seeks redemption with the dead as the source of hope and inspiration for the future.355 Brown’s discussion of critique and political time is significant for highlighting the immediately political nature of critique in contrast to contemporary invocations that cast it as a self-indulgent practice, an untimely luxury, a disinterested, distanced, academic endeavor. Her attempt to trace critique vis-à-vis its relation to political time provides a counter-narrative to the conservative and moralizing assertions that shun untimely critique of security as a luxurious interest that is committed to abstract ideals rather than to the “reality” of politics—i.e., running after utopia rather than modeling “real world” solutions. Dismantling security as untimely critique entails a similar claim to unsettle the accounts of “what the times are” with a “bid to reset time.”356 It aspires to be untimely in the face of the demands on critical thought to be on time; aims to challenge the moralizing move, the call to conscience that arrives in the form of assertions that saying “no!” to security, that refusing to write it, would be untimely. Rather than succumbing to the injunction that thought of political possibility is to be confined within the framework of security, dismantling security aims to open up space for alternative forms, for a different language of politics so as to “stop digging” the hole politics of security have dug us and start building a counter-discourse. Conclusion As an attempt to push a debate that is fixated on security to the limit and explore what it means to dismantle security, my engagement with various aspects of this move is not intended as an analysis raised at the level of causal interpretations or as an attempt to find better solutions to a problem that already has a name. Rather, it tries to recast what is taken-for-granted by attending to the conceptual assumptions, the historical and systemic conditions within which the politics of security plays itself out. As I tried to show in this chapter, it also entails a simultaneous move of refusing to be a disciple of the discipline of security. This implies overturning not only the silent disciplinary protocols about which questions are legitimate to ask, but also the very framework that informs those questions. It is from this perspective that I devoted two chapters to examining and clarifying the proposal to dismantle security as a claim on time. After explicating, in Chapter 4, the temporal structure that is enacted by politics of security and elaborating on how security structures the relation between the present and the future, in this chapter, I approached the question of temporality from a different perspective, by situating it in relation to disciplinary times in order to clarify what an untimely critique of security means. I tried to elaborate this notion of the untimely by exploring the understanding of untimeliness that informs certain conceptions of critical theorizing in International Relations. I suggested that such a notion of the untimely paradoxically calls on critical thought to be on time in the sense of being punctual and strategic. Turning to Wendy Brown’s discussion of the relation between critique and political time, I elaborated on the sense of untimely critique that dismantling security strives for—a critique that goes against the times that are saturated by the infinite passion to secure and works toward taking apart the architecture of security.

### 4

#### Text: United States federal judiciary should substantially increase judicial restrictions on the President’s authority to introduce armed forces into hostilities by holding that policies that allow the United States to launch a retaliatory nuclear attack before a nuclear detonation in the United States are unconstitutional under the due process clause of the Fifth Amendment to the United States constitution because these policies represent an unacceptable risk of irreversible damage to United States’ citizen’s lives and property without any possibility of just compensation. United States federal judiciary should hold that citizens with a reasonable fear of harm have standing to initiate a hard look review on United States’ nuclear launch posture that violates this ruling. United States federal judiciary should hold that citizens with a reasonable fear of harm have standing to bring suit against entities contributing to climate change.

#### The Counterplan solves the aff - Granting standing to citizen suits and changing the balance of harm reinvigorates climate change challenges and litigation, key to global adoption and solvency

**Gormley 10** (Neil Gormley, J.D., 2009, Harvard Law School, “Standing in the Way of Cooperation: Citizen Standing and Compliance with Environmental Agreements,” Summer 2010, West Northwest Journal of Environmental Law & Policy, 16 Hastings W.-N.W. J. Env. L. & Pol'y 397)

The Supreme **Court's approach to standing**, therefore, raises serious questions about the viability of a **bedrock** of **U.S. environmental law** - the citizen suit. Cass Sunstein concluded in the wake of Lujan that "it is now [\*405] apparently the law that Article III forbids Congress from granting standing to "citizens' to bring suit." n48 At the very least, as we have seen, these developments in standing doctrine will make the burdens on citizens and environmental groups more onerous. I will argue in Part II that standing doctrine may someday present insuperable obstacles to citizen suit enforcement with respect to international environmental problems that are yet to be comprehensively addressed under U.S. law. The growing doctrinal obstacles to the enforcement of federal environmental law via citizen suit are not, of course, strictly confined to Article III standing. A wide range of justiciability doctrines deter and weaken environmental citizen suits, including the Administrative Procedure Act's bar on "programmatic" challenges to agency action, announced in Lujan v. National Wildlife Federation, n49 and the arcane distinctions in Norton v. SUWA between agency "action" and agency "inaction" for purposes of determining whether the APA permits suit. n50 Perhaps the most prominent of these developments is the Court's 2008 decision in **Winter v. NRDC,** which raised the bar for even successful environmental plaintiffs to obtain **injunctive relief**. n51 In Winter, the Court decided that the balance of the equities and the public interest weighed against granting a preliminary injunction to environmental groups seeking to force the Navy to comply with the National Environmental Policy Act. n52 Particularly in the way it characterized the harms to be balanced in that inquiry - considering the risk of a national security incident but holding the environmental plaintiffs to a standard of actual, documented, past harm to wildlife - the Court took an approach to balancing that seemed systematically to disadvantage environmental plaintiffs. Interestingly, there were echoes of the Court's environmental standing jurisprudence in its balancing-of-the-harms analysis in Winter. Though NEPA is a procedural statute, the court did not consider or weigh any procedural harms on the side of the environmental plaintiffs, focusing instead on the types of harms that environmental plaintiffs traditionally have had to rely on to establish standing - individualized scientific, recreational and aesthetic harms. n53 At oral argument, Justice Scalia went so far as to evoke explicitly the requirements of Article III standing in the [\*406] discussion of what harms count for purposes of equitable injunctions. n54 Thus Winter may yet provide a new opening for reinserting common law conceptions of injury into these complex regulatory disputes. n55 Perhaps most significantly, Winter also announced that a district court would abuse its discretion in granting an injunction to the environmental groups even if they ultimately prevailed on the merits. n56 Winter thus appears to represent another **significant obstacle** in the path of environmental groups trying to force **executive compliance** with the law. Importantly, however, the decisions in National Wildlife Federation, Norton v. SUWA and Winters are not constitutional. Given sufficient political will, Congress can smooth those obstacles to environmental citizen suits by amending the Administrative Procedure Act and Federal Rule of Civil Procedure 65(a), governing preliminary injunctions. Because the core of Article III standing doctrine is, by contrast, beyond the capacity of Congress to alter by statute, standing decisions are likely to impose the steepest costs in enforcement of environmental law in the future. This cost to effective enforcement should be borne in mind as courts decide whether to embark down any of the several avenues that exist for reconciling Article III standing and environmental citizen suits. First, courts can opt to extend the Massachusetts approach to causation and redressability to all plaintiffs, rather than confining it to states. They also might accommodate citizen suits by indulging in some slight of hand concerning the nature of the injury that is required. Courts have shown themselves willing, in the past, to sidestep standing difficulties by simply redefining the injury. n57 Thus, in Laidlaw, a "reasonable fear" of illness stemming from toxic emissions was enough to confer standing. n58 A generous application of the "reasonable fear" approach could go a long way towards getting [\*407] environmental groups into court. Finally, the most accommodating way forward, by far, would be to recognize the power of Congress to define injuries and articulate chains of causation free from the constraints of the common law. III. The Problem of Compliance The ability of citizens to access courts in order to compel executive compliance with environmental laws may have important **repercussions** on the **international plane**, because domestic enforcement bears on one of the most fundamental questions in the design of **international environmental agreements** - why do states comply with their commitments? International environmental problems require deep cooperation among states. Given the prevalence of physical, economic, and psychological externalities associated with environmentally harmful practices, cooperation is necessary to the realization of the mutual benefits of common solutions. n59 Negotiated agreements, of course, only facilitate cooperation if states comply with them. Furthermore, expectations about compliance will often constrain the depth of the commitments that states are willing to make - that is, the extent to which they are willing to depart from the course that they would have taken in the absence of cooperation. Just as in private contract situations, states need to be able to rely on credible commitments by other states, especially when the contemplated activities are highly reciprocal. A state party may not be willing to embark on a path of costly pollution control, for example, without highly credible commitments from peer states that they will make the same sacrifices. David Victor blames the shallowness of international environmental law generally on the failure of efforts to develop effective compliance mechanisms. n60 The risk of defection in the environmental context is generally quite high. Because of scientific and economic uncertainty, the costs and benefits of cooperation are difficult to predict and assess ex ante. Moreover, this uncertainty is magnified by the long duration of cooperation that is often necessary to deal effectively with serious environmental problems. Similarly, political economy models predict that compliance with environmental commitments will be inconsistent. n61 The costs of [\*408] environmental regulation are typically highly concentrated, so that regulated sectors - industry groups in particular - have strong incentives to oppose compliance over time. The benefits of regulation, by contrast, are typically diffuse. Beneficiaries face higher transaction costs in organizing in favor of compliance, and high levels of political mobilization may be unsustainable over the long term. As Sunstein argues, the fact that environmental commitments are concluded at all often has to do with the "availability heuristic." n62 By this reasoning, environmental regulation has more widespread appeal when environmental harms are more "cognitively available" - when vivid and salient examples are present in the popular consciousness. As the cognitive availability of environmental harms fades, popular support for costly regulatory measures - and thus for compliance with environmental agreements that compel such measures - tends to fade as well. Given these challenges, how can the advocates of international environmental cooperation ensure compliance with negotiated agreements? A wide variety of explanations have been advanced to explain observed compliance. They need not be viewed as mutually exclusive; more likely, each of these mechanisms contributes in some respect to state compliance. The leading explanations include the reputational costs of defection, n63 the perceived fairness and legitimacy of negotiated agreements, n64 social learning, n65 and administrative capacity-building, both bilateral and multilateral. n66 **Transnational legal process** theorists, such as Harold Koh and Anne Marie Slaughter, predict greater compliance stemming from interactions - direct and indirect - between the legal institutions, broadly understood, of different countries. n67 Other theorists are far less sanguine about the prospects for compliance with international agreements in the face of changing conditions. Goldsmith and Posner have famously argued that the discipline [\*409] of international law mistakes correlation for causation. n68 They argue that the behaviors that international lawyers take to be manifestations of opinio juris are actually no more than states acting in their own interests. Pursuit of the national interest, they suggest, happens to produce consistent behaviors, at most times and in most places, which are mistaken for legal norms. Relatedly, David Victor and Kal Raustiala have questioned whether international law - as opposed to international political processes, culminating in so-called "soft law" - contributes meaningfully to compliance. n69 They point to several instances of highly effective environmental cooperation among states on the basis of non-legally binding agreements, and reason that nations may be more likely to agree to robust monitoring regimes when the commitments at stake are not legally binding. The accounts of compliance with international law that accord the most weight to direct enforceability of commitments in domestic legal systems are liberal theories, which focus on the distinctive domestic institutions of so-called "liberal states." Thus, according to David Victor, there are certain states - liberal democracies - "in which internal public pressure [and] robust legal systems make it possible to enforce international commitments from the inside (ground-up) rather than the outside (top-down)." n70 None of these, however, pays much heed to the potential for **domestic courts** to **play a role** in escaping the compliance dilemma. Even liberal theories tend to focus instead on interest groups and on the operations of the political branches. n71 Victor identified the existence of independent judiciaries as one of three factors explaining heightened compliance with international obligations by liberal states, but left the idea unexplored. He emphasized that "more work is needed to unravel [the] conditions under which they are most effective." n72 [\*410] Oona Hathaway offers empirical support for the hypothesis that domestic legal enforcement contributes meaningfully to compliance with international obligations. n73 After reviewing a range of studies, both qualitative and quantitative, that assess compliance with human rights law, she reaches two conclusions that are relevant here. First, states that boast independent judiciaries, media, and political parties are more likely to join treaties when their human rights practices are good, and are more likely to improve their practices upon joining. n74 In other words, they take their international legal obligations seriously. Second, just as domestic enforcement contributes to international compliance, the existence of "robust domestic rule-of-law institutions" tends to strengthen domestic enforcement. n75 Hathaway concludes, therefore, that work to strengthen local rule of law serves the ultimate goal of compliance with international human rights agreements. n76 In the **environmental context**, the **compliance**-reinforcing potential of domestic enforcement mechanisms is particularly pronounced. In the United States, citizen suits have been tremendously effective at forcing **executive compliance**, at both the federal and state levels, with the major federal environmental statutes. James May offers this assessment: Citizen suits work; they have transformed the environmental movement, and with it, society. Citizen suits have secured compliance by myriad agencies and thousands of polluting facilities, diminished pounds of pollution produced by the billions, and protected hundreds of rare species and thousands of acres of ecologically important land. The foregone monetary value of citizen enforcement has conserved innumerable agency resources and saved taxpayers billions. n77 Citizen suits are a staple of federal environmental law: nearly every major environmental statute imparts a private right of action to citizens. n78 And nearly 75 percent of all actions to enforce domestic environmental laws take the form of citizen suits. n79 Steps to make the environmental treaty obligations of the executive branch enforceable by citizen suit, therefore, may be expected to improve compliance. [\*411] Two overarching approaches to enforcement of international commitments by citizen suit are possible. First, environmental agreements could be made to include more specific, self-executing obligations, from the outset. n80 Alternatively, international agreements could continue to adhere to the model common to the Montreal and Kyoto protocols, whereby states commit to broad quantitative reductions, only now with an additional treaty obligation to provide for private enforcement of subsequent implementing legislation in the domestic legal system. Although this latter option would leave some margin for noncompliance, that margin would be highly circumscribed. Most noncompliance with environmental obligations is not through overt repudiation at the level of the executive or national legislature, but through non-enforcement. n81 Thus, whether international environmental agreements themselves create privately enforceable rights or those provisions are instead inserted later at the time of passage of implementing legislation by the legislature, the availability of citizen suits will greatly diminish the opportunity for states subsequently to renege through inaction on their commitments. n82 The key is to harness the enforcement potential of citizen suits in service of international compliance. This strategy is further recommended by the fact that domestic courts may be particularly well-suited, in institutional terms, to the task of **long-term enforcement** in the environmental context. Independent judiciaries are, in part by definition, more insulated from politics than the executive and the legislature, which means that they are also insulated from some of the most dangerous biases of political actors: short-termism, tendency to undervalue low-risk events, and unwillingness to face up to catastrophic risk. n83 Yet, generally speaking, domestic courts are not so insulated from the political tenor of a country so as to fail to perceive the costs of compliance. n84 Hence, they offer a solution to the vexing trade-off between credibility and [\*412] flexibility faced by the framers of international agreements in which environmental commitments - with their uncertain long-term costs - are at issue. What a country wants is to be bound when the question is close - so as to be able to make a credible commitment - but not when, from their perspective, circumstances have changed so much as to excuse noncompliance. n85 States are understandably wary of trusting foreign or international authorities to recognize and accommodate such instances of changed circumstances. A domestic institution is more likely to do so, even in cases of true judicial independence, simply by virtue of **shared** background **assumptions** that inhere in national identity and culture. Maximizing the extent to which international environmental commitments can make use of domestic legal institutions, therefore, may allow for optimal pre-commitment strategies. In addition to being highly effective, domestic enforcement of international environmental commitments is likely to be more politically palatable, at the stage of institutional design and ratification, than the alternatives. n86 Existing international agreements in this area are notable for their lack of monitoring, sanctions, and other international oversight mechanisms. n87 In the United States, at least, concerns about loss of national sovereignty to international institutions are highly politically salient, and often carried to irrational, even paranoid, extremes. n88 Thus, political resistance to foreign and international monitoring and sanctions regimes often goes far beyond what one would expect given the simple risk that those institutions will be insufficiently attentive to national interests in hard cases. This resistance means that any achievements in international oversight often come at the expense of the depth of the commitments made. n89 In the environmental context, therefore, provision for domestic **judicial** **enforcement** of international commitments may be a Goldilocks solution: just enough **precommitment**, without the steep political price upfront. Such a strategy, however, is closely bound up with the difficult questions about standing doctrine that were discussed in Part I. A [\*413] hospitable doctrine of standing is among the conditions necessary for making domestic courts an effective tool in ensuring compliance with international environmental agreements. If, instead, standing doctrine continues to constrict the environmental citizen suits that make it into court, these compliance benefits will be commensurately foregone. Ironically, standing doctrine will sweep most broadly in excluding citizen enforcement in a substantive area such as environmental law where the achievement of international cooperation was already highly challenging. In a further irony, the imminence and causation requirements of restrictive standing doctrine will make domestic enforcement most difficult to attain precisely when international institutions are most in need of support from domestic sources of compliance pressure: at the early stages of cooperation to address an incipient environmental problem. Climate change is the prime example of these risks, but the mismatch between standing doctrine and the substance of international environmental cooperation is institutional; it has the potential to extend far beyond the particular problem of climate change. Other environmental regimes promise even less concrete, more diffuse, and longer-term benefits from regulation. For example, failure of states to heed commitments directed towards preserving biodiversity will often fail to implicate any plaintiffs in particular. n90 What American has an "injury-in-fact," as interpreted by Justice Scalia, when an agency fails to take action to preserve the genetic diversity of obscure insects, plant species, or microorganisms, the use value of which to humans is almost nonexistent in the short or medium term? n91 Another highly problematic example is explored by Paul Hawken, Amory Lovins and L. Hunter Lovins in Natural Capitalism. n92 Several European countries have made great strides in reducing demand for natural resources and supply of solid waste by imposing responsibility for disposal and other "full life-cycle costs" on the manufacturers of consumer durables and industrial products. But when the environmental goods and services conserved by European states are freely traded, other economies can free-ride off of their efforts. If the United States agreed by treaty to impose similar requirements on manufacturers, what citizens would have standing to challenge executive noncompliance with resulting legislation? The doctrine of Article III standing has profound and far-reaching consequences for United States participation in international regimes to address the pressing environmental problems of today and tomorrow. If standing doctrine remains restrictive, unpredictable, and immune to [\*414] alteration by Congress, the international environment will pay part of the price. IV. Credibility as Negotiating Advantage The course of United States standing doctrine, of course, will not directly influence the enforceability of internationally agreed-upon environmental rules within other countries. Therefore, one might legitimately question the extent to which a change in the domestic law of one state - even that of a hegemonic power - will meaningfully affect the prospects for effective international coordination. n93 One response to such criticism is that removing one obstacle to greater reliance on domestic enforceability in international environmental regimes is a step in the right direction. As Justice Stevens reasoned in Massachusetts v. EPA, that a step is incremental does not defeat its utility. n94 But there also is a separate, stronger response: More robust **domestic enforcement** will strengthen the hand of the United States in international negotiations, whether or not other countries move in the same direction. The academic literature surrounding negotiation has a tendency to analyze the concept of credibility in the context of threats. That is, in bargaining over the spoils within a zone of possible agreement, the party that is able to tie its own hands or burn its bridges (or create the credible impression of having done so), alters (or obscures) its true bottom line. By threatening to walk away from the table, that party captures a greater share of the mutual benefits from agreement. n95 But as I explain, the capacity to make credible promises is also an asset in negotiation. The weakening of domestic enforcement of environmental law renders less valuable the promises made by U.S. negotiators, n96 by the following chain of causation: More restrictive environmental standing hinders domestic judicial enforcement, which in turn makes defection by the executive more likely, which drives negotiating partners to discount the value of promised actions by the (increased) likelihood of defection, thereby [\*415] rendering U.S. promises less valuable. As a result, the U.S. is able to get less in exchange for its promises in international environmental negotiations. Many scholars, however, emphasize the value of flexibility in international agreements, particularly in situations of uncertainty. n97 An advocate of restrictive standing might, in reliance on these analyses, argue that the gain in flexibility to the United States is worth the cost in terms of lost credibility. But the hypothesized Lujan apologist would be wrong. Weakened enforcement by the domestic courts serves only to narrow the range of options available to the political branches in the international arena. Whereas a state that is able to make credible promises can calibrate the value of a promise by varying its substantive content as it wishes, a state lacking credibility is limited in what it can (effectively, credibly) promise. In other words, a state in possession of credibility can still enjoy the benefits of flexibility, but the reverse is not true. Strategies of pre-commitment like domestic enforceability may be particularly useful to hegemonic powers like the United States. Hegemons of course, have a strong interest in preservation of the status quo. While ascendant political forces in the United States have, up to the present, identified the interests of the status quo as in conflict with concerted global action to deal with environmental problems, that position may no longer be tenable. Climate change and other looming ecological crises - not the efforts to deal with them - in fact pose the greater existential threat to the current global order, and American political elites are beginning to understand the need to address them. Thus, the nominees of both major American political parties expressed strong rhetorical support for efforts to deal with climate change in 2008, and a comprehensive cap-and-trade bill passed the House, but not the Senate, in 2009. n98 For a hegemonic power to convince other states to cooperate on its terms, however, it must be able to make credible commitments. Otherwise, the world will remain all too aware of the power of the hegemon to renege after the fact. n99 The U.S.'s need for credibility on the world stage derives not only from [\*416] structural factors. Though America's image in the world has rebounded substantially since the election of President Obama, n100 it was held in much lower esteem just one year ago. n101 And its perceived flouting of international norms was an important contributor to that decline. n102 The Bush administration's salient decisions to opt out of multilateral efforts, including "unsigning" the Rome Statute of the International Criminal Court, withdrawal from the Anti-Ballistic Missile Treaty, and non-participation in the Kyoto process are unlikely to be completely overlooked by global leaders considering long-term reciprocal cooperation with the United States, Obama's recent charm offensives notwithstanding. The international community is painfully aware of the periodic willingness of the political branches - particularly the executive - in the United States to spurn international obligations when interests so dictate. Many point out, however, that these manifestations of United States "exceptionalism" consisted not in noncompliance - violation of a binding legal norm - but rather in perfectly legal decisions to opt out of international processes. n103 The point is true for what it is worth, but prominent instances of U.S. noncompliance with binding legal norms are, nonetheless, fairly easy to identify. One of these instances of noncompliance is the requirement of consular notification in the Vienna Convention on Consular Relations. n104 In Medellin v. Texas, n105 the Supreme Court held that the state of Texas was not bound to refrain from executing Ernesto Medellin, even though the United States was indisputably in breach of its obligations under that treaty. n106 Domestic considerations of federalism and procedural default, therefore, trumped international compliance, much to the dismay of Mexico and many others in the international community. n107 Domestic procedural law also, [\*417] arguably, trumped international obligations for some time in the case of the prisoners of the war on terror held at Guantanamo. With respect to those individuals, the protections of the Geneva Conventions were undone - or at least very significantly delayed - by the jurisdictional requirements of U.S. law. n108 Comprehensive treatment of these controversies is beyond the scope of this paper, but the basic point is clear: the U.S.'s prospective negotiating partners are likely to **be attentive** to the risk that procedural hurdles - like **strict standing** - will **undermine U.S. compliance** in the environmental arena as well. V. Conclusion Several unresolved questions about Article III standing have important implications for the viability and effectiveness of citizen suits in environmental cases. If courts continue the recent trend of allowing procedural doctrines to restrict these suits, the shift may have important international repercussions which have not yet been fully reckoned with. Most important among these is that the unavailability of domestic enforcement of environmental laws through citizen suits will tend to undermine compliance with international environmental obligations. Both the negotiating position of the United States and the prospects for effective cooperation on the most pressing environmental issues facing humanity will suffer accordingly.

#### Fifth Amendment due process solves Launch on Warning

Goldstein 88 (Yonkel Goldstein, J.D., 1988, Stanford Law School, “The Failure of Constitutional Controls Over War Powers in the Nuclear Age: The Argument for a Constitutional Amendment,” Stanford Law Review July, 1988 40 Stan. L. Rev. 1543)

C. Argument that a Launch-on-Warning System Is Unconstitutional A third major approach to the control of United States nuclear weapons is based on the contention that a launch-on-warning (LOW) system is unconstitutional. n260 Several defense department insiders have implied that LOW exists. Testifying before the Senate Armed Services Committee about the vulnerability of MX missiles, General Charles Gabriel, the United States Air Force Chief of Staff, stated, "there are options that I won't go into. . . . [I]f [the enemy] is going for our missile silos, there will be a period of time when we can see his weapons coming. We have sensors that will tell us that. . . . There are [\*1584] options that obviously don't make them [MX missiles] sitting ducks." n261 General John Vessey, Jr., the former Chairman of the Joint Chiefs of Staff, expressed a similar sentiment. Vessey, in discussing the placement of MX missiles in Minutemen silos, stated, "Combined with a good warning system, and a good command and control system, silo vulnerability is not a major issue." n262 The paramount importance of computers was made clear by Dr. Jacob Gilstein, the former director of Ballistic Missile Defense, who testified, "No human being can enter the real time decisionmaking loop and control the system. It has to be preprogrammed with logic so the computer can make the decision and run the game." n263 Given the possible existence of LOW, delegation again becomes a major concern. An operational LOW system means that the President has delegated his commander-in-chief authority to subordinates, and that much of the real authority has been delegated to radar and computers, comprising a system which many experts agree is certain to fail eventually. n264 The controversy over the delegation of the congressional war-powers to the President pales in comparison to the delegation of that authority to machines -- an investiture which means that neither the President nor Congress would make the actual decision to launch American nuclear weapons. Furthermore, under the terms of the Presidential Subdelegation Act of 1950, n265 the President may delegate any of his functions to subordinates, but he must provide for each subdelegation to be published in the Federal Register. Because no subdelegation concerning the control of nuclear weapons has been published in the Federal Register, if LOW exists, it necessarily violates the statute. n266 A second major concern with LOW is that the system violates the due process clause of the fifth amendment because it pushes the available [\*1585] technology beyond reasonable limits. n267 Many believe that over time it virtually assures an accidental nuclear exchange. n268 Because LOW carries a significant risk of accidental launching, it could needlessly provoke a Soviet counterstrike in which millions of Americans would be deprived of their lives and property without any possibility of just compensation.

**---Aff decks reproductive rights, creates a “right to life” for future generations**

**Marcin 8** (Raymond, Professor of Law, The Catholic University of America School of Law, "GOD'S LITTLEST CHILDREN AND THE RIGHT TO LIVE: THE CASE FOR A POSITIVIST PRO-LIFE OVERTURNING OF ROE," 25 J. Contemp. Health L. & Pol'y 38, lexis)

Now, back to Justice Blackmun and the original Roe v. Wade opinion. When Justice Blackmun, in his Roe v. Wade majority opinion, listed every usage of the word "person" in the Constitution (before concluding that none of those usages "indicates, with any assurance, that it has any possible prenatal application" n26), he actually neglected one usage -- a usage that happened, ironically, to be the one seized upon a century earlier by Chief Justice Taney. Justice Blackmun did indeed find every instance in which the exact word "person" appeared, but he neglected one variant of the plural form of that word "person" -- the word "people." The word "people" is found in the well-known and often-memorized Preamble of the Constitution: "We the People of the United States, in Order to . . . secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America." n27 The Preamble contains a clear indication that those who framed the Constitution wanted it to be interpreted in a way that secured the "Blessings of Liberty" (which presumably would presuppose the blessing of life) not only to themselves but also to their yet-to-be-born posterity. In other words, those who framed and those who adopted the Constitution seemed to be saying in the Preamble that if a question should arise as to whether a provision of the Constitution should be interpreted in a way in which the interests of yet-to-be-born posterity would be taken protectively into account, or in a way in which those interests would be essentially ignored, the former interpretation should be the one adopted. That, according to the Preamble of the Constitution, was the intent of the framers of the Constitution and the intent of those who adopted the Constitution, i.e., the people of the United States of America. The framers and those who adopted the Constitution intended to secure the "Blessings of Liberty," including (by presupposition) the right to life so that [\*49] **those blessings could be enjoyed, by yet-to-be-born "Posterity.**" n28 If that argument has any merit, then the very text of the Constitution itself may support the pro-life interpretive approach.¶ But to be practical and to "give the devil his due," one must acknowledge that it would be disingenuous in the extreme to suggest that the word "Posterity" somehow refers exclusively to fetuses. Quite obviously the framers and adopters of the Constitution intended the word to refer to the generations yet to come -- the descendants of the people of the United States of America (and probably not even in an exclusively biological sense). In that context, however, and even with that gloss of understanding, the clause represents a textually specific indication that the Constitution was intended, and presumably should be understood and interpreted, to secure "Blessings of Liberty" to descendants as yet unborn. Indeed it is not disingenuous to suggest that the Constitution places two classes of people on a par in terms of entitlement to the "Blessings of Liberty," i.e., "ourselves" and "our Posterity," and the word "Posterity" n29 is difficult to define except in terms of yet-to-be-born persons. To put the matter quite simply, from a textualist perspective, the conclusion seems inescapable that one of the purposes for the establishment of our Constitution, identified as such in the Preamble, is to secure the "Blessings of Liberty" to yet-to-be-born persons.

#### Lack of reproductive rights risks global extinction via overpopulation & turns warming

Cote 04 (Robin, Author, Lecturer + member of non-profit The Life Center, "Overpopulation Equals Disaster," http://www.truth101.org/vs-overpopulation.html)

By their support of anti-choice laws, such as restrictions on foreign aid, (http://www.pro-truth.net/30-references.html#gag) and by their opposition to certain practices, the anti-abortion promoters deny sex education, birth control, and abortion to millions in third-world countries while the impoverished overpopulation in these countries is busy cutting down what’s left of the rain forests to feed still more unwanted children. The rain forests are not only the homes for most life forms on this planet, these forests are also an essential requirement for a stable global environment.

In the developed countries, to accommodate the increasing population, people are busy building still more factories and cars which produce even more pollution. Pollution is destroying the ozone layer at a phenomenal rate and has already begun to produce an irreversible, environmental disaster of as-yet unimaginable proportions.

## On

### Warming

#### **---Courts can’t solve warming**

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

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

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

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

CONCLUSION

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

#### ----Long timeframe and adaptation solves

Robert O. Mendelsohn 9, the Edwin Weyerhaeuser Davis Professor, Yale School of Forestry and Environmental Studies, Yale University, June 2009, “Climate Change and Economic Growth,” online: http://www.growthcommission.org/storage/cgdev/documents/gcwp060web.pdf

The heart of the debate about climate change comes from a number of warnings from scientists and others that give the impression that human-induced climate change is an immediate threat to society (IPCC 2007a,b; Stern 2006). Millions of people might be vulnerable to health effects (IPCC 2007b), crop production might fall in the low latitudes (IPCC 2007b), water supplies might dwindle (IPCC 2007b), precipitation might fall in arid regions (IPCC 2007b), extreme events will grow exponentially (Stern 2006), and between 20–30 percent of species will risk extinction (IPCC 2007b). Even worse, there may be catastrophic events such as the melting of Greenland or Antarctic ice sheets causing severe sea level rise, which would inundate hundreds of millions of people (Dasgupta et al. 2009). Proponents argue there is no time to waste. Unless greenhouse gases are cut dramatically today, economic growth and well‐being may be at risk (Stern 2006).

These statements are largely alarmist and misleading. Although climate change is a serious problem that deserves attention, society’s immediate behavior has an extremely low probability of leading to catastrophic consequences. The science and economics of climate change is quite clear that emissions over the next few decades will lead to only mild consequences. The severe impacts predicted by alarmists require a century (or two in the case of Stern 2006) of no mitigation. Many of the predicted impacts assume there will be no or little adaptation. The net economic impacts from climate change over the next 50 years will be small regardless. Most of the more severe impacts will take more than a century or even a millennium to unfold and many of these “potential” impacts will never occur because people will adapt. It is not at all apparent that immediate and dramatic policies need to be developed to thwart long‐range climate risks. What is needed are long‐run balanced responses.

#### Warming is irreversible

ANI 10 (“IPCC has underestimated climate-change impacts, say scientists”, 3-20, One India, http://news.oneindia.in/2010/03/20/ipcchas-underestimated-climate-change-impacts-sayscientis.html)

According to Charles H. Greene, Cornell professor of Earth and atmospheric science, "Even if all man-made greenhouse gas emissions were stopped tomorrow and carbon-dioxide levels stabilized at today's concentration, by the end of this century, the global average temperature would increase by about 4.3 degrees Fahrenheit, or about 2.4 degrees centigrade above pre-industrial levels, which is significantly above the level which scientists and policy makers agree is a threshold for dangerous climate change." "Of course, greenhouse gas emissions will not stop tomorrow, so the actual temperature increase will likely be significantly larger, resulting in potentially catastrophic impacts to society unless other steps are taken to reduce the Earth's temperature," he added. "Furthermore, while the oceans have slowed the amount of warming we would otherwise have seen for the level of greenhouse gases in the atmosphere, the ocean's thermal inertia will also slow the cooling we experience once we finally reduce our greenhouse gas emissions," he said. This means that the temperature rise we see this century will be largely irreversible for the next thousand years. "Reducing greenhouse gas emissions alone is unlikely to mitigate the risks of dangerous climate change," said Green.

#### ---No impact to oceans—negligible pH change and animal response

NIPCC 10 (Nongovernmental International Panel on Climate Change, multi-national scientific coalition comprised of leading climate scientists, “Speculations beyond the Scope of Reality,” http://www.nipccreport.org/articles/2010/may/05may2010a1.html, AM)

In the introductory material to their paper on potential effects of predicted near-future increases in CO2-driven ocean acidification on shell-producing calcification in a certain species of oyster, Watson et al. (2009) report that over the past two centuries, CO2 emissions from deforestation and the burning of fossil fuels have increased atmospheric CO2 concentrations from 280 to 380 ppm, citing NOAA/ESRL records produced and maintained by Pieter Tans. They additionally say that the portion of this extra CO2 that has been taken up by the planet's oceans has caused a 0.1 unit drop in the pH of their surface waters, which would appear to be correct. However, they predict there will be a further reduction in ocean pH of 0.3 to 0.5 units by 2100, citing the work of Haugan and Drange (1996), Orr et al. (2005) and Caldeira and Wickett (2005), while noting that these predicted changes in ocean pH "are not only greater but far more rapid than any experienced in the last 24 million years," citing Blackford and Gilbert (2007), or "possibly the last 300 million years," citing Caldeira and Wickett (2003). But how likely are such predictions? Consider the findings of Tans himself, who Watson et al. approvingly cite in regard to the CO2 history they mention. In a paper published inOceanography, Tans (2009) concluded that the future trajectory of oceanic pH will likely be significantly different from that suggested by the scientists cited by Watson et al., while at the same time bravely criticizing the IPCC reports that have also accepted the highly inflated acidification predictions of those scientists. Indeed, whereas Watson et al. and the IPCC accept the claims of those who project a decline in pH somewhere in the range of 0.3 to 0.5 between now and the end of the century, Tans' projections yield a pH decline somewhere in the range of 0.09 to 0.17, which is much smaller, and which would be expected to have significantly reduced biological impacts compared to those suggested by the experimental work of Watson et al. for that future point in time. Based on the results of their experiments and the maximum decline in ocean-water pH that they accept, for example, Watson et al. predict a significantdecline of 72% in Sydney rock oyster (Saccostrea glomerata) larval survival by the year 2100. However, utilizing Watson et al.'s data, but with the maximum ocean-water pH decline calculated by Tans, one obtains a non-significant larval survival decline of only 14%, based on interpolation of the graphical results portrayed in Watson et al.'s paper. In like manner, similar assessments of changes in antero-posterior measurement yield asignificant decline of 8.7% using Watson et al.'s assumptions about ocean pH, but a non-significant decline of only 1.8% according to Tans' pH calculations. Corresponding results for dorso-ventral measurement were a significant decline of 7.5% with Watson et al.'s pH values, but a non-significant decline of only 1.5% with Tans' values; while for larval dry mass there was a decline of 50% in Watson et al.'s analysis, but an actualincrease (albeit non-significant) of 6% using Tans' pH analysis. Last of all, for empty shells remaining there was a significant decline of 90% in the Watson et al. study, but a non-significant decline of only 6% when Tans' pH projections were used. In summation, based on their experimental data and the ocean pH projections for the end of the century that are promoted by them and the IPCC, Watson et al. find what they characterize as "a dramatic negative effect on the survival, growth, and shell formation of the early larval stages of the Sydney rock oyster." On the other hand, employing the pH values projected by Tans, there are no statistically significant reductions in any of the five biological parameters measured and evaluated by Watson et al., which is an amazingly benign response to an environmental threat that is being suggested by some to be more serious or extreme than it was at any other time that it may have reared its ugly head over the past 300 million years!

#### No threshold for ocean acidification

ESF 9 -- European Science Foundation, Professor Marja Makarow, Chief Executive, ESF, Professor Reinhart Ceulemans, Chair, LESC, Mr. Lars Horn, Chair, Marine Board-ESF(8/2009, "Impacts of Ocean Acidification," http://www.ocean-acidification.net/OAdocs/ESF\_SPB37\_OceanAcidification.pdf)

Based on the presently-available data, little is known about the responses of genetically diverse populations, the life-history stages of animals and plants, synergistic effects from other stressors (e.g., temperature, hypoxia, nutrients), and the ability of organisms to undergo physiological and genetic adaptations to decreasing pH. A large gap in our understanding concerns the accumulation of responses from individual organisms to community and ecosystem levels. In view of these uncertainties, it is presently not yet possible to define critical thresholds (tipping points) for tolerable pH decline or to predict the pathways of ecosystem changes where threshold levels have been surpassed. In summary, our present knowledge of the effects of ocean acidification on marine biota is largely based on limited experimental work with single species and strains, maintained in short-term incubations, often exposed to abrupt and extreme changes in carbonate chemistry.

#### ocean species are highly resilient

Dulvy et al in ‘3

(Nicholas, (School of Marine Science and Tech. @ U. Newcastle), Yvonne Sadovy, (Dept. Ecology and Biodiversity @ U. Hong Kong), and John D. Reynolds, (Centre for Ecology, Evolution and Conservation @ School of Bio. Sci. @ U. East Anglia), Fish and Fisheries, “Extinction vulnerability in marine populations”, 4:1, Blackwell-Synergy)

Marine fish populations are more variable and resilient than terrestrial populations Great natural variability in population size is sometimes invoked to argue that IUCN Red List criteria, as one example, are too conservative for marine fishes (Hudson and Mace 1996; Matsuda et al. 1997; Musick 1999; Powles et al. 2000; Hutchings 2001a). For the (1996) IUCN list, a decline of 20% within 10 years or three generations (whichever is longer) triggered a classification of 'vulnerable', while declines of 50 and 80% led to classifications of 'endangered' and 'critically endangered', respectively. These criteria were designed to be applied to all animal and plant taxa, but many marine resource biologists feel that for marine fishes 'one size does not fit all' (see Hutchings 2001a). They argue that percent decline criteria are too conservative compared to the high natural variability of fish populations. Powles et al. (2000) cite the six-fold variation of the Pacific sardine population (Sardinops sagax, Clupeidae) and a nine-fold variation in northern anchovy (Engraulis mordax, Clupeidae) over the past two millennia to suggest that rapid declines and increases of up to 10-fold are relatively common in exploited fish stocks. It should, however, be borne in mind that the variation of exploited populations must be higher than unexploited populations because recruitment fluctuations increasingly drive population fluctuations when there are few adults (Pauly et al. 2002).x

### Miscalc

#### --No way plan prevents cyber attacks & no reason it escalates now – empirically proven that nothing has happened even under political pressure

#### ---Accidents will never occur

Quinlan 9 (Sir Michael Quinlan, Former Permanent Under-Secretary of State UK Ministry of Defense, Thinking About Nuclear Weapons: Principles, Problems, Prospects, p. 63-69, The book reflects the author's experience across more than forty years in assessing and forming policy about nuclear weapons, mostly at senior levels close to the centre both of British governmental decision-making and of NATO's development of plans and deployments, with much interaction also with comparable levels of United States activity in the Pentagon and the State department)

Even if initial nuclear use did not quickly end the fighting, the supposition of inexorable momentum in a developing exchange, with each side rushing to overreaction amid confusion and uncertainty, is implausible. It fails to consider what the situation of the decision-makers would really be. Neither side could want escalation. Both would be appalled at what was going on. Both would be desperately looking for signs that the other was ready to call a halt. Both, given the capacity for evasion or concealment which drive modern delivery platforms and vehicles can possess, could have in reserve significant forces invulnerable enough not to entail use-or-lose pressures. (It may be more open to question, as noted earlier, whether newer nuclear weapon possessors can be immediately in that position; but it is within reach of any substantial state with advanced technological capabilities and attaining it is certain to be a high priority in the development of forces.) As a result, neither side can have any predisposition to suppose, in an ambiguous situation of fearful risk, that the right course when in doubt is to go on copiously launching weapons. And none of this analysis rests on any presumption of highly subtle or pre-concerted rationality. The rationality required is plain. The argument is reinforced if we consider the possible reasoning of an aggressor at a more dispassionate level. Any substantial nuclear armoury can inflict destruction outweighing any possible prize that aggression could hope to seize. A state attacking the possessor of such an armoury must therefore be doing so (once given that it cannot count upon destroying the armoury pre-emptively) on a judgment that the possessor would be found lacking in the will to use it. If the attacker possessor used nuclear weapons, whether first or in response to the aggressor’s own first use, this judgment would begin to look dangerously precarious. There must be at least a substantial probability of the aggressor leaders’ concluding that their initial judgment had been mistaken—that the risks were after all greater than whatever prize they had been seeking, and that for their own country’s survival they must call off the aggression. Deterrence planning such as that of NATO was directed in the first place to preventing the initial misjudgment and in the second, if it were nevertheless made, to compelling such a reappraisal. The former aim had to have primacy, because it could not be taken for granted that the latter was certain to work. But there was no ground for assuming in advance, for all possible scenarios, that the chance of its working must be negligible. An aggressor state would itself be at huge risk if nuclear war developed, as its leaders would know. It may be argued that a policy which abandons hope of physically defeating the enemy and simply hopes to get him to desist is pure gamble, a matter of who blinks first; and that the political and moral nature of most likely aggressors, almost ex hypothesi, makes them less likely to blink. One response to this is to ask what is the alternative—it can be only surrender. But a more hopeful answer lies in the fact that the criticism is posed in a political vacuum. Real-life conflict would have a political context.

#### --No impact to India and Pakistan hairtrigger – not supported in evidence and uniqueness goes the other way

#### ---India and Pakistan peaceful now

Grare 13 -- Director and Senior Associate South Asia Program @ Carnegie Endowment for Peace (Frederic, 1/30/2013, "Is Pakistan’s Behavior Changing?" https://www.carnegieendowment.org/2013/03/01/stalin-puzzle/flpg)

Islamabad has been trying to send signals over the last few months indicating that it is pursuing a new course of action, both internally and externally, that is more in line with international norms. Pakistan has tried to improve its relationship with India. It has also indicated a preference for a negotiated peace in Afghanistan and demonstrated a new attitude toward terrorism. Of course, claims that Pakistan’s policies are changing in one way or another are not new. And in the past, the status quo ante has almost always prevailed. But this could be different. The context is different this time. The looming international troop withdrawal from Afghanistan brings considerable risks for the region in general and for Pakistan in particular. Islamabad fears that, come 2014, it will face an unstable Afghanistan and find itself isolated regionally and globally. For the United States, as new faces enter the Departments of State and Defense, reasonably good relations with Pakistan are a prerequisite for a dignified and safe exit from Afghanistan. Politically, their main challenge will be to work out necessary compromises with Islamabad without risking further deterioration of the regional situation, which could affect Washington’s larger strategic objectives in Asia. In this context, understanding Pakistan’s new policies and their limits is key. Change in Pakistan’s relations with India and Afghanistan and in its sponsorship of terrorism for political purposes is real but does not yet indicate a fundamental shift in strategic thinking. The shift thus far has been prompted by short-term considerations and reflects Pakistan’s weakness and isolation. However, if the tentative changes lead to improvement in the country’s economy and security, a meaningful shift in Pakistan’s strategic character could take hold. The Pakistan-India Normalization Process Relations with India are a good indicator of the reality of any change in Pakistan’s foreign policy. The relationship was notably bad following the 2008 Mumbai terrorist attacks, but it has warmed up since the March 2011 resumption of the so-called composite dialogue on bilateral issues. Later that year, Pakistan announced that it would grant India most-favored-nation trade status by the end of 2012, thus reciprocating India’s gesture of 1996. Interior Ministers Sushil Kumar Shinde and Rehman Malik also agreed on a new visa regime, hailed as another sign of change. But the most-favored-nation decision has not yet been implemented, and the visa regime agreement was put on hold after clashes began on January 6 along the Line of Control that forms India’s border with Pakistan in Kashmir. The two countries seem willing to ease tensions and avoid escalation, but questions about the sustainability of the normalization process are legitimate. They can be partly answered through a careful examination of the motivations behind the rapprochement. Short-term considerations may have played a part. President Asif Ali Zardari needed to show some political achievement in the face of increasing domestic criticism due to the country’s perceived poor economic performance, while the army seemed to be overstretched and in need of a respite on the eastern front so it could focus on its war against militancy in western Pakistan. This has been particularly true because relations with the United States remain complicated and characterized by deep mistrust on both sides. Longer-term, structural factors also contributed to Islamabad’s decisions. As observed by well-known Pakistani analyst Ayesha Siddiqa, peace with India remains the dividing line between the political leadership and the armed forces. A successful peace process would inevitably diminish the political weight of the military and reduce its budget. It is therefore something the civilian government would seek to bolster its own standing. Economic considerations were also important in Pakistan’s decision to change tack. In addition to governance-related problems (widespread blackouts, for example), Chinese goods are now being dumped on the Pakistani market. Small and midsize Pakistani enterprises are struggling to survive. Pakistan can no longer afford the type of triangular trade it has practiced with India in the past, shipping goods through third countries. Such a system costs it several billions of dollars every year. Direct trade with India is becoming a necessity even for basic commodities like electrical power. Under pressure from industrialists and with its significant corporate holdings suffering, the Pakistani military leadership has also lent its support to the current rapprochement with India. As Pakistan is unlikely to bring its economy back on track in the near future, its eagerness to forge closer trading ties with its old rival is likely to endure for some time. The recent clashes between Pakistani and Indian forces in Kashmir, irrespective of which side is responsible for the fighting, indicate that tensions exist within the Pakistani security establishment about Islamabad’s India policy. While occasional incidents are perhaps inevitable in the tense Kashmir environment, the alleged mutilation of the bodies of Indian soldiers could be interpreted as a provocation and an indication that the current course of action remains problematic in some quarters. Moreover, there is no visible sign that the military intends to dismantle militant organizations with a record of attacking India in Kashmir and elsewhere. So long as groups like the Lashkar-e-Taiba persist, hostilities could resume, with or without the consent of the military. However, the fact that no major terrorist attack originating within Pakistan has taken place since the 2008 Mumbai attacks may indicate that Pakistan can control some of its most dangerous jihadi organizations, even if that control is not absolute. The rapprochement with India is therefore fragile. But given the convergence of short- and long-term interests within Pakistan, the normalization could be expected to last. Should it endure, it would also enlarge the political space open to the civilian government, which has always been in favor of better economic relations with India and whose economic interests partly coincide (for once) with those of the military. And if it lasts long enough, a warmer India-Pakistan dynamic could even alter the security establishment’s perception of India. This may not be sufficient to change Pakistan’s India-centric strategic calculations, but it could create an intermediary situation that would eventually permit a more comprehensive shift. That remains, however, purely speculative at this stage.

#### ---Deterrence checks

Giorgio et al 10 (Maia Juel, Tina Søndergaard Madsen, Jakob Wigersma, Mark Westh, “Nuclear Deterrence in South Asia: An Assessment of Deterrence and Stability in the Indian – Pakistan Conflict,” Global Studies, Autumn, http://dspace.ruc.dk/bitstream/1800/6041/1/Project%20GS-BA%2c%20Autumn%202010.pdf)

To what extent has nuclear deterrence enhanced stability in the India-Pakistan conflict? Recalling the logical structure of the paper, we here wish to reconcile the three analyses and offer a coherent synthesis of the results in relation to the research question. In order to gather the threads it is beneficial to shortly reflect upon the main results of the three analyses. Firstly, the aim with the thesis was to explore if there is nuclear deterrence between India and Pakistan, based upon Waltz three requirements. After having undertaken this analysis, we can conclude that Waltz’s requirements for effective nuclear deterrence are in fact fulfilled in both countries. Thus, from a neorealist perspective, is it then possible to deduce that stability reigns between India and Pakistan as a result of nuclear deterrence? Taking a point of departure in neorealist assumptions and nuclear deterrence theory, there is indeed stability between India and Pakistan, as no major war has taken place between the countries, and more importantly, nuclear war has been avoided. Nuclear deterrence has thus been successful in creating stability on a higher structural level.

#### No Indo-Pak miscalc

Ranjan 12 -- PhD student in South Asian studies at the Jawaharlal Nehru University with a Master's degree from the University of Delhi, specializes in Indian internal security and foreign policy (Amit, 5/21, "Nuclear Weapons Still Shape India-Pakistan Relations," http://atlanticsentinel.com/2012/05/nuclear-weapons-still-shape-india-pakistan-relations/)

The two countries have taken many measures to prevent accidental use of their atomic weapons. Chief among them is that India and Pakistan since 1988 are regularly exchanging information about their weapons. They also inform the other side before carrying out military exercises near the border areas or testing their missiles. The real challenge is to prevent nuclear weapons from falling into the hands of terrorists. Whereas states behave in a rational and responsible way, this cannot be expected from nonstate actors. The weapons in both countries are kept in disassembled form and physically apart. They have each set up commanding hierarchies to take decisions about its assemblage and use. Any effort to steal or capture even a single part cannot go unnoticed by the security agencies nor the political leadership. To take possession of a nuclear weapon, a terrorist group would help from the inside, as Abdul Qadeer Khan, the father of Pakistan’s nuclear weapons program, had.

#### No escalation – disagreements remain limited

Weitz 11 (Richard, senior fellow at the Hudson Institute and a World Politics Review senior editor 9/27/2011, “Global Insights: Putin not a Game-Changer for U.S.-Russia Ties,” <http://www.scribd.com/doc/66579517/Global-Insights-Putin-not-a-Game-Changer-for-U-S-Russia-Ties>)

Fifth, there will inevitably be areas of conflict between Russia and the United States regardless of who is in the Kremlin. Putin and his entourage can never be happy with having NATO be Europe's most powerful security institution, since Moscow is not a member and cannot become one. Similarly, the Russians will always object to NATO's missile defense efforts since they can neither match them nor join them in any meaningful way. In the case of Iran, Russian officials genuinely perceive less of a threat from Tehran than do most Americans, and Russia has more to lose from a cessation of economic ties with Iran -- as well as from an Iranian-Western reconciliation. On the other hand, these conflicts can be managed, since they will likely **remain limited and compartmentalized**. Russia and the West **do not have fundamentally conflicting vital interests of the kind countries would go to war over**. And as the Cold War demonstrated, nuclear weapons are a great pacifier under such conditions. Another novel development is that Russia is much more integrated into the international economy and global society than the Soviet Union was, and Putin's popularity depends heavily on his economic track record. Beyond that, there are objective criteria, such as the smaller size of the Russian population and economy as well as the difficulty of controlling modern means of social communication, that will constrain whoever is in charge of Russia.

#### ---No nuclear strike

Graham 7 (Thomas Graham, senior advisor on Russia in the US National Security Council staff 2002-2007, 2007, "Russia in Global Affairs” The Dialectics of Strength and Weakness http://eng.globalaffairs.ru/numbers/20/1129.html)

An astute historian of Russia, Martin Malia, wrote several years ago that “Russia has at different times been demonized or divinized by Western opinion less because of her real role in Europe than because of the fears and frustrations, or hopes and aspirations, generated within European society by its own domestic problems.” Such is the case today. To be sure, mounting Western concerns about Russia are a consequence of Russian policies that appear to undermine Western interests, but they are also a reflection of declining confidence in our own abilities and the efficacy of our own policies. Ironically, this growing fear and distrust of Russia come at a time when Russia is arguably less threatening to the West, and the United States in particular, **than it has been at any time since the end of the Second World War**. Russia does not champion a totalitarian ideology intent on our destruction, its military poses no threat to sweep across Europe, its economic growth depends on constructive commercial relations with Europe, and its strategic arsenal – while still capable of annihilating the United States – is under more reliable control than it has been in the past fifteen years and **the threat of a strategic strike approaches zero probability**. Political gridlock in key Western countries, however, precludes the creativity, risk-taking, and subtlety needed to advance our interests on issues over which we are at odds with Russia while laying the basis for more constructive long-term relations with Russia.

#### No risk of accidental/unauthorized war.

Dr. Leonid Ryabikhin, General (Ret.) Viktor Koltunov and Dr. Eugene Miasnikov, June 2009. Senior Fellow at the EastWest Institute; Deputy Director, Institute for Strategic Stability of Rosatom; and Senior Research Scientist, Centre for Arms Control, Energy, and Environmental Studies, Moscow Institute of Physics and Technology. “De-alerting: Decreasing the Operational Readiness of Strategic Nuclear Forces,” Discussion paper presented at the seminar on “Re-framing De Alert: Decreasing the Operational Readiness of Nuclear Weapons Systems in the U.S.-Russia Context,” [www.ewi.info/system/files/RyabikhinKoltunovMiasnikov.pdf](http://www.ewi.info/system/files/RyabikhinKoltunovMiasnikov.pdf).

Analysis of the above arguments shows, that they do not have solid grounds. Today Russian and U.S. ICBMs are not targeted at any state. High alert status of the Russian and U.S. strategic nuclear forces has not been an obstacle for building a strategic partnership. The issue of the possibility of an “accidental” nuclear war itself is hypothetical. Both states have developed and implemented constructive organizational and technical measures that practically exclude launches resulting from unauthorized action of personnel or terrorists. Nuclear weapons are maintained under very strict system of control that excludes any accidental or unauthorized use and guarantees that these weapons can only be used provided that there is an appropriate authorization by the national leadership. Besides that it should be mentioned that even the Soviet Union and the United States had taken important bilateral steps toward decreasing the risk of accidental nuclear conflict. Direct emergency telephone “red line” has been established between the White House and the Kremlin in 1963. In 1971 the USSR and USA signed the Agreement on Measures to Reduce the Nuclear War Threat. This Agreement established the actions of each side in case of even a hypothetical accidental missile launch and it contains the requirements for the owner of the launched missile to deactivate and eliminate the missile. Both the Soviet Union and the United States have developed proper measures to observe the agreed requirements.

#### No need to de-alert --- systems stable.

William J. Perry and James R. Schlesinger et al, 2009. Former Secretary of Defense, Michael and Barbara Berberian Professor at Stanford University, senior fellow at FSI and serves as co-director of the Preventive Defense Project, and former Secretary of Defense, Secretary of Energy and Director of the Central Intelligence Agency, Counselor to the Center for Strategic and International Studies, lecturer @ SAIS, Johns Hopkins University, PhD International Relations @ UPenn. “America’s Strategic Posture,” Report of the Congressional Commission on the Strategic Posture of the United States, media.usip.org/reports/strat\_posture\_report.pdf.

The second is de-alerting. Some in the arms control community have pressed enthusiastically for new types of agreements that take U.S. and Rus- sian forces off of so-called “hair trigger” alert. This is simply an erroneous characterization of the issue. The alert postures of both countries are in fact highly stable. They are subject to multiple layers of control, ensuring clear civilian and indeed presidential decision-making. The proper focus really should be on increasing the decision time and information available to the U.S. president—and also to the Russian president—before he might autho- rize a retaliatory strike. There were a number of incidents during the Cold War when we or the Russians received misleading indications that could have triggered an accidental nuclear war. With the greatly reduced tensions of today, such risks now seem relatively low. The obvious way to further reduce such risks is to increase decision time for the two presidents. The President should ask the Commander of U.S. Strategic Command to give him an analysis of factors affecting the decision time available to him as well as recommendations on how to avoid being put in a position where he has to make hasty decisions. It is important that any changes in the decision process preserve and indeed enhance crisis stability.

## 2NC – DA, Case

## Off

### Impact – 2NC – Trade

#### DA outweighs and turns case –

**Tea party control causes a withdrawal from trade – that kills agreements that bind nations and prevent war –that’s Panitchpakdi**

#### That jacks US/Russian relations – domestic politics key

Sokov 13 (Nicholas – Senior Fellow at the Vienna Center for Disarmament and Non-Proliferation (VCDNP), “US-Russian Relations: Beyond the Reset”, 1/29, http://www.europeanleadershipnetwork.org/us-russian-relations-beyond-the-reset\_459.html)

Looking into the future, most observers of US-Russian relations tend to concentrate on arms control and disarmament – a new treaty to replace New START, missile defense, tactical nuclear weapons and other similar issues. Others pay attention to the human and political rights issues, including first of all the conservative wave that is sweeping through Russia. It is quite sad that nuclear disarmament and political rights dominate the agenda. This only shows that the relationship lacks depth. More than twenty years after the end of the Cold War, trade and investment remain at an extremely low level. They cannot serve as a stabilizer of the relationship (in sharp contrast to Russia’s relations with Europe) and their absence allows other, more volatile and more adversarial issues to top the agenda. Two features are likely to dominate the future of the US-Russian relationship and both will have a negative effect: domestic politics and the political transition in the Middle East and Northern Africa which is commonly known as the “Arab Spring.” Contrary to common opinion, there are very few truly difficult issues on the bilateral agenda that cannot be resolved through negotiation. The increasingly conflictual nature of the relationship results from domestic politics in both countries rather than from strategic, economic, or political differences. A good illustration is the well-known controversy over missile defense. Any decent diplomat could find a solution in a matter of months. Russian concerns concentrate on the fourth – and the last – phase of the American plan (known as the Phased Adaptive Approach), which foresees deployment of systems theoretically capable of intercepting strategic missiles. The solution proposed by Russian military leaders is to limit the capability of the fourth-phase system (for example, through limits on the number of interceptors and the areas of their deployment) so that it does not undermine the existing US-Russian strategic balance while preserving the ability of the American system to intercept a small number of long-range missiles, i.e., to limit the system to its officially proclaimed purpose. In the end, this is about the predictability of the American missile defense capability. The prospect of reaching agreement, however, is barred by the Republican Party, especially its Tea Party wing, which regards any limits whatsoever as anathema. Missile defense is an article of faith. This is not about plans or capabilities: this is about a deeply ideological commitment to unrestricted unilateralism. The increasingly tough and vocal (even shrill) Russian rhetoric also stems from domestic politics. Implementation of phase four of PAA is supposed to begin in the end of this decade and it may be another five to seven years, if not longer, until it begins to affect Russian strategic capability. There is plenty of time to negotiate. However, the rhetoric of the Russian government suggests that the threat is imminent. It is safe to assume that is simply the familiar “rally-around-the-flag” tactic of consolidating the public around the government.

#### Russia relations solve global nuclear war

Allison 11 (Graham, Director – Belfer Center for Science and International Affairs at Harvard’s Kennedy School, and Former Assistant Secretary of Defense, and Robert D. Blackwill, Senior Fellow – Council on Foreign Relations, “10 Reasons Why Russia Still Matters”, Politico, 2011, http://dyn.politico.com/printstory.cfm?uuid=161EF282-72F9-4D48-8B9C-C5B3396CA0E6)

That central point is that Russia matters a great deal to a U.S. government seeking to defend and advance its national interests. Prime Minister Vladimir Putin’s decision to return next year as president makes it all the more critical for Washington to manage its relationship with Russia through coherent, realistic policies. No one denies that Russia is a dangerous, difficult, often disappointing state to do business with. We should not overlook its many human rights and legal failures. Nonetheless, Russia is a player whose choices affect our vital interests in nuclear security and energy. It is key to supplying 100,000 U.S. troops fighting in Afghanistan and preventing Iran from acquiring nuclear weapons. Ten realities require U.S. policymakers to advance our nation’s interests by engaging and working with Moscow. First, Russia remains the only nation that can erase the United States from the map in 30 minutes. As every president since John F. Kennedy has recognized, Russia’s cooperation is critical to averting nuclear war. Second, Russia is our most consequential partner in preventing nuclear terrorism. Through a combination of more than $11 billion in U.S. aid, provided through the Nunn-Lugar Cooperative Threat Reduction program, and impressive Russian professionalism, two decades after the collapse of the “evil empire,” not one nuclear weapon has been found loose. Third, Russia plays an essential role in preventing the proliferation of nuclear weapons and missile-delivery systems. As Washington seeks to stop Iran’s drive toward nuclear weapons, Russian choices to sell or withhold sensitive technologies are the difference between failure and the possibility of success. Fourth, Russian support in sharing intelligence and cooperating in operations remains essential to the U.S. war to destroy Al Qaeda and combat other transnational terrorist groups. Fifth, Russia provides a vital supply line to 100,000 U.S. troops fighting in Afghanistan. As U.S. relations with Pakistan have deteriorated, the Russian lifeline has grown ever more important and now accounts for half all daily deliveries. Sixth, Russia is the world’s largest oil producer and second largest gas producer. Over the past decade, Russia has added more oil and gas exports to world energy markets than any other nation. Most major energy transport routes from Eurasia start in Russia or cross its nine time zones. As citizens of a country that imports two of every three of the 20 million barrels of oil that fuel U.S. cars daily, Americans feel Russia’s impact at our gas pumps. Seventh, Moscow is an important player in today’s international system. It is no accident that Russia is one of the five veto-wielding, permanent members of the U.N. Security Council, as well as a member of the G-8 and G-20. A Moscow more closely aligned with U.S. goals would be significant in the balance of power to shape an environment in which China can emerge as a global power without overturning the existing order. Eighth, Russia is the largest country on Earth by land area, abutting China on the East, Poland in the West and the United States across the Arctic. This territory provides transit corridors for supplies to global markets whose stability is vital to the U.S. economy. Ninth, Russia’s brainpower is reflected in the fact that it has won more Nobel Prizes for science than all of Asia, places first in most math competitions and dominates the world chess masters list. The only way U.S. astronauts can now travel to and from the International Space Station is to hitch a ride on Russian rockets. The co-founder of the most advanced digital company in the world, Google, is Russian-born Sergei Brin. Tenth, Russia’s potential as a spoiler is difficult to exaggerate. Consider what a Russian president intent on frustrating U.S. international objectives could do — from stopping the supply flow to Afghanistan to selling S-300 air defense missiles to Tehran to joining China in preventing U.N. Security Council resolutions.

#### Independently – Tea Party results in massive China bashing – that’s 1NC Lighthizer

#### That causes a US-China trade war – escalates to conflict

**Droke 10** (Clif, Editor – Momentum Strategies Report, “America and the Next Major War’, Green Faucet, 3-29, http://www.greenfaucet.com/technical-analysis/america-and-the-next-major-war/79314)

In the current phase of relative peace and stability we now enjoy, many are questioning when the next major war may occur and speculation is rampant as to major participants involved. Our concern here is strictly of a financial nature, however, and a discussion of the geopolitical and military variables involved in the escalation of war is beyond the scope of this commentary. But what we can divine from financial history is that "hot" wars in a military sense often emerge from trade wars. As we shall see, the elements for what could prove to be a trade war of epic proportions are already in place and the key figures are easily identifiable. Last Wednesday the lead headline in the Wall Street Journal stated, "Business Sours on China." It seems, according to WSJ, that Beijing is "reassessing China's long-standing emphasis on opening its economy to foreign business....and tilting toward promoting dominant state companies." Then there is Internet search giant Google's threat to pull out of China over concerns of censorship of its Internet search results in that country. The trouble started a few weeks ago Google announced that it no longer supports China's censoring of searches that take place on the Google platform. China has defended its extensive censorship after Google threatened to withdraw from the country. Additionally, the Obama Administration announced that it backs Google's decision to protest China's censorship efforts. In a Reuters report, Obama responded to a question as to whether the issue would cloud U.S.-China relations by saying that the human rights would not be "carved out" for certain countries. This marks at least the second time this year that the White House has taken a stand against China (the first conflict occurring over tire imports). Adding yet further fuel to the controversy, the U.S. Treasury Department is expected to issue a report in April that may formally label China as a "currency manipulator," according to the latest issue of Barron's. This would do nothing to ease tensions between the two nations and would probably lead one step closer to a trade war between China and the U.S. Then there was last week's Wall Street Journal report concerning authorities in a wealthy province near Shanghai criticizing the quality of luxury clothing brands from the West, including Hermes, Tommy Hilfiger and Versace. This represents quite a change from years past when the long-standing complaint from the U.S. over the inferior quality of Chinese made merchandise. On Monday the WSJ ran an article under the headline, "American Firms Feel Shut Out In China." The paper observed that so far there's little evidence that American companies are pulling out of China but adds a growing number of multinational firms are "starting to rethink their strategy." According to a poll conducted by the American Chamber of Commerce in China, 38% of U.S. companies reported feeling unwelcome in China compared to 26% in 2009 and 23% in 2008. As if to add insult to injury, the high profile trial of four Rio Tinto executives in China is another example of the tables being turned on the West. The executives are by Chinese authorities of stealing trade secrets and taking bribes. There's a touch of irony to this charge considering that much of China's technology was stolen from Western manufacturing firms which set up shop in that country. It seems China is flexing its economic and political muscle against the West in a show of bravado. Yet one can't help thinking that this is exactly the sort of arrogance that typically precedes a major downfall. As the Bible states, "Pride goeth before destruction, and an haughty spirit before a fall." In his book, "Jubilee on Wall Street," author David Knox Barker devotes a chapter to how trade wars tend to be common occurrences in the long wave economic cycle of developed nations. Barker explains his belief that the industrial nations of Brazil, Russia, India and China will play a major role in pulling the world of the long wave deflationary decline as their domestic economies begin to develop and grow. "They are and will demand more foreign goods produced in the United States and other markets," he writes. Barker believes this will help the U.S. rebalance from an over weighted consumption-oriented economy to a high-end producer economy. Barker adds a caveat, however: if protectionist policies are allowed to gain force in Washington, trade wars will almost certainly erupt and. If this happens, says Barker, "all bets are off." He adds, "The impact on global trade of increased protectionism and trade wars would be catastrophic, and what could prove to be a mild long wave [economic] winter season this time around could plunge into a global depression." Barker also observes that the storm clouds of trade wars are already forming on the horizon as we have moved further into the long wave economic "winter season." Writes Barker, "If trade wars are allowed to get under way in these final years of a long wave winter, this decline will be far deeper and darker than necessary, just as the Great Depression was far deeper and lengthier than it should have been, due to growing international trade isolationism. He further cautions that protectionism in Washington will certainly bring retaliation from the nations that bear the brunt of punitive U.S. trade policies. He observes that the reaction from one nation against the protectionist policies of another is typically far worse than the original action. He cites as an example the restriction by the U.S. of $55 million worth of cotton blouses from China in the 1980s. China retaliated by cancelling $500 million worth of orders for American rain. "As one nation blocks trade, the nation that is hurt will surely retaliate and the entire world will suffer," writes Barker.

#### US-China war goes nuclear

Johnson 1 (Chalmers, President – Japan Policy Research Institute, “Time to Bring the Troops Home”, The Nation, 4-26, http://ieas.berkeley.edu/cks/k12/girling\_troops.doc)

In East Asia, the United States maintains massive and expensive military forces poised to engage in everything from nuclear war to sabotage of governments that Washington finds inconvenient (for example, the government of former President Suharto in Indonesia, which in May 1998 the US government helped to bring down via troops its Special Forces had trained). At the beginning of the twenty-first century, the United States still deploys some 100,000 military personnel and close to an equal number of civilian workers and dependents in Japan and South Korea. These forces include the Third Marine Expeditionary Force in Okinawa and Japan; the Second Infantry Division in South Korea; numerous Air Force squadrons in both countries (Kadena Air Force Base in Okinawa is the largest US military installation outside the United States); the Seventh Fleet, with its headquarters in Yokosuka, Japan, patrolling the China coast and anywhere else that it wants to go; and innumerable submarine pens (for example, White Beach, Okinawa), support facilities, clandestine eavesdropping and intelligence-collecting units, Special Forces and staff and headquarters installations all over the Pacific. From approximately 1950 to 1990, the US government invoked the cold war to justify these so-called forward deployments--actually, in less euphemistic language, imperialist outposts. During the late 1940s, when it became apparent that the Chinese Communist Party was going to win the Chinese civil war, the United States reversed its policy of attempting to democratize occupied Japan and devoted itself to making Japan Washington's leading satellite in East Asia. The United States entered into an informal economic bargain with Japan: In return for Japan's willingness to tolerate the indefinite deployment of US weapons and troops on its soil, the United States would give it preferential access to the American market and would tolerate its protectionism and mercantilism. These were advantages the United States did not extend to its European allies or Latin American neighbors in the cold war. Oddly enough, this policy is still in effect some fifty-four years after it was first implemented. In return for hosting 40,000 US troops and an equal number of dependents in ninety-one US-controlled bases, Japan still has privileged access to the US economy and still maintains protectionist barriers against US sales and investment in the Japanese market. The overall results of this policy became apparent in the 1970s and led to acute problems for the US economy in the 1980s--namely, huge excess manufacturing capacity in Japan and the hollowing out of US manufacturing industries. The costs for the United States have been astronomical. During the year 2000 alone, it recorded its largest trade deficit ever, of which $81 billion was with Japan. During the mid-1980s, Japan became the world's largest creditor nation and the United States became the world's largest debtor nation, thereby turning upside down the original assumptions on which US economic policies toward Japan were based. But neither the United States nor Japan made any changes in its old trade-for-bases deal, despite occasional and futile protests by US business interests. Meanwhile, from the point of view of US elites committed to maintaining hegemony on a global basis, the sudden and unpredicted collapse of the Soviet Union in the period 1989 to 1991 was a disaster. They had to find some new justifications for their overseas presence, particularly in East Asia, where Japan's inherent power and the emergence of a commercially oriented China offered implicit challenges to the old American order. Among these justifications, one of the cleverest was the so-called two-war strategy, which requires the US military establishment to be able to fight two large wars on opposite sides of the globe at the same time. The beauty of this formulation is that it avoids specifying which nations might conceivably want to go to war with the United States and ignores the historical fact that in America's most recent wars--Korea, Vietnam, the Persian Gulf and Yugoslavia--no second nation (on the other side of the globe or nearby) challenged it. More concretely, Pentagon strategists have tried to find replacement enemies for the former USSR by demonizing North Korea and muttering ominously about China's successful transition from a Leninist command economy to a state-guided market system resembling the other successful capitalist countries of East Asia. Until June 2000, North Korea was routinely described as an extremely threatening "rogue state." Then, on the initiative of the South Korean president, the two Koreas began to negotiate their own reconciliation without asking for US permission. The possibility that North and South Korea might achieve some form of peaceful coexistence totally undercuts the main US rationale for a "national missile defense" and a "theater missile defense." Regardless of which ventriloquist is in charge of him on any given day, George W. Bush shows no sign of comprehending these matters. In March, when South Korean President Kim Dae Jung, last year's winner of the Nobel Peace Prize, visited Washington to ask for help in pursuing his country's rapprochement with the North, the newly designated "leader of the free world" rudely brushed him off. Korea policy has become a plaything of Congressional Republican mastodons, and the Bush White House seems much more interested in pleasing them than in the situation in East Asia. It is easy for the United States to attempt to bully both the North and South Koreas; it has been doing so since 1945. China is another matter. No sane figure in the Pentagon wants a war with China, and all serious US militarists know that China's minuscule nuclear capacity is not offensive but a deterrent against the overwhelming US power arrayed against it (twenty archaic Chinese warheads versus more than 7,000 US warheads). Taiwan, whose status constitutes the still incomplete last act of the Chinese civil war, remains the most dangerous place on earth. Much as the 1914 assassination of the Austrian crown prince in Sarajevo led to a war that no one wanted, a misstep in Taiwan by any side could bring the United States and China into a conflict that neither wants. Such a war would bankrupt the United States, deeply divide Japan and probably end in a Chinese victory, given that China is the world's most populous country and would be defending itself against a foreign aggressor. More seriously, it could easily escalate into a nuclear holocaust.

### Tea Party – Trade – Environment

#### Trade is key to the environment

Schoenbaum 92 (Thomas - Prof @ Dean Rusk Center for International and Comparative Law @ UGA, “Trade and Environment: Free International Trade and Protection of the Environment: Irreconcilable conflict?” 86 A.J.I.L. 700 lexis)

The environmentalists who argue that free trade will destroy the environment are shortsighted and wrong. As a recent GATT informational report n8 has pointed out, there is no fundamental conflict between GATT rules and the need to protect environmental quality. Analysis shows that existing GATT regulations place virtually no constraints on the ability of a nation to protect its own environment and resources against damage caused by either domestic production or domestically produced or imported products. n9 GATT rules can also be made consistent with efforts to preserve regional and global environmental quality. Furthermore, trade liberalization, whether on a global or regional basis, will actually help the environmentalists' cause by (1) fostering common standards for environmental protection that must be observed even by certain developing countries that currently ignore environmental concerns; n10 (2) terminating subsidies, particularly in agriculture, that are environmentally destructive, as well as inefficient; n11 and (3) ensuring economic growth, which will create the financial means, particularly for developing countries, to control pollution and protect the environment.

### U – A2: UQ Overwhelms the Link

#### No – all evidence predicts a close 5-4 decision -- 1nc Gora says this outcome hinges on Kennedy --- he’ll change his mind if he thinks the court’s already spent too much capital

Smith, ’92 (Christopher E. Smith, Pol. Sci. @ Akron, Fall 1992, “SUPREME COURT SURPRISE: JUSTICE ANTHONY KENNEDY'S MOVE TOWARD MODERATION,” 45 Okla. L. Rev. 459)

There is, of course, no way to know with certainty why Justice Kennedy made his dramatic move toward moderation in highly publicized cases during the 1991 Term. Because it is highly unlikely that Justice Kennedy will ever forthrightly discuss his changing views, scholars must rely on the available evidence to analyze the motivations for and consequences of his move away from the Court's conservative bloc. It is clear that Justice Kennedy, more than any other Justice, altered his decisions and contradicted his previously stated positions in order to preserve precedents in cases concerning abortion and the Establishment Clause. Although there might be various explanations for this switch, the emphasis in his opinions on preserving doctrinal stability and the Court's legitimacy in the eyes of the public provides the strongest plausible explanation for the change in his judicial behavior. It is difficult to predict how Justice Kennedy will vote in future cases or if his move toward moderation will have lasting impact, particularly because new ap- pointments in the next few years may further alter the ideological balance of power on the Court. In any event, Justice Kennedy's decisions during the 1991 Term seem to confirm two important observations. First, Justices' decisions are obviously affected by a set of factors more complex than the mere sum of their judicial philosophies and policy preferences. As Justice Kennedy's actions demonstrate, the factors motivating a Justice's decisions can change from Term to Term. Justice Kennedy's obvious concern for the Court's legitimacy with respect to the abortion issue did not emerge until Roe was actually threatened with reversal during the tumult of a presidential election year. Second, this relatively quiet and unassuming Justice, who'is nearly always overshadowed by his more controversial and outspoken col- leagues, deserves additional scrutiny from scholars as an emerging "power broker" in the middle of the Supreme Court who can determine the out- comes of cases when the Court is deeply divided.

#### Its not set in stone- can still change

Fuchs 13

[Erin, Business Insider, Huge Supreme Court Case Could Change Everything About Rich People In Politics, 2/21/13, <http://www.businessinsider.com/whats-at-stake-in-mccutcheon-v-fec-2013-2>]

But, as SCOTUSBlog points out, the Supreme Court's campaign finance opinions aren't written in stone. "The current Supreme Court has shown in recent years that it is not averse to the idea of reconsidering some of its most important rulings on campaign finance, as it did rather spectacularly in 2010, when it issued the hotly controversial decision in Citizens United v. FEC," SCOTUSBlog's Lyle Denniston points out. The Supreme Court found in Citizens United that corporations can spend as much as they want on political campaigns as long as they didn't give money directly to candidates. In the McCutcheon case, the Supreme Court probably won't take the radical step of declaring all limits on campaign contributions unconstitutional, according to Briffault, the Columbia law professor. But the case will give the court its first chance to loosen the limits since 2010. Elected officials, and those who fund their campaigns, will likely be watching very closely.

### Capital Key – 2NC

#### Court capital is key for controversial campaign finance decisions

Hasen 11 (Richard L. – William H. Hannon Distinguished Professor of Law, Loyola Law School-Los Angeles, “ARTICLE: CITIZENS UNITED AND THE ILLUSION OF COHERENCE”, 2011, 109 Mich. L. Rev. 581, lexis)

Although these findings would likely give the Justices considerable pause before overturning core campaign contribution limitations, it does not mean that the Court's campaign finance jurisprudence is likely to remain stagnant. Campaign finance issues are barely understood by the public and generally not a national priority. n261 Only extreme opinions like Citizens United are likely to get the public's attention. Assuming this same five-Justice majority stays on the Court, the Justices will be presented with many less-salient ways to loosen the campaign finance rules. n262 However, complete deregulation, along the lines proposed by Justice Thomas, would take political courage to issue additional politically unpopular decisions. It is not clear that there are five Justices willing to spend considerable goodwill and political capital on such a strategy.

#### Biggest case on the docket

Smith 9/6 (Bradley, “Bradley Smith: The Supreme Court and Ed Corsi's Life of Political Crime”, 2013, http://online.barrons.com/article/SB10001424127887324009304579040671355619380.html?mod=BOL\_article\_full\_more)

When the Supreme Court reconvenes in October, the big campaign-finance case will be McCutcheon v. Federal Election Commission, which nervous censors have dubbed "the next Citizens United." McCutcheon deals with the ability of affluent Americans to contribute to political parties and candidates. Never mind that the candidates and causes these people support represent the views of millions of citizens. "Reformers" argue, and many Americans seem to agree, that "big money" in politics must be regulated.

#### PC is key – It’s as big as Citizens United

Jones 9/11 (Jessica, “Supreme Court Preview: McCutcheon v. Federal Election Commission”, 2011, http://www.lwv.org/blog/supreme-court-preview-mccutcheon-v-federal-election-commission)

The U.S. Supreme Court is set to begin hearing cases in its fall term next month. On the second day of arguments, a case that has been labeled the “next Citizens United” will be heard by the Justices. The case, McCutcheon v. Federal Election Commission (FEC), challenges aggregate spending limits that are imposed on individual donors in order to prevent corruption and the appearance of corruption. To understand the full effect that this case could have on campaign finance, it’s important to understand what limits are currently placed on individual donor contributions.

#### Freedom of speech decisions cost capital

David A. Logan, Professor of Law, Wake Forest University, Spring 1990, University of Pittsburgh Law Review, 51 U. Pitt. L. Rev. 493, ln

Finally, besides history and policy, there are strong strategic justifications for limiting first amendment protection to political speech. The broader the protection granted, and the larger the number of cases in which the first amendment is raised as a defense, the harder it is for courts to give the protection that is needed to the cases that lie close to the core of the first amendment. The Supreme Court, as a countermajoritian institution, has a limited amount of political "capital" to expend, and it must husband this resource carefully. 357 Restrictions on speech often have broad popular appeal and striking down such limitations severely taxes the Court's resources, as is apparent from the uproar resulting from the recent decision in the flag-burning case. 358 Such a case justifies the institutional costs that may result (including attempts to amend the Bill of Rights itself) because it involves speech near the heart of the amendment. But by invalidating other restrictions on speech that have broad popular support, like regulations on pornography, lawyer advertising, or the publication of the names of rape victims, the Court unjustifiably draws down its precious capital. 359 Similarly, the broader the protection, the more likely it is that in times of stress the courts will be hard pressed to provide no protection to "speech that matters." n360 A key insight into why this concern is justified comes from a recent article by Professor Vincent Blasi. n361 Professor Blasi argues that courts should adopt a "pathological perspective. . . . The overriding objective at all times should be to equip the first amendment to do maximum service in those historical periods when intolerance of unorthodox ideas is most prevalent and when governments are most able and most likely to stifle dissent systematically." n362 A narrow, but deep, first amendment is consistent with this view. Such [\*562] a position is more likely to enable courts to resist public pressures when it is clear what the first amendment protects and why, and when the democratic process retains significant room to regulate in controversial areas. A final strategic reason for a narrow first amendment is that it may enable the Court to give the broad protection to political speech that is needed. Unlike speech that is "hardy and unlikely to be deterred," n363 political speech is fragile. n364 Absent substantial constitutional protection, a speaker may choose to remain silent rather than face the risks of civil liability when the benefits are as abstract as those obtained from much political speech. n365 In order to grant absolute protection to the speech that matters, it may be necessary, as a matter of judicial politics, to resist the temptation to define broadly the class of statements which is given any constitutional protection. n366

### Yes Make-Up/Spillover – 2NC

#### Controversial decisions spend political capital

Grosskopf and Mondak ‘98 (Anke Grosskopf, Assistant Prof of Political Science @ Long Island University, & Jeffrey Mondak, Professor of Political Science @ U of Illinois, 1998, “Do attitudes toward specific supreme court decisions matter? The impact of Webster and Texas v Johnson on Public Confidence in the Supreme Court” Political Research Quarterly, vol. 51 no 3 633-54 September 1998)

Our empirical focus in this article may be specific, but, on a theoretical level, we see several components in the relationship between public opinion and the Supreme Court. Discussion of this broad relationship thus provides context necessary to understand the empirical contribution we hope to offer. We begin by noting that we presume there to be a bidirectional link between opinion about Supreme Court decisions and support for the Court as an institution. Support for the Supreme Court acts as a form of political capital (e.g., Choper 1980; Grosskopf 1996; Mondak 1992). From this perspective, the Supreme Court "spends" a portion of its institutional support when it affixes its imprimatur to controversial policy questions. In short, a popular Court can increase public support for unpopular policy actions, but, by doing so, the Court exposes itself to the risk of diminished public esteem. The Supreme Court's legitimating function has been demonstrated in several experimental and quasi-experimental studies (Hoekstra 1995; Hoekstra and Segal 1996; Mondak 1990, 1992, 1994). This body of research, which draws heavily on social-psychological theories of information processing, establishes that the Supreme Court can in at least some circumstances elevate public support for a policy simply by issuing a decision. However, this effect does not operate uniformly for all decisions or for all people. Instead, knowledge that the Supreme Court has ruled a particular way increases the perceived legitimacy of a policy the most for those people for whom the issue is of the lowest salience or personal relevance.

#### That forces a tradeoff – judges act strategically – they perceive a need to make-up call

Grosskopf and Mondak ‘98 (Anke Grosskopf, Assistant Prof of Political Science @ Long Island University, & Jeffrey Mondak, Professor of Political Science @ U of Illinois, 1998, “Do attitudes toward specific supreme court decisions matter? The impact of Webster and Texas v Johnson on Public Confidence in the Supreme Court” Political Research Quarterly, vol. 51 no 3 633-54 September1998)

The existence of a strong link between basic values and diffuse support does not necessarily preclude a role for specific decisions, particularly when we seek to understand how support comes to change over time (e.g., Caldeira and Gibson 1992: 658-61). We believe that any claim that the Supreme Court is fully immune to backlash against controversial decisions can be rejected on a prima facie level. First, consider the extreme case. Were the Supreme Court to make its occasional blockbusters-Brown v. Board of Education, Roe v. Wade, Texas v. Johnson, etc.-the norm by routinely ruling on the thorniest social questions, we see it as implausible that such actions would bring no cumulative impact on how people view the Court. Second, the Supreme Court's typical mode of operation suggests that justices themselves view institutional support as an expendable political capital (Choper 1980). That is, the Court recognizes its own political limitations, and thus justices pick their spots carefully when approaching potentially controversial cases. From this perspective, the apparent dominance of democratic values as a determinant of institutional support (e.g., Caldeira and Gibson 1992) means not that the Court is insulated from backlash, but that strategic justices tread cautiously so as to keep backlash to a minimum. Consequently, how and where we examine whether public response to Supreme Court decisions affects institutional support may shape what answer we find.

#### Capital is finite – the court strategically picks its battles

Young, ’04 (Ernest A. Young, Prof of Law at UT Austin, November 2004, “The Rehnquist Court's Two Federalisms” 83 Tex. L. Rev. 1)

Whether or not Alexander Hamilton was right to call the judiciary the "least dangerous branch," n451 both contemporary theory and historical experience suggest that courts' ability to defy the national political branches is not unlimited. Those limits bear on federalism doctrine in at least three respects. First, they support, at least to some extent, the notion that the judiciary has limited institutional capital. If that is true, then courts may not be able to pursue all possible doctrinal avenues at once and may, in consequence, have to choose among them. Second, these limits suggest that courts should pursue certain kinds of doctrine. In particular, they support doctrine that advances the goal of state autonomy without forcing direct confrontations by invalidating political branch actions. Finally, the limits on the judiciary's ability to confront the political branches ought to temper our expectations (or fears) of what judicial federalism doctrine can accomplish.

#### Spillover occurs --- the plan’s unpopular ruling minimizes the likelihood of other controversial decisions

Mondak 91 (Jeffery, PhD Candidate – Indiana U, Substantive and Procedural Aspects of Supreme Court decisions as Determinants of Institutional Approval, American Politics Quarterly, v19, n2, April, p. 185)

The impact of the content of Supreme Court rulings has important ramifications for the future credibility of the Court. Because unpopular decisions exert negative influence on institutional approval, the Supreme Court would seem to be the master of its own institutional fate. As Choper (1980) explains: The Court’s prestige and authority is of a broad institutional nature, and when the Court expends its store of capital it tends to do so in a cumulativefashion…[I[f one or another of the Court’s rulings sparks a markedly hostile reaction, then the likelihood that subsequent judgments will be rejected is greatly increased. (P. 156) The substance of a majority of Court decisions does mirror the policy preferences of the American public (Marshall 1988, 1989), suggesting that the Court has been able to preserve its institutional credibility, whether deliberately or coincidentally, by minimizing rulings likely to prompt hostile public reaction.

#### Decisions do spill over – unpopular rulings cause damage limitation in other cases

Baum, ‘03 (Lawrence, Department of Political Science @ Ohio State University, “The Supreme Court in American Politics,” June, http://arjournals.annualreviews.org/doi/full/10.1146/annurev.polisci.6.121901.085526;jsessionid=n1HzQqZJALRe)

Another possibility is that the justices ordinarily give little attention to their political environment but take protective action when their decisions have aroused negative reactions from other policy makers. Justices might reason that it is a poor strategy to depart from their most preferred positions to avoid the possibility of an unfavorable response from the other branches. But when conflicts actually occur, the justices retreat as a means to limit the damage. What might be called crisis-driven strategy is analogous to the "fire alarm" form of congressional oversight over the executive branch. Compared with routine strategy, it would lead to more interventions and more confrontations, but some periods of intervention would end abruptly as the justices responded to conflicts provoked by their decisions.

#### Court capital is finite—the judiciary can only “rock the boat” so much before capital is expended

Sullivan 99 (Johnathan, JD Candidate @ OSU, 60 Ohio St. L.J. 1103, lexis)

The cyclical nature of its jurisprudence notwithstanding, the Court does not always explicitly resurrect certain doctrines, either because they are legally or socially unpopular, or because theywould expend the Court's political capital. 17 Economic substantive due process, for the last sixty years, has been the apotheosis of such doctrines. 18 Substantive due process, as every constitutional law class is taught, is the practice of giving substantive content to both Due [\*1108] Process Clauses 19 of the United States Constitution. In other words, the doctrine gives the Court power to strike down legislation that is substantively, not just procedurally, abhorrent. 20 In truth, the Court has used this power almost exclusively to enforce rights that are outside the text of the Constitution; it has used substantive due process to create new rights. Among the rights created, at one time or another, are the right to own slaves, 21 the right to abortion, 22 and the right to live with one's extended family. 23

n17 Political capital is a concept stemming from the idea that the Court (or any institution of government) can only "rock the boat" so much; it spends political capital by exercising its will in ways that flout the wishes of its co- institutions, or which defy the will of the People as a whole. For a general discussion of the Court's extremely limited political capital in the specific context of homosexual rights, see Louis Michael Seidman, Romer's Radicalism: The Unexpected Revival of Warren Court Activism, 1996 Sup. Ct. Rev. 67, 98-99 (1996) (summarizing the criticism levied at the Court by liberal activists dissatisfied with the Court's inability to bring about real social change).

Court political capital is finite ---- Justices will balance to preserve it

Schauer 84 (Frederick, Professor of Law – U Michigan, Michigan Law Review, February, Lexis)

One reason is that the Court as an institution possesses only a finite, and indeed quite limited, amount of political capital, and that it must husband this capital carefully in order to preserve its authority. [30](http://www.lexis.com/research/retrieve?_m=3976ca5d65719c629e2c23d42eaac3c9&docnum=32&_fmtstr=FULL&_startdoc=1&wchp=dGLbVzz-zSkAt&_md5=75dd3976679f786704f68fa1a8f51093&focBudTerms=court%20w/35%20finite%20or%20limited%20w/20%20political%20capital%20&focBudSel=all#n30) This may explain why, in the not so distant past, the same Court that decided *Brown v. Board of Education* [31](http://www.lexis.com/research/retrieve?_m=3976ca5d65719c629e2c23d42eaac3c9&docnum=32&_fmtstr=FULL&_startdoc=1&wchp=dGLbVzz-zSkAt&_md5=75dd3976679f786704f68fa1a8f51093&focBudTerms=court%20w/35%20finite%20or%20limited%20w/20%20political%20capital%20&focBudSel=all#n31) could not at the same time have taken a strong stand against McCarthyism. [32](http://www.lexis.com/research/retrieve?_m=3976ca5d65719c629e2c23d42eaac3c9&docnum=32&_fmtstr=FULL&_startdoc=1&wchp=dGLbVzz-zSkAt&_md5=75dd3976679f786704f68fa1a8f51093&focBudTerms=court%20w/35%20finite%20or%20limited%20w/20%20political%20capital%20&focBudSel=all#n32) From this perspective, the members of the Burger Court might be said by some (but not by me) to have an agenda, but one that must be dealt with bit by bit. In order to preserve its political capital, the argument would go, the Court cannot reverse all of the dirty deeds of the Warren Court in one fell swoop, but must instead operate slowly in order to achieve its own objectives. Indeed, this might even explain those areas, such as sex discrimination, commercial speech, and abortion, in which the decisions of the Burger Court seem legitimately  [\*662]  "liberal." These might merely be diversions, designed to lull the liberals into complacency while individual rights are being significantly eroded in other areas. Under a sufficiently sophisticated conspiracy theory, and seemingly obvious counter-example to the original thesis can be fitted neatly into the conspiracy. Alternatively, the Court might be said to be afraid of the political checks that are available to control its mistakes or its excesses. Justices can be impeached, the jurisdiction of the Court can be curtailed by Congress, and the Constitution can be amended to correct unpopular decisions. Deterred by these actual and potential checks inherent in the constitutional design, the members of the Burger Court might be reluctant to give rein to their political or philosophical views for fear of congressional or other reprisal.

### Decision K2 Stop Super PACS – 2NC

#### McCutcheon key to stop super PACS – national committees would be less limited in money they can get which draws support away from super PACs because they can compete again

#### McCutcheon decision key – sweeping impacts

Troyan, 8-7 (Mary Orndorff, Gannett Washington Bureau, “Alabama GOP donor enters national spotlight,” ln)

Three years ago, Shaun McCutcheon was a regular guy with a successful engineering business outside Birmingham. But after cutting some huge checks to help elect certain Republicans to office, he's become a GOP rock star and the central character in a Supreme Court case that could radically alter the world of campaign finance.¶ "In 2010, nobody knew who he was. Now, everybody is calling him," said Alabama Republican political consultant Chris Brown.¶ McCutcheon, a 46-year-old Georgia Tech graduate who lives in Hoover and runs Coalmont Electrical Development in Tuscaloosa County, will be at the Supreme Court Oct. 8 when the justices debate whether there should be limits on how much one person can give to federal candidates and political parties every two years.¶ He says the limits infringe on his right to free speech.¶ "If the government tells you that you can't spend your money where you want, there should be a real, real good reason," McCutcheon said in a recent interview in Washington.¶ The Federal Election Commission adjusts donation limits for inflation every election cycle. For 2013-14, the agency limits an individual's total giving to $48,600 in donations to candidates and $74,600 in donations to political parties -- a total of $123,200.¶ The limits, previously upheld in a Supreme Court case from 1976, are intended to prevent a wealthy few from exerting outsized influence on the political process.¶ But recent court opinions have started to chip away at limits on political spending, and McCutcheon, joined by the Republican National Committee, says the aggregate donation limits should be the next to go.¶ He doesn't challenge the $2,600 base limit on how much a person can give to a single candidate in a single election (the base limit is $5,200 for both a primary and a general election). In fact, McCutcheon supports the base limits as a protection against corruption. He just wants to be able to give the maximum to as many candidates as he chooses.¶ "Is it because that 18th candidate is going to be more corrupted than the 17th? That's not a reason," McCutcheon said.¶ But the aggregate limits have their defenders. If the Supreme Court invalidates them, one person could spend about $3.6 million per cycle supporting every Democratic or Republican congressional candidate and making maximum donations to federal and state party committees, according to calculations by the Campaign Legal Center, which supports the limits.

#### Expenditure limits prevent strong political parties – strike down key to eliminate Super PAC’s and promote quality candidates

Salam 12 (Reihan – senior fellow at the R Street Institute and lead writer of The Agenda blog at National Review, “Rethinking Super PACs”, 11/12, http://www.nationalreview.com/agenda/333241/rethinking-super-pacs-reihan-salam)

[A]s the law stands today, parties are severely limited in what they do to provide direct assistance to their candidates, but are as free as any other group to spend funds independently — on an uncoordinated basis — in support of the candidates running for office under the party banner. However, independent or uncoordinated spending is generally considered by candidates and political specialists to be far less efficient and effective than coordinated spending, and is often counterproductive. As Thomas Mann of the Brookings Institution has pointed out, “diminished efficiency and accountability” are the costs of requiring that parties’ spending be independent of their candidates: “Having to set up a separate independent spending operation increases the administrative expenses borne by parties. More importantly, it runs the risk of conflicting messages and less than optimal timing of ads run by candidates and their parties.” Consider some of the specific restrictions dictated by current law. Party committees are allowed to give directly only $5,000 per election to their House candidates and $39,900 to Senate candidates. The $5,000 cap on contributions to a House candidate is the same amount that it was in 1940, and would be worth about $65,000 in today’s dollars; the cap for a Senate candidate would be $519,000. While parties can make coordinated expenditures of $42,100 in support of their congressional candidates (the coordinated expenditure limit with Senate candidates depends on the number of voters in the state and is commensurately larger), the continued persistence of caps and coordinated expenditure limits seriously hinders the important role of political parties in our political system and is an uncomfortable reminder of the incumbent-protective nature of contribution limits. These limits significantly impaired the ability of both major political parties to provide direct or coordinated support to their candidates in the Senate and House races in 2008. [Emphasis added] That is, the chief advantage of political parties relative to Super PACs — their ability to coordinate with campaigns, which can greatly increase the efficiency and accountability of campaign expenditures — isn’t all that much of an advantage, at least not now. Formal party organizations are thus in an advanced state of decay, and as Wallison and Gora explain, individual candidates have gained leverage relative to parties as they’ve been forced to raise money independently. This is a boon to incumbents, who by virtue of name recognition and risk-aversion and fundraising networks have a huge advantage over challengers, yet it is arguably bad for voters, who are less likely to have a good choice of candidates, particularly candidates who aren’t independently wealthy or particularly good at fundraising, and for ideological activists, who might prefer party organizations that can exert greater discipline on candidates. In theory, at least, Super PACs can fill some of the vacuum left behind by parties by devoting resources to campaigns in which the Super PAC’s favored candidate has limited resources. The problem, of course, is that this spending is both inefficient and unaccountable, which is the source of the smart critique of Super PACs. But recall the chief advantage of Super PACs relative to formal party organizations, which is that they are lightly-regulated relative to political parties. One can imagine that Super PACs will get better faster over time relative to formal party organizations, as they are less hindered by regulation and by the conventions and habits of mind that can weigh down a more established organization. As the political strategist Patrick Ruffini has suggested, Super PACs can be understood as the application of open-source principles to political parties. As formal party organizations lose power, a competing array of organizations will emerge to advance the conservative or progressive cause. This swarm of new institutions will ideally involve a great deal of churn, i.e., failed Super PACs will die and new Super PACs offering new messages and business models will emerge in their place. For example, a right-of-center group like Crossroads Gen could demonstrate that its economy-focused message is more appealing to young voters than an approach that emphasizes social issues, and in doing so encourage the propagation of its insight across the ecology of right-of-center institutions. Just as this process of churn contributes to productivity increases in competitive product markets, it could improve the relative efficiency of party-like organizations over time. That is, Super PACs can be understood as a “disruptive innovation.” The following is drawn from the Innosight, the consulting firm founded by Clayton Christensen, the father of the study of disruptive innovation: As our experience shows, disruptive innovation isn’t about winning a technology race, but about delivering innovations aimed at a set of customers whose needs are being ignored by industry leaders. A disruptive innovation trades off performance along one dimension for performance along another, such as simplicity, convenience, ability to customize, or price. Think, for example, of the trade-offs retail medical clinics represent versus traditional doctors’ offices. The key is to know which tradeoffs the consumer is willing to make. That’s why we look beyond traditional definitions of an industry to understand the true “jobs” that customers are trying to get done – defining a market from the customer’s viewpoint, not the company’s. A disruptive innovation allows a whole new population of consumers access to a product or service that was historically only accessible to consumers with a lot of money or skill. Once a truly disruptive product or service takes root in simple applications at the bottom of a market it can move relentlessly up market, eventually displacing established competitors. This raises the question of who exactly is the “customer” of the Super PAC. The most obvious answer is that donors are the customer. Formal party organizations limit the power of donors for the simple reason that a successful party organization will be in a position to balance the competing interests of many individual donors. To be sure, some clique of donors will likely be overrepresented and this will presumably push policy in one direction or another. But Super PACs allow individual donors or very small groups of donors to have much tighter control of a political message than a formal party organization would or could. This obviously isn’t the kind of disruptive innovation Christensen has in mind — like minimills or the MP3 player, etc. But to the extent that there is a hunger among wealthy individuals to build organizations that advance your very particular vision of what progressives or conservatives can and should say, Super PACs can meet that appetite. This framework lends itself to the most cynical interpretation of Super PACs, which is that they are a money-suck for gullible donors. Yet apart from wanting tight control of a political message, which can be achieved in a number of ways, Super PACs are selling the political expertise of their founders in service to achieving broader political objectives. So one assumes that the Super PACs that appear to be best at electing candidates will do better than those that appear to be bad at it. (I use “appear” advisedly. There is a great deal of ambiguity in determining the likely contribution of campaign expenditures to political outcomes, though of course social scientists have made no small progress in this regard.) In the near future, one assumes that we’ll see a shift in Super PAC expenditures away from relatively ineffective television advertising to, say, GOTV activities and other higher bang-for-buck expenditures. All of this is to say that Super PACs could still surprise their detractors. It happens that I remain a skeptic about the value of Super PACs relative to the value of strong political parties, which is why I support the party-centered campaign finance reform agenda advanced by Wallison and Gora. If the ability of parties to coordinate with individual candidates is greatly strengthened, my best guess is that Super PACs will fade in influence.

### Super PACs = Tea Party Strength – 2NC

#### Increasing party strength key to check Republican extremism – SuperPACS cause more extreme views within the party because they appeal to special interests and not the median voter – decision to strike down limits allows for parties to gain the upper hand

#### McCutcheon win strengthens political parties relative to Super PACs

Boschma ’13 (Janie, “Capital Eye Opener, Feb. 27: Lobbyists Worry About SCOTUS Case, Club for Growth Ranks Congress,” http://www.opensecrets.org/news/2013/02/capital-eye-opener-feb-27-1.html)

LOBBYISTS WORRY ABOUT SCOTUS CASE: As we wrote earlier this week, the Supreme Court has agreed to weigh in on whether to remove caps on the total amount an individual can give to candidates and political parties in McCutcheon vs. the Federal Election Commission.¶ Who's most worried about the possible removal of the caps? Lobbyists. They say they actually like the current limit on overall contributions, because it relieves some of the pressure of going to so many fundraisers, especially if they max out early and are no longer legally able to give, according to The Hill. Without a cap, they might be expected to keep attending -- and keep writing checks.¶ As our Research Director Sarah Bryner told The Hill, “Eliminating limits would provide more opportunities for lobbyists to speak with their money, given that they tend to support candidates and parties than super-PACs."¶ And because lobbyists do tend to support parties, getting rid of the cap could give political parties more power to compete with super PACs, which can accept unlimited corporate contributions. Without an overall spending cap, in theory any donor could give the maximum permissible $32,400 to a number of parties or even max out to every congressional or presidential candidate.¶ That could be why the Republican National Committee joined Alabama GOP donor Shaun McCutcheon as a plaintiff in the case. Not only could donors give more overall to a number of committees, national party committees would also not be as limited in how much they can give to candidates. ¶ If the Supreme Court sides with McCutcheon and the RNC (a decision is expected by June), McCutcheon and other big donors like him will be able to contribute to the maximum amount in each category and wouldn't be held back by the overall biennial limits -- currently $123,200, of which a total of $48,600 can go to candidates and $74,600 to PACs and parties.

#### That checks Republican extremism

Weisbrot ’12 (David, Professor of Legal Policy at the United States Studies Centre and Professor of Law and Governance at Macquarie University, “SuperPACs and bags of cash fail to halt Obama's ground game,” http://uselectionwatch12.com/news-room/SuperPACs-and-bags-of-cash-fail-to-halt-Obamas-ground-game)

Obviously, the most worrying aspect of the SuperPAC phenomenon is the disproportionately large voice — and presumably outsized influence — afforded to a small number of extremely wealthy donors. Half of all SuperPAC funding this year was provided by only 22 individuals and corporations. The top 100 donors represented less than four percent of all contributors, but accounted for over 80% of the total funds raised.¶ For the Republican camp, the major contributors included casino mogul Sheldon Adelson (over $60 million); billionaire oil and gas tycoons David and Charles Koch, the principal funders of the Tea Party movement; and Wall Street financiers — 16 of Romney’s top 20, despite the industry having been controversially bailed out by President Obama post-GFC. Left-leaning SuperPACs were best supported by Hollywood and large trade unions — such as the United Auto Workers, the National Education Association and the Service Employees International Union, although Obama has famously raised enormous amounts by accumulating large numbers of small donations, driven by effective use of social media.¶ But was it money well spent? The jury is still out on whether these riches ultimately provided some electoral advantage for candidates and a “return” for donors in the form of added influence, or whether all or most of this money was squandered in screening the relentless negative attack ads that bombarded voters in key swing states. What we know for certain is that after burning through $6billion, the election more or less restored the status quo, with President Obama re-elected, Democrats continuing to control the Senate and Republicans continuing to control the House of Representatives.¶ This masks some churn below the surface, however. The fact that a significant part of the conservative spend was controlled by SuperPACs and true believers, rather than by more pragmatic GOP operatives, helped contribute to the selection of some extreme and unattractive candidates and for the Republican message to skew even more sharply to the right.¶ Party discipline is difficult to maintain when it is divorced from the allocation of precious resources. For example, the GOP tried to distance itself from Missouri Senate candidate Todd Aikin after his infamous “legitimate rape” remarks, but outside money allowed him to remain in the race, and to be defeated in an otherwise very winnable Senate seat for the Republicans.

#### Super PACS are fueling Tea Party strength – electing radical conservatives

Carney 13 (Eliza – Roll Call, “Republican Super PAC War Splits the Party”, 3/19, http://www.rollcall.com/news/republican\_super\_pac\_war\_splits\_the\_party-223293-1.html?pg=2)

A cottage industry of new Republican super PACs run by a diverse array of tea party activists, conservative organizers and established operatives is making the GOP look less like a political party than a collection of competing outside groups. Republican National Committee Chairman Reince Priebus’ new “Growth & Opportunity” agenda includes a long list of recommendations for these “Friends and Allies.” But bickering among the GOP’s increasingly influential outside players has underscored intraparty rifts. Though media attention has spotlighted tea party attacks on Republican rainmaker Karl Rove’s new Conservative Victory Project, his effort is only one of at least a half-dozen groups representing the GOP’s various factions that have launched since January. These include the Real Conservatives National Committee, a super PAC announced Tuesday by tea party organizers Lorie Medina and Michael Patrick Leahy. Also new on the scene are NewRepublican.org, a super PAC launched by GOP pundit and consultant Alex Castellanos; the Tea Party Patriots Citizens Fund, a tea party PAC that’s set out to raise $20 million in this election cycle; and the Conservative Melting Pot PAC, run by blogger Crystal Wright. They join a motley collection of smaller groups registered in recent weeks with the Federal Election Commission, some without websites or obvious funding sources and with names like Conservative Strike Force Super PAC, Real Conservatives US and No More Wimpouts. The last has mounted three campy web “ads,” including one that features a doctored image of Rove wearing floppy dog ears and deriding him as an “establishment back-room wheeler and dealer.” Rove has labored to avoid a fight with right-leaning critics since The New York Times disclosed in February that his Conservative Victory Project aims to help the most electable candidate win GOP primaries, potentially countering the influence of tea party and conservative groups. The latest attack on Rove’s group came from L. Brent Bozell, chairman of the conservative advocacy group ForAmerica, who released an open letter to big GOP donors on March 14 that essentially urged them to give Rove’s new super PAC the cold shoulder. Bozell is also founder and president of the conservative Media Research Center. Signed by more than a dozen conservative organizers and groups, including the Tea Party Express and the Family Research Council, the letter warned that “the model that will be employed by the Conservative Victory Project has proven to be ineffective and a waste of political resources.” Rove could not be reached for comment, but he recently said on “Fox News Sunday” that the political party that does not control the White House “tends to have these difficulties; this is nothing new and nothing exceptional.” Still, the proliferation of far-flung new GOP groups presents a direct challenge to Priebus, whose post-mortem of the 2012 elections devotes several pages to the role GOP “Friends and Allies” should play in helping the party beef up its ground game, messaging and get-out-the-vote infrastructure. Many of the new super PACs on the scene have assailed not just Rove but the RNC itself. The recently released “Growth & Opportunity Project” is a costly and “ridiculous” rebranding campaign that is “the type of strategy that doomed the party in 2012,” Medina declared in a statement announcing the Real Conservatives National Committee on Tuesday. “The Tea Party Patriots is not waiting on the Republican Party,” chimed in Jenny Beth Martin, the group’s co-founder and president. “We know what needs to get done, and we’re going to do what we can to get the job done so that we’ll have a constitutionally limited government.” Asked about the RNC’s 100-page agenda, Club for Growth President Chris Chocola said he’s not even sure he’ll read it. “We’re not a party organization,” said Chocola, whose group has aggressively intervened on behalf of fiscal conservatives in GOP primaries. “We support a lot of Republicans, but we’re not in the business of electing Republicans.”

#### Financial clout of parties is key to reign in the Tea Party

Witcover ’12 (Jules, Baltimore Sun Reporter and Presidential Biographer, “The decline of party power,” August 24, http://articles.baltimoresun.com/2012-08-24/news/bal-the-decline-of-party-power-20120823\_1\_tea-party-movement-republican-party-party-support)

No recent development has underlined the decline of political party clout more than beleaguered Senate Republican nominee Todd Akin's refusal to accede to GOP leadership demands that he withdraw from his race against Democratic Sen. Claire McCaskill of Missouri.¶ In spite of his asinine declaration that the female reproductive mechanism can somehow neutralize the pregnancy-creating sperm of a "legitimate" rapist, Mr. Akin has vowed to press on. He is bolstered by equally fervent anti-abortion organizations determined to show the Show Me State they are not to be denied.¶ His and their defiance of the abuse heaped on Mr. Akin, for bringing ridicule to a debate they consider almost sacred, has left Republican Party leaders looking politically impotent. The impression runs from local county chairmen to the party's prospective presidential and vice presidential nominees.¶ Both Mitt Romney and his new sidekick, Paul Ryan, have condemned Mr. Akin's remarks, which Mr. Akin himself dismissed as merely misspoken. But each only weakly suggested that the party would be better served if he took a powder from the race, upon which control of the U.S. Senate might well rest in November.¶ Even conservative America's airwaves oracle, Rush Limbaugh, while joining the chorus of condemnation, stopped short of exercising his powers as the GOP high priest. "If I had demanded Akin drop out, he'd be gone," Mr. Limbaugh boasted.¶ At a minimum, the episode only underscored Mr. Romney's leadership deficiency in his own party, and the inability of the Republican establishment to impose any discipline on an insignificant underling for the good of the party. It's abundantly clear now that the Grand Old Party has become a divided camp, with its most insurgent members, as in the tea party movement, ready and willing to break ranks for their own causes.¶ There was a time in American politics when both major parties had sufficient internal unity and discipline to call on their followers, whether they went off the reservation or just "misspoke," to take the bullet for the wounded party. Sometimes the leadership came from high elected officials, sometimes from national, state or big-city political bosses threatening the wrath of the party if the errant one did not comply.¶ The denial of party support, in terms of financial help and organizational assistance in the campaigns of party candidates, was regarded as essential to survival and victory. Most political assistance was parceled out through the local, state or national party apparatus. But the development, and lately the blossoming, of nonparty political operations and fat-cat contributors have made the parties toothless tigers in comparison to their well-disciplined forebears.

#### Super PAC’s shape the evolution of the GOP

Kroll 12 (Andy – reporter at Mother Jones, “How Super-PACs Could Fuel the War Over the GOP's Future”, 11/21, http://www.motherjones.com/politics/2012/11/super-pac-republican-party-immigration-gay-marriage)

It's reckoning time for the Republican Party. The 2012 elections were not just a shellacking for the GOP; they were a reality check. Evolve or perish. To some Republicans, that means growing the party ranks by tamping down the demagoguery and embracing more moderate policies. To others, 2012's losses mean the party must double down on its conservative ideals to stand a chance of surviving. The party has done this kind of soul-searching before. But what's different—and potentially more explosive—this time around is the new breed of big-money super-PACs poised to spend millions to push their party toward the political center. These super-PACs, which can independently raise and spend unlimited amounts of cash influencing policy and politics, were created to give political cover and courage to GOP candidates who might face a backlash for taking moderate positions on immigration reform, gay marriage, gun control, and other divisive issues. Before, a gun-control-backing Republican had to worry about the National Rifle Association spending big to defeat him; now big money is watching the backs of Republicans who don't march in lockstep with the rest of the GOP.

## On

### XT Warming

#### Warming is irreversible

ANI 10 (“IPCC has underestimated climate-change impacts, say scientists”, 3-20, One India, http://news.oneindia.in/2010/03/20/ipcchas-underestimated-climate-change-impacts-sayscientis.html)

According to Charles H. Greene, Cornell professor of Earth and atmospheric science, "Even if all man-made greenhouse gas emissions were stopped tomorrow and carbon-dioxide levels stabilized at today's concentration, by the end of this century, the global average temperature would increase by about 4.3 degrees Fahrenheit, or about 2.4 degrees centigrade above pre-industrial levels, which is significantly above the level which scientists and policy makers agree is a threshold for dangerous climate change." "Of course, greenhouse gas emissions will not stop tomorrow, so the actual temperature increase will likely be significantly larger, resulting in potentially catastrophic impacts to society unless other steps are taken to reduce the Earth's temperature," he added. "Furthermore, while the oceans have slowed the amount of warming we would otherwise have seen for the level of greenhouse gases in the atmosphere, the ocean's thermal inertia will also slow the cooling we experience once we finally reduce our greenhouse gas emissions," he said. This means that the temperature rise we see this century will be largely irreversible for the next thousand years. "Reducing greenhouse gas emissions alone is unlikely to mitigate the risks of dangerous climate change," said Green.

#### No threshold for ocean acidification

ESF 9 -- European Science Foundation, Professor Marja Makarow, Chief Executive, ESF, Professor Reinhart Ceulemans, Chair, LESC, Mr. Lars Horn, Chair, Marine Board-ESF(8/2009, "Impacts of Ocean Acidification," http://www.ocean-acidification.net/OAdocs/ESF\_SPB37\_OceanAcidification.pdf)

Based on the presently-available data, little is known about the responses of genetically diverse populations, the life-history stages of animals and plants, synergistic effects from other stressors (e.g., temperature, hypoxia, nutrients), and the ability of organisms to undergo physiological and genetic adaptations to decreasing pH. A large gap in our understanding concerns the accumulation of responses from individual organisms to community and ecosystem levels. In view of these uncertainties, it is presently not yet possible to define critical thresholds (tipping points) for tolerable pH decline or to predict the pathways of ecosystem changes where threshold levels have been surpassed. In summary, our present knowledge of the effects of ocean acidification on marine biota is largely based on limited experimental work with single species and strains, maintained in short-term incubations, often exposed to abrupt and extreme changes in carbonate chemistry.

#### ocean species are highly resilient

Dulvy et al in ‘3

(Nicholas, (School of Marine Science and Tech. @ U. Newcastle), Yvonne Sadovy, (Dept. Ecology and Biodiversity @ U. Hong Kong), and John D. Reynolds, (Centre for Ecology, Evolution and Conservation @ School of Bio. Sci. @ U. East Anglia), Fish and Fisheries, “Extinction vulnerability in marine populations”, 4:1, Blackwell-Synergy)

Marine fish populations are more variable and resilient than terrestrial populations Great natural variability in population size is sometimes invoked to argue that IUCN Red List criteria, as one example, are too conservative for marine fishes (Hudson and Mace 1996; Matsuda et al. 1997; Musick 1999; Powles et al. 2000; Hutchings 2001a). For the (1996) IUCN list, a decline of 20% within 10 years or three generations (whichever is longer) triggered a classification of 'vulnerable', while declines of 50 and 80% led to classifications of 'endangered' and 'critically endangered', respectively. These criteria were designed to be applied to all animal and plant taxa, but many marine resource biologists feel that for marine fishes 'one size does not fit all' (see Hutchings 2001a). They argue that percent decline criteria are too conservative compared to the high natural variability of fish populations. Powles et al. (2000) cite the six-fold variation of the Pacific sardine population (Sardinops sagax, Clupeidae) and a nine-fold variation in northern anchovy (Engraulis mordax, Clupeidae) over the past two millennia to suggest that rapid declines and increases of up to 10-fold are relatively common in exploited fish stocks. It should, however, be borne in mind that the variation of exploited populations must be higher than unexploited populations because recruitment fluctuations increasingly drive population fluctuations when there are few adults (Pauly et al. 2002).x

### US Can’t Solve

#### United States not key to solve warming and inevitable

Grose ‘13 (Thomas K., National Geographic News Writer, “As U.S. Cleans Its Energy Mix, It Ships Coal Problems Abroad”, March 15, 2013)

Ready for some good news about the environment? Emissions of carbon dioxide in the United States are declining. But don't celebrate just yet. A major side effect of that cleaner air in the U.S. has been the further darkening of skies over Europe and Asia. The United States essentially is exporting a share of its greenhouse gas emissions in the form of coal, data show. If the trend continues, the dramatic changes in energy use in the United States—in particular, the switch from coal to newly abundant natural gas for generating electricity—will have only a modest impact on global warming, observers warn. The Earth's atmosphere will continue to absorb heat-trapping CO2, with a similar contribution from U.S. coal. It will simply be burned overseas instead of at home. "Switching from coal to gas only saves carbon if the coal stays in the ground," said John Broderick, lead author of a study on the issue by the Tyndall Center for Climate Change Research at England's Manchester University. The U.S. Energy Information Administration (EIA) released data this week showing that United States coal exports hit a record 126 million short tons in 2012, a 17 percent increase over the previous year. Overseas shipments surpassed the previous high mark set in 1981 by 12 percent. The United States clearly is using less coal: Domestic consumption fell by about 114 million tons, or 11 percent, largely due to a decline in the use of coal for electricity. But U.S. coal production fell just 7 percent. The United States, with the world's largest coal reserves, continued to churn out the most carbon-intensive fuel, producing 1 billion tons of coal from its mines in 2012. Emissions Sink The EIA estimates that due largely to the drop in coal-fired electricity, U.S. carbon emissions from burning fossil fuel declined 3.4 percent in 2012. If the numbers hold up, it will extend the downward trend that the U.S. Environmental Protection Agency (EPA) outlined last month in its annual greenhouse gas inventory, which found greenhouse gas emissions in 2011 had fallen 8 percent from their 2007 peak to 6,703 million metric tons of CO2 equivalent (a number that includes sources other than energy, like methane emissions from agriculture). In fact, if you don't count the recession year of 2009, U.S. emissions in 2011 dropped to their lowest level since 1995. President Barack Obama counted the trend among his environmental accomplishments in his State of the Union address last month: "Over the last four years, our emissions of the dangerous carbon pollution that threatens our planet have actually fallen." The reason is clear: Coal, which in 2005 generated 50 percent of U.S. electricity, saw its share erode to 37.4 percent in 2012, according to EIA's new short-term energy outlook. An increase in U.S. renewable energy certainly played a role; renewables climbed in those seven years from 8.7 percent to 13 percent of the energy mix, about half of it hydropower. But the big gain came from natural gas, which climbed from 19 percent to 30.4 percent of U.S. electricity during that time frame, primarily because of abundant supply and low prices made possible by hydraulic fracturing, or fracking. The trend appears on track to continue, with U.S. coal-fired plants being retired at a record pace. But U.S. coal producers haven't been standing still as their domestic market has evaporated. They've been shipping their fuel to energy-hungry markets overseas, from the ports of Norfolk, Baltimore, and New Orleans. Although demand is growing rapidly in Asia—U.S. coal exports to China were on track to double last year—Europe was the biggest customer, importing more U.S. coal last year than all other countries combined. The Netherlands, with Europe's largest port, Rotterdam, accepted the most shipments, on pace for a 24 jump in U.S. coal imports in 2012. The United Kingdom, the second largest customer, saw its U.S. coal imports jump more than 70 percent. The hike in European coal consumption would appear to run counter to big government initiatives across the Continent to cut CO2 emissions. But in the European Union, where fracking has made only its initial forays and natural gas is still expensive, American coal is, well, dirt cheap. European utilities are now finding that generating power from coal is a profitable gambit. In the power industry, the profit margin for generating electricity from coal is called the "clean dark spread"; at the end of December in Great Britain, it was going for about $39 per megawatt-hour, according to Argus. By contrast, the profit margin for gas-fired plants—the "clean spark spread"—was about $3. Tomas Wyns, director of the Center for Clean Air Policy-Europe, a nonprofit organization in Brussels, Belgium, said those kinds of spreads are typical across Europe right now. The EU has a cap-and-trade carbon market, the $148 billion, eight-year-old Emissions Trading System (ETS). But it's in the doldrums because of a huge oversupply of permits. That's caused the price of carbon to fall to about 4 euros ($5.23). A plan called "backloading" that would temporarily extract allowances from the market to shore up the price has faltered so far in the European Parliament. "A better carbon price could make a difference" and even out the coal and gas spreads, Wyns said. He estimates a price of between 20 and 40 euros would do the trick. "But a structural change to the Emissions Trading System is not something that will happen very quickly. A solution is years off." The Tyndall Center study estimates that the burning of all that exported coal could erase fully half the gains the United States has made in reducing carbon emissions. For huge reserves of shale gas to help cut CO2 emissions, "displaced fuels must be reduced globally and remain suppressed indefinitely," the report said. Future Emissions It is not clear that the surge in U.S. coal exports will continue. One reason for the uptick in coal-fired generation in Europe has been the looming deadline for the EU's Large Combustion Plant Directive, which will require older coal plants to meet lower emission levels by the end of 2015 or be mothballed. Before that phaseout begins, Wyns says, "there is a bit of a binge going on." Also, economic factors are at work. Tyndall's Broderick said American coal companies have been essentially selling surplus fuel overseas at low profit margins, so there is a likelihood that U.S. coal production will decrease further. The U.S. government forecasters at EIA expect that U.S. coal exports will fall back to about 110 million tons per year over the next two years, due to economic weakness in Europe, falling international prices, and competition from other coal-exporting countries. The Paris-based International Energy Agency (IEA) calls Europe's "coal renaissance" a temporary phenomenon; it forecasts an increasing use of renewables, shuttering of coal plants, and a better balance between gas and coal prices in the coming years. But IEA does not expect that the global appetite for coal will slacken appreciably. The agency projects that, by 2017, coal will rival oil as the world's primary energy source, mainly because of skyrocketing demand in Asia. U.S. coal producers have made clear that they aim to tap into that growing market.

#### No modeling or momentum

Mead '10 (Walter Russell, senior fellow for U.S. foreign policy at the Council on Foreign Relations, The Death of Global Warming, http://blogs.the-american-interest.com/wrm/2010/02/01/the-death-of-global-warming/, February 1, 2010)

The global warming movement as we have known it is dead. Its health had been in steady decline during the last year as the once robust hopes for a strong and legally binding treaty to be agreed upon at the Copenhagen Summit faded away. By the time that summit opened, campaigners were reduced to hoping for a ‘politically binding’ agreement to be agreed that would set the stage for the rapid adoption of the legally binding treaty. After the failure of the summit to agree to even that much, the movement went into a rapid decline. The movement died from two causes: bad science and bad politics. After years in which global warming activists had lectured everyone about the overwhelming nature of the scientific evidence, it turned out that the most prestigious agencies in the global warming movement were breaking laws, hiding data, and making inflated, bogus claims resting on, in some cases, no scientific basis at all. This latest story in the London Times is yet another shocker; the IPCC’s claims that the rainforests were going to disappear as a result of global warming are as bogus and fraudulent as its claims that the Himalayan glaciers would melt by 2035. It seems as if a scare story could grab a headline, the IPCC simply didn’t care about whether it was reality-based. With this in mind, ‘climategate’ — the scandal over hacked emails by prominent climate scientists — looks sinister rather than just unsavory. The British government has concluded that University of East Anglia, home of the research institute that provides the global warming with much of its key data, had violated Britain’s Freedom of Information Act when scientists refused to hand over data so that critics could check their calculations and methods. Breaking the law to hide key pieces of data isn’t just ‘science as usual,’ as the global warming movement’s embattled defenders gamely tried to argue. A cover-up like that suggests that you indeed have something to conceal. The urge to make the data better than it was didn’t just come out of nowhere. The global warmists were trapped into the necessity of hyping the threat by their realization that the actual evidence they had — which, let me emphasize, all hype aside, is serious, troubling and establishes in my mind the need for intensive additional research and investigation, as well as some prudential steps that would reduce CO2 emissions by enhancing fuel use efficiency and promoting alternative energy sources — was not sufficient to get the world’s governments to do what they thought needed to be done. Hyping the threat increasingly doesn’t look like an accident: it looks like it was a conscious political strategy. Now it has failed. Not everything that has come out of the IPCC and the East Anglia Climate Unit is false, but enough of their product is sufficiently tainted that these institutions can best serve the cause of fighting climate change by stepping out of the picture. New leadership might help, but everything these two agencies have done will now have to be re-checked by independent and objective sources. The global warming campaigners got into this mess because they had a deeply flawed political strategy. They were never able to develop a pragmatic approach that could reach its goals in the context of the existing international system. The global warming movement proposed a complex set of international agreements involving vast transfers of funds, intrusive regulations in national economies, and substantial changes to the domestic political economies of most countries on the planet. As it happened, the movement never got to the first step — it never got the world’s countries to agree to the necessary set of treaties, transfers and policies that would constitute, at least on paper, a program for achieving its key goals. Even if that first step had been reached, the second and third would almost surely not have been. The United States Congress is unlikely to pass the kind of legislation these agreements would require before the midterm elections, much less ratify a treaty. (It takes 67 senate votes to ratify a treaty and only 60 to overcome a filibuster.) After the midterms, with the Democrats expected to lose seats in both houses, the chance of passage would be even more remote — especially as polls show that global warming ranks at or near the bottom of most voters’ priorities. American public opinion supports ‘doing something’ about global warming, but not very much; support for specific measures and sacrifices will erode rapidly as commentators from Fox News and other conservative outlets endlessly hammer away. Without a commitment from the United States to pay its share of the $100 billion plus per year that poor countries wanted as their price for compliance, and without US participation in other aspects of the proposed global approach, the intricate global deals fall apart. Since the United States was never very likely to accept these agreements and ratify these treaties, and is even less prepared to do so in a recession with the Democrats in retreat, even “success” in Copenhagen would not have brought the global warming movement the kind of victory it sought — although it would have created a very sticky and painful political problem for the United States. But even if somehow, miraculously, the United States and all the other countries involved not only accepted the agreements but ratified them and wrote domestic legislation to incorporate them into law, it is extremely unlikely that all this activity would achieve the desired result. Countries would cheat, either because they chose to do so or because their domestic systems are so weak, so corrupt or so both that they simply wouldn’t be able to comply. Governments in countries like China and India aren’t going to stop pushing for all the economic growth they can get by any means that will work — and even if central governments decided to move on global warming, state and local authorities have agendas of their own. The examples of blatant cheating would inevitably affect compliance in other countries; it would also very likely erode what would in any case be an extremely fragile consensus in rich countries to keep forking over hundreds of billions of dollars to poor countries — many of whom would not be in anything like full compliance with their commitments. For better or worse, the global political system isn’t capable of producing the kind of result the global warming activists want. It’s like asking a jellyfish to climb a flight of stairs; you can poke and prod all you want, you can cajole and you can threaten. But you are asking for something that you just can’t get — and at the end of the day, you won’t get it. The grieving friends and relatives aren’t ready to pull the plug; in a typical, whistling-past-the-graveyard comment, the BBC first acknowledges that even if the current promises are kept, temperatures will rise above the target level of two degrees Celsius — but let’s not despair! The BBC quotes one of its own reporters: “BBC environment reporter Matt McGrath says the accord lacks teeth and does not include any clear targets on cutting emissions. But if most countries at least signal what they intend to do to cut their emissions, it will mark the first time that the UN has a comprehensive written collection of promised actions, he says.”

### 2NC No XTC

#### Adaptation solves catastrophic impacts to warming

Goklany 11 -- PhD, author and researcher associated with IPCC, expert reviewer and U.S. delegate to that organization (Dr. Indur M., 12/11, "Misled on Climate Change: How the UN IPCC (and others) Exaggerate the Impacts of Global Warming," http://goklany.org/library/Reason%20CC%20and%20Development%202011.pdf)

So how much of a difference in impact would consideration of both economic development and technological change have made? If impacts were to be estimated for five or so years into the future, ignoring changes in adaptive capacity between now and then probably would not be fatal because neither economic development nor technological change would likely advance substantially during that period. However, the time horizon of climate change impact assessments is often on the order of 35–100 years or more. The Fast Track Assessments use a base year of 1990 to estimate impacts for 2025, 2055 and 2085. 39 The Stern Review’s time horizon extends to 2100– 2200 and beyond. 40 Over such periods one ought to expect substantial advances in adaptive capacity due to increases in economic development, technological change and human capital. As already noted, retrospective assessments indicate that over the span of a few decades, changes in economic development and technologies can substantially reduce, if not eliminate, adverse environmental impacts and improve human well-being, as measured by a variety of objective indicators. 41 Thus, not fully accounting for changes in the level of economic development and secular technological change would understate future adaptive capacity, which then could overstate impacts by one or more orders of magnitude if the time horizon is several decades into the future. The assumption that there would be little or no improved or new technologies that would become available between 1990 and 2100 (or 2200), as assumed in most climate change impact assessments, is clearly naïve. In fact, a comparison of today’s world against the world of 1990 (the base year used in most impacts studies to date) shows that even during this brief 20-year span, this assumption is invalid for many, if not most, human enterprises. Since 1990, for example, the portion of the developing world’s population living in absolute poverty declined from 42% to 25%, 42 and in sub-Saharan Africa Internet users increased from 0 to 50 million, while cellular phone users went from 0 per 100 to 33 per 100. 43 It should be noted that some of the newer impacts assessments have begun to account for changes in adaptive capacity. For example, the CIESIN study of 2006, in an exercise exploring the vulnerability to climate change under various climate change scenarios, allowed adaptive capacity to increase between the present and 2050 and 2100. 44 However, the researchers arbitrarily limited any increase in adaptive capacity to “either the current global mean or to a value that is 25% higher than the current value—whichever is higher.” 45 Such a limitation would, for example, have missed most of the increase in U.S. adaptive capacity during the twentieth century that virtually eliminated death and disease from climate-sensitive water-borne vector diseases. More recently, another study analyzed the sensitivity of deaths from malaria, diarrhea, schistosomiasis and dengue fever to warming, economic development and other determinants of adaptive capacity through the year 2100. 46 The results indicate, unsurprisingly, that economic development alone could reduce mortality substantially. For malaria, for instance, deaths would be eliminated before 2100 in a number of the more affluent sub-Saharan countries. 47

#### Experts agree

Hsu 10 (Jeremy, Live Science Staff, July 19, pg. <http://www.livescience.com/culture/can-humans-survive-extinction-doomsday-100719.html>)

His views deviate sharply from those of most experts, who don't view climate change as the end for humans. Even the worst-case scenarios discussed by the Intergovernmental Panel on Climate Change don't foresee human extinction. "The scenarios that the mainstream climate community are advancing are not end-of-humanity, catastrophic scenarios," said Roger Pielke Jr., a climate policy analyst at the University of Colorado at Boulder. Humans have the technological tools to begin tackling climate change, if not quite enough yet to solve the problem, Pielke said. He added that doom-mongering did little to encourage people to take action. "My view of politics is that the long-term, high-risk scenarios are really difficult to use to motivate short-term, incremental action," Pielke explained. "The rhetoric of fear and alarm that some people tend toward is counterproductive." Searching for solutions One technological solution to climate change already exists through carbon capture and storage, according to Wallace Broecker, a geochemist and renowned climate scientist at Columbia University's Lamont-Doherty Earth Observatory in New York City. But Broecker remained skeptical that governments or industry would commit the resources needed to slow the rise of carbon dioxide (CO2) levels, and predicted that more drastic geoengineering might become necessary to stabilize the planet. "The rise in CO2 isn't going to kill many people, and it's not going to kill humanity," Broecker said. "But it's going to change the entire wild ecology of the planet, melt a lot of ice, acidify the ocean, change the availability of water and change crop yields, so we're essentially doing an experiment whose result remains uncertain."

#### Warming will be slow, there’s no impact, and adaptation solves

William Yeatman 9, Energy Policy Analyst at the Competitive Enterprise Institute, February 3, 2009, “Global Warming 101: Science,” online: <http://www.globalwarming.org/2009/02/03/global-warming-101-science/>

A “planetary emergency—a crisis that threatens the survival of our civilization and the habitability of the Earth”—that is how former Vice President Al Gore describes global warming. Most environmental groups preach the same message. So do many journalists. So do some scientists.

In fact, at the 2008 annual meeting of Nobel Prize winners in Lindau, Germany, half the laureates on the climate change panel disputed the so-called consensus on global warming.

You have probably heard the dire warnings many times. Carbon dioxide (CO2) from mankind’s use of fossil fuels like coal, oil, and natural gas is building up in the atmosphere. Carbon dioxide is a greenhouse gas—it traps heat that would otherwise escape into outer space. Al Gore warns that global warming caused by carbon dioxide emissions could increase sea levels by 20 feet, spin up deadly hurricanes. It could even plunge Europe into an ice age.

Science does not support these and other scary predictions, which Gore and his allies repeatedly tout as a “scientific consensus.” Global warming is real and carbon dioxide emissions are contributing to it, but it is not a crisis. Global warming in the 21 st century is likely to be modest, and the net impacts may well be beneficial in some places. Even in the worst case, humanity will be much better off in 2100 than it is today.

The following is a summary of key points:

Average Annual Heat-Related Mortality: People will not drop like flies from heat waves in a warming world. Heat-related mortality will continue to decline as the world warms.

Far more people die each year from excess cold than from excess heat.

Global warming will not make air pollution worse.

Global warming will not lead to malaria epidemics in Northern Hemisphere countries.

Contrary to Gore, no “strong, new scientific consensus is emerging” that global warming is making hurricanes stronger.

Global Death & Death Rates Due to Extreme Events, 1900-2004: Since the 1920s, death rates related to extreme weather declined by more than 98 percent globally. The impression conveyed by An Inconvenient Truth—that global warming is making the world a more dangerous place—is false.

Gore’s warning that global warming could shut down the Atlantic branch of the oceanic thermohaline circulation (THC) and plunge Europe into an ice age is science fiction.

Gore’s warning that sea levels could rise by 20 feet is science fiction. Sea level rise in the 21 st century is likely to be measured in inches, not in feet.

The world warmed at a rate of 0.17°C per decade since 1978, according to the temperature record compiled by the United Nations Intergovernmental Panel on Climate Change (IPCC). Since most climate models predict that warming will occur at a constant—that is, non-accelerating—rate, it is reasonable to expect that global warming in the 21 st century will be close to the low end of the IPCC’s forecast range, of 1.4°C to 5.8°C.

The actual warming rate may be only half the 0.17°C per decade rate implied in the IPCC temperature record, because the IPCC has not adequately filtered out the warming biases from local factors like urbanization and improper management of monitoring equipment.

A warming near the low end of the IPCC range would produce both benefits—longer growing seasons, more rainfall, fewer cold deaths—and harms—more heat waves, more drought, some acceleration of sea level rise—but nothing resembling catastrophe.

Even in the IPCC high-end warming forecasts, human welfare would improve dramatically over the next 100 years. In the IPCC fossil-fuel-intensive development scenario, per capita GDP in developing countries increases from $875 per year in 1990 to $43,000 per year in 2100—even after taking into account an additional 110 years of global warming. Even in the IPCC worst-case scenario, global warming is not the civilization-ending catastrophe Al Gore purports it to be.

#### No impact to warming – not a hack

Stafford 3/11 -- interviewing Anthony Watts, 25-year broadcast meteorology veteran (James, 2013, "Climate Change without Catastrophe: Interview with Anthony Watts," http://oilprice.com/Interviews/Climate-Change-without-Catastrophe-Interview-with-Anthony-Watts.html)

Anthony Watts: The premise of the issue for proponents can be summed up very simply: You put CO2 in the atmosphere and it makes it warmer, that’s bad. The reality is that the Earth’s climate system is far more complex than that: It isn’t just a linear relationship between CO2 and temperature, it is a dynamic ever-changing one, and climate is tremendously complex with hundreds of interactive variables and feedbacks. Predicting an outcome of a chaotic system over the long term is a very, very big task, one that we’ve really only scratched the surface of. Dr. Judith Curry of Georgia Tech describes it as a “wicked problem”. But it is being popularly portrayed as a simple black-and-white problem and few really delve much beyond the headlines and the calls for action to understand that it is really many shades of grey. Oilprice.com: As a former TV meteorologist and a developer of weather data dissemination technology, can you tell us more about how your background lends to your “pragmatic scepticism” on climate change? Anthony Watts: In TV, if I was wrong on the forecast, or the temperature reported was inaccurate, I’d hear about it immediately. Viewers would complain. That immediate feedback translates very quickly to making sure you get it right. With climate, the forecast is open-ended, and we have to wait years for feedback, and so the skill level in forecasting often doesn’t improve very much with time. Also, I’ve had a lifetime of experience in designing and deploying weather instrumentation, and like with forecasting, if we don’t get it right, we hear about it immediately. What I learned is that the government weather service (NOAA) had it right at one time, but they’d dropped their guard, and my recent study (preliminary) shows that not only is the deployment of weather stations faulty in siting them, but that the adjustments designed to solve those issues actually make the problem worse. Oilprice.com: Is there any way to remove the “camp” element from the issue of climate change? How far do disastrous weather events—like Hurricane Sandy—go towards reshaping the climate change debate? Anthony Watts: The idea that Hurricane Sandy, a minor class 1 storm, was somehow connected to CO2 driven “climate change” is ludicrous, especially when far worse storms existed in the same area in the past when CO2 was much lower. Hurricane Hazel in October 1954 is a case in point. In my view, the only way to null out the “camp” element is via education. Looking at the history of severe weather, there really aren’t any trends at all. Both the IPCC and The Journal Nature say this clearly, but activists persist in trying to link severe weather and CO2 driven “climate change” because since temperature increases have paused for about 15 years, it is all they have left. But even that doesn’t hold up when you study the data history: There is also some peer-reviewed analysis which goes into some depth on this subject. This analysis concludes that "there is no evidence so far that climate change has increased the normalized economic loss from natural disasters." Oilprice.com: Your message on climate change has been controversial among those who believe this issue is the gravest one facing us today. In what way do you think your message is misunderstood? Anthony Watts: They think and promote that I’m categorically a “denier” in the pay of “big oil” (for the record, I’m paid nothing for this interview) in an effort to minimize my views, while ignoring the fact that I was actually on the proponent side of warming at one time. Now, I’d describe myself as a lukewarmer. Yes, it has gotten warmer, CO2 is partially a factor, but catastrophic predictions of the future just haven’t held up when you look at the observed data compared to the early predictions.

#### No consensus on catastrophic climate change – it’s unlikely

Boslough 13 -- PhD, Caltech-trained experimental and computational physicist, Fellow of the Committee for Skeptical Inquiry (Mark, 1/6/2013, "Global Warming: Scholarship vs. Pseudoscholarship," http://www.huffingtonpost.com/mark-boslough/global-warming-scholarshi\_b\_2422438.html)

What is not settled is the degree of climate change. In the peer-reviewed scientific literature there is a healthy, open, honest, and vigorous scientific debate. The best scientific estimate of the amount of warming (when CO2 levels double, which is likely to happen this century) is about 6 ºF. There are those who disagree, and have published the basis for their disagreement. The most useful assessments are not limited to the best estimate, but include quantification of the uncertainty, which is one of the hallmarks of honesty in science. There is a broad range of possibility, from below 4 ºF to greater than 11 ºF. One recent paper estimates a likelihood of about 2.5% that average temperature increases could exceed 14 ºF; a change that would probably lead to the collapse of global ecosystems, loss of civilization, and possible human extinction. There is no way to prove or disprove these quantitative estimates, other than to wait and see what happens. That said, it is hard to ignore a scholarly paper (emphasis on the word "scholarly") that gives longer odds for civilization than for a shuttle launch.

#### Past temperatures disprove human loss

Fowler 12 -- adjunct professor of engineering at George Mason University, retired systems engineer, doctorate is in systems and control theory from George Washington University (Thomas B., 9/1/2012, "THE GLOBAL WARMING CONUNDRUM," Modern Age, EBSCO)

Longer-Term Findings Perhaps the best way to put the current global warming controversy into perspective is to look at temperature records over longer historical periods. These records are obtained by proxies, and the main proxy used is ice core samples from central Creenland, made by NOAA. These are shown in Figure 4, beginning with the period from AD 1400 to the present, illustrating the controversial "hockey stick": It appears that things may be getting pretty bad today. But let us move to a slightly longer term, going back to the year 800, illustrated in Figure 5: Now things start to become more interesting. The well-documented Medieval Maximum is clearly visible and shows a much higher temperature deviation than the modern record. (This is disputed by some climate researchers and by the IPCC, which claims that its top is below that of the modern instrument record.)\* Nonetheless the ice core data agree with documentation that grapes were grown in England, for example, during that period. It was also a period of great awakening in Europe. But we must look further back, so we turn to the period from about 3000 BC to the present, given in Figure 6. Now more ttends become apparent. In particular, there is a peak corresponding to the Roman Empire, well documented, around the year 50 BC or so, known as the "Roman Maximum," which dwarfs the Medieval Maximum; and an even larger peak at the time of the late Bronze Age, about 1200 BC, which in turn dwarfs even the Roman Maximum. The late Bronze Age was also a very fertile period for human activity. There is also a smaller peak during the period now usually called "Late Antiquity," around the years AD 400-500. Note that even the dip between the Roman Maximum and this Late Antiquity peak had temperatures that equal or exceed that of the recent past, as did the dip in temperatures from the end of the Late Bronze Age peak to the Roman Maximum. Still, we must persevere and go back even further, this time to about 11,000 BC, shown in Figure 7. Now the last Ice Age clearly comes into view, a cold period that ended about 10,000 BC. There are several other peaks prior to the Late Bronze Age, but now the record makes the peaks and dips from about 8000 BC to the present look like noise on top of a much larger signal. We are not yet at the end of our quest. We now go back about fifty thousand years, shown in Figure 8. From this graph it is clear that the latter days, that is, the past twelve thousand years, have been abnormally warm. Much cooler temperatures appear to be the norm, with much greater variability. Note that the last Ice Age, with its great glacial ice sheets, was a maximum about twenty thousand years ago. Still, this is not the best we can do. We shall go back now 450,000 years, shown in Figure 9 (page 54). From this vantage point, it is quite clear that there is a distinct cyclical pattern to the earth's temperature, with a period of about 100,000 years, in which there is a sharp rise in temperatures to roughly current levels, followed quickly by a rapid decline. What is especially interesting is the relatively short time these peaks persist, only to be followed by some type of ice age.

#### Previous temperature spikes disprove the impact

Singer 11 (S. Fred, Robert M. and Craig, PhD physics – Princeton University and professor of environmental science – UVA, consultant – NASA, GAO, DOE, NASA, Carter, PhD paleontology – University of Cambridge, adjunct research professor – Marine Geophysical Laboratory @ James Cook University, and Idso, PhD Geography – ASU, “Climate Change Reconsidered,” 2011 Interim Report of the Nongovernmental Panel on Climate Change)

Research from locations around the world reveal a significant period of elevated air temperatures that immediately preceded the Little Ice Age, during a time that has come to be known as the Little Medieval Warm Period. A discussion of this topic was not included in the 2009 NIPCC report, but we include it here to demonstrate the existence of another set of real-world data that do not support the IPCC‘s claim that temperatures of the past couple of decades have been the warmest of the past one to two millennia. In one of the more intriguing aspects of his study of global climate change over the past three millennia, Loehle (2004) presented a graph of the Sargasso Sea and South African temperature records of Keigwin (1996) and Holmgren et al. (1999, 2001) that reveals the existence of a major spike in surface air temperature that began sometime in the early 1400s. This abrupt and anomalous warming pushed the air temperatures of these two records considerably above their representations of the peak warmth of the twentieth century, after which they fell back to pre-spike levels in the mid-1500s, in harmony with the work of McIntyre and McKitrick (2003), who found a similar period of higher-than-current temperatures in their reanalysis of the data employed by Mann et al. (1998, 1999).

#### No impact to warming

Idso and Idso 11 (Craig D., Founder and Chairman of the Board – Center for the Study of Carbon Dioxide and Global Change, and Sherwood B., President – Center for the Study of Carbon Dioxide and Global Change, “Carbon Dioxide and Earth’s Future Pursuing the Prudent Path,” February, <http://www.co2science.org/education/reports/> prudentpath/prudentpath.pdf)

As presently constituted, earth’s atmosphere contains just slightly less than 400 ppm of the colorless and odorless gas we call carbon dioxide or CO2. That’s only four-hundredths of one percent. Consequently, even if the air's CO2 concentration was tripled, carbon dioxide would still comprise only a little over one tenth of one percent of the air we breathe, which is far less than what wafted through earth’s atmosphere eons ago, when the planet was a virtual garden place. Nevertheless, a small increase in this minuscule amount of CO2 is frequently predicted to produce a suite of dire environmental consequences, including dangerous global warming, catastrophic sea level rise, reduced agricultural output, and the destruction of many natural ecosystems, as well as dramatic increases in extreme weather phenomena, such as droughts, floods and hurricanes. As strange as it may seem, these frightening future scenarios are derived from a single source of information: the ever-evolving computer-driven climate models that presume to reduce the important physical, chemical and biological processes that combine to determine the state of earth’s climate into a set of mathematical equations out of which their forecasts are produced. But do we really know what all of those complex and interacting processes are? And even if we did -- which we don't -- could we correctly reduce them into manageable computer code so as to produce reliable forecasts 50 or 100 years into the future? Some people answer these questions in the affirmative. However, as may be seen in the body of this report, real-world observations fail to confirm essentially all of the alarming predictions of significant increases in the frequency and severity of droughts, floods and hurricanes that climate models suggest should occur in response to a global warming of the magnitude that was experienced by the earth over the past two centuries as it gradually recovered from the much-lower-than-present temperatures characteristic of the depths of the Little Ice Age. And other observations have shown that the rising atmospheric CO2 concentrations associated with the development of the Industrial Revolution have actually been good for the planet, as they have significantly enhanced the plant productivity and vegetative water use efficiency of earth's natural and agro-ecosystems, leading to a significant "greening of the earth." In the pages that follow, we present this oft-neglected evidence via a review of the pertinent scientific literature. In the case of the biospheric benefits of atmospheric CO2 enrichment, we find that with more CO2 in the air, plants grow bigger and better in almost every conceivable way, and that they do it more efficiently, with respect to their utilization of valuable natural resources, and more effectively, in the face of environmental constraints. And when plants benefit, so do all of the animals and people that depend upon them for their sustenance. Likewise, in the case of climate model inadequacies, we reveal their many shortcomings via a comparison of their "doom and gloom" predictions with real-world observations. And this exercise reveals that even though the world has warmed substantially over the past century or more -- at a rate that is claimed by many to have been unprecedented over the past one to two millennia -- this report demonstrates that none of the environmental catastrophes that are predicted by climate alarmists to be produced by such a warming has ever come to pass. And this fact -- that there have been no significant increases in either the frequency or severity of droughts, floods or hurricanes over the past two centuries or more of global warming -- poses an important question. What should be easier to predict: the effects of global warming on extreme weather events or the effects of elevated atmospheric CO2 concentrations on global temperature? The first part of this question should, in principle, be answerable; for it is well defined in terms of the small number of known factors likely to play a role in linking the independent variable (global warming) with the specified weather phenomena (droughts, floods and hurricanes). The latter part of the question, on the other hand, is ill-defined and possibly even unanswerable; for there are many factors -- physical, chemical and biological -- that could well be involved in linking CO2 (or causing it not to be linked) to global temperature. If, then, today's climate models cannot correctly predict what should be relatively easy for them to correctly predict (the effect of global warming on extreme weather events), why should we believe what they say about something infinitely more complex (the effect of a rise in the air’s CO2 content on mean global air temperature)? Clearly, we should pay the models no heed in the matter of future climate -- especially in terms of predictions based on the behavior of a non-meteorological parameter (CO2) -- until they can reproduce the climate of the past, based on the behavior of one of the most basic of all true meteorological parameters (temperature). And even if the models eventually solve this part of the problem, we should still reserve judgment on their forecasts of global warming; for there will yet be a vast gulf between where they will be at that time and where they will have to go to be able to meet the much greater challenge to which they aspire

### 1NC Not Happening / Anthropogenic

#### No warming and not anthropogenic

Ferrara 12 -- Director of Entitlement and Budget Policy for the Heartland Institute, Senior Advisor for Entitlement Reform and Budget Policy at the National Tax Limitation Foundation, General Counsel for the American Civil Rights Union, and Senior Fellow at the National Center for Policy Analysis, served in the White House Office of Policy Development, graduate of Harvard College and Harvard Law School (Peter, 5/31/2012, "Sorry Global Warming Alarmists, The Earth Is Cooling," http://www.forbes.com/sites/peterferrara/2012/05/31/sorry-global-warming-alarmists-the-earth-is-cooling/)

Climate change itself is already in the process of definitively rebutting climate alarmists who think human use of fossil fuels is causing ultimately catastrophic global warming. That is because natural climate cycles have already turned from warming to cooling, global temperatures have already been declining for more than 10 years, and global temperatures will continue to decline for another two decades or more. That is one of the most interesting conclusions to come out of the seventh International Climate Change Conference sponsored by the Heartland Institute, held last week in Chicago. I attended, and served as one of the speakers, talking about The Economic Implications of High Cost Energy. The conference featured serious natural science, contrary to the self-interested political science you hear from government financed global warming alarmists seeking to justify widely expanded regulatory and taxation powers for government bodies, or government body wannabees, such as the United Nations. See for yourself, as the conference speeches are online. What you will see are calm, dispassionate presentations by serious, pedigreed scientists discussing and explaining reams of data. In sharp contrast to these climate realists, the climate alarmists have long admitted that they cannot defend their theory that humans are causing catastrophic global warming in public debate. With the conference presentations online, let’s see if the alarmists really do have any response. The Heartland Institute has effectively become the international headquarters of the climate realists, an analog to the UN’s Intergovernmental Panel on Climate Change (IPCC). It has achieved that status through these international climate conferences, and the publication of its Climate Change Reconsidered volumes, produced in conjunction with the Nongovernmental International Panel on Climate Change (NIPCC). Those Climate Change Reconsidered volumes are an equivalently thorough scientific rebuttal to the irregular Assessment Reports of the UN’s IPCC. You can ask any advocate of human caused catastrophic global warming what their response is to Climate Change Reconsidered. If they have none, they are not qualified to discuss the issue intelligently. Check out the 20th century temperature record, and you will find that its up and down pattern does not follow the industrial revolution’s upward march of atmospheric carbon dioxide (CO2), which is the supposed central culprit for man caused global warming (and has been much, much higher in the past). It follows instead the up and down pattern of naturally caused climate cycles. For example, temperatures dropped steadily from the late 1940s to the late 1970s. The popular press was even talking about a coming ice age. Ice ages have cyclically occurred roughly every 10,000 years, with a new one actually due around now. In the late 1970s, the natural cycles turned warm and temperatures rose until the late 1990s, a trend that political and economic interests have tried to milk mercilessly to their advantage. The incorruptible satellite measured global atmospheric temperatures show less warming during this period than the heavily manipulated land surface temperatures. Central to these natural cycles is the Pacific Decadal Oscillation (PDO). Every 25 to 30 years the oceans undergo a natural cycle where the colder water below churns to replace the warmer water at the surface, and that affects global temperatures by the fractions of a degree we have seen. The PDO was cold from the late 1940s to the late 1970s, and it was warm from the late 1970s to the late 1990s, similar to the Atlantic Multidecadal Oscillation (AMO). In 2000, the UN’s IPCC predicted that global temperatures would rise by 1 degree Celsius by 2010. Was that based on climate science, or political science to scare the public into accepting costly anti-industrial regulations and taxes? Don Easterbrook, Professor Emeritus of Geology at Western Washington University, knew the answer. He publicly predicted in 2000 that global temperatures would decline by 2010. He made that prediction because he knew the PDO had turned cold in 1999, something the political scientists at the UN’s IPCC did not know or did not think significant. Well, the results are in, and the winner is….Don Easterbrook. Easterbrook also spoke at the Heartland conference, with a presentation entitled “Are Forecasts of a 20-Year Cooling Trend Credible?” Watch that online and you will see how scientists are supposed to talk: cool, rational, logical analysis of the data, and full explanation of it. All I ever see from the global warming alarmists, by contrast, is political public relations, personal attacks, ad hominem arguments, and name calling, combined with admissions that they can’t defend their views in public debate. Easterbrook shows that by 2010 the 2000 prediction of the IPCC was wrong by well over a degree, and the gap was widening. That’s a big miss for a forecast just 10 years away, when the same folks expect us to take seriously their predictions for 100 years in the future. Howard Hayden, Professor of Physics Emeritus at the University of Connecticut showed in his presentation at the conference that based on the historical record a doubling of CO2 could be expected to produce a 2 degree C temperature increase. Such a doubling would take most of this century, and the temperature impact of increased concentrations of CO2 declines logarithmically. You can see Hayden’s presentation online as well. Because PDO cycles last 25 to 30 years, Easterbrook expects the cooling trend to continue for another 2 decades or so. Easterbrook, in fact, documents 40 such alternating periods of warming and cooling over the past 500 years, with similar data going back 15,000 years. He further expects the flipping of the ADO to add to the current downward trend. But that is not all. We are also currently experiencing a surprisingly long period with very low sunspot activity. That is associated in the earth’s history with even lower, colder temperatures. The pattern was seen during a period known as the Dalton Minimum from 1790 to 1830, which saw temperature readings decline by 2 degrees in a 20 year period, and the noted Year Without A Summer in 1816 (which may have had other contributing short term causes). Even worse was the period known as the Maunder Minimum from 1645 to 1715, which saw only about 50 sunspots during one 30 year period within the cycle, compared to a typical 40,000 to 50,000 sunspots during such periods in modern times. The Maunder Minimum coincided with the coldest part of the Little Ice Age, which the earth suffered from about 1350 to 1850. The Maunder Minimum saw sharply reduced agricultural output, and widespread human suffering, disease and premature death. Such impacts of the sun on the earth’s climate were discussed at the conference by astrophysicist and geoscientist Willie Soon, Nir J. Shaviv, of the Racah Institute of Physics in the Hebrew University of Jerusalem, and Sebastian Luning, co-author with leading German environmentalist Fritz Vahrenholt of The Cold Sun. Easterbrook suggests that the outstanding question is only how cold this present cold cycle will get. Will it be modest like the cooling from the late 1940s to late 1970s? Or will the paucity of sunspots drive us all the way down to the Dalton Minimum, or even the Maunder Minimum? He says it is impossible to know now. But based on experience, he will probably know before the UN and its politicized IPCC.

### 1NC Negative Feedbacks

#### Negative feedbacks check runaway warming -

#### A. Water Vapor

Sweger 11 [Dr. Daniel M. Sweger, AB (Physics, Duke University, 1965) and Ph.D. (Solid State Physics, American University, 1974) has been a research scientist at NIST, where he was active in a variety of research areas, including cryogenic thermometry, solid state and nuclear physics, and molecular spectroscop, “ Earth’s Climate Engine Exploring the Dynamics of Earth’s Climate”, March 17th, 2011, http://junksciencearchive.com/Greenhouse/Earth-s\_Climate\_Engine.pdf, Chetan]

The role of water vapor in determining surface temperatures is ultimately a dominant one. During daylight hours it moderates the sun’s energy, at night it acts like a blanket to slow the loss of heat, and carries energy from the warm parts of the earth to the cold. Compared to that, if carbon dioxide has an effect, it must be negligible. It is also clear from the data presented above that water vapor acts with a negative feedback. The data clearly shows that the relationship between the amount of water vapor in the air and temperature is negative; that is, the higher the amount of water vapor in the atmosphere the lower the surface temperature. In that regard, it almost acts as a thermostat. As the air cools as a result of an increasing moisture content in the atmosphere, there is a decrease in the amount of water vapor produced by evaporation. Eventually this decrease of the level of water vapor being introduced into the atmosphere results in a decrease in moisture content. At this point more sunlight reaches the earth’s surface resulting in higher temperatures and increasing evaporation. In the positive feedback mechanism as proposed by the global warming proponents this behavior would be reversed. Then the data would show a positive relationship between moisture content and temperature. But it does not.

#### B. Sulfate aerosols

Hausfather 8 – Zeke, Regular Contributor to the Yale Forum on Climate Change, June 24th, [“COMMON CLIMATE MISCONCEPTIONS Why Reducing Sulfate Aerosol Emissions Complicates Efforts to Moderate Climate Change” The Yale Forum on Climate Change and the Media, http://yaleclimatemediaforum.org/ccm/0608\_sulphate\_aerosol\_emissions.htm]

With all the attention surrounding carbon dioxide these days, it is easy to forget that there are a number of other important natural and human-driven factors ("forcings" in climate circles) that influence Earth's climate. Among the most important of these are sulfate aerosols, microscopic particles smaller than a millionth of a meter suspended in the air. Sulfate aerosols are produced primarily from sulphur dioxide (SO2) emitted during the combustion of fossil fuels. Along with ozone precursors, they are primary causes of acid rain and of lung irritation and ground-level haze or smog in polluted areas. Sulfate aerosols also have a strong cooling effect on Earth, both through their ability to scatter incoming light and because of their propensity to increase cloud formation and reflectivity. Among the most significant changes in climate change modeling between the 2001 IPCC Third Assessment Report (TAR) and the Fourth Assessment Report (AR4) in 2007 was a revision of the expected trajectory of human-induced sulfate aerosol emissions. In the earlier report, scientists assumed that aerosols would increase in rough proportional to economic growth. The authors of the 2007 report realized that emissions of aerosols, which have direct and immediate negative health effects to those in the area surrounding their emission, will likely be targeted for reductions as countries like China and India become wealthier. This emissions reduction would mirror a similar process that occurred in Europe and the United States. Sulfate aerosols are the most significant substance in a category of aerosols tending to help cool the climate. Aerosols decrease radiative forcing in two ways: through direct aerosol effects as a result of an increased scattering and absorption of incoming solar radiation, and through indirect effects resulting from their ability to serve as cloud condensation nuclei. An increased number of cloud condensation nuclei have a number of different effects: they increase the reflectivity of clouds by making them denser and giving them higher liquid water content, they increase the height of clouds, and they increase cloud lifetime. Figure One, below, shows the major climate forcings over the past 120 years. The major positive forcings include CO2 at 1.66 watts per meter squared (W m-2), methane (CH4) at 0.46 W m-2, nitrous oxide (N2O) at 0.16 W m-2, and various halocarbons (CFCs, HCFCs, etc.) at 0.34 W m-2. Aerosol direct effects account for -0.5 ± 0.4 W m-2 negative forcing, with SO2 comprising -0.4 W m-2. Indirect effects are around -0.7 W m-2, with a large uncertainty range of -1.8 to -0.3 W m-2. Aerosols are the primary reason why Earth is still at around 380 parts per million CO2-equivilent (CO2e), rather than the 460 ppm CO2e projected if all the positive forcings were added together. Conveniently enough, aerosols pretty much cancel out the warming from all the non-CO2 greenhouse gases. 0608\_ccm\_Fig1.jpg - 31186 Bytes Figure One. Radiative forcing of major climate factors over the past 123 years. Figure from Hansen et al 2005. There are a number of different projections for sulfate aerosol emissions over the next century based on assumptions regarding the rate of economic growth, population growth, and technological development. Figure Two, below, shows an aggregation of all models of anthropogenic sulfate emissions used in the most recent IPCC report. Specific scenarios vary widely, but the median value across all models results by the year 2100 in sulfate aerosol emissions of 35 million metric tons, roughly one half of current emissions. 0608\_ccm\_Fig2.jpg - 55341 Bytes Figure Two. Projections of future aerosol emissions for SRES (Special Report on Emissions Scenarios) and post-SRES scenarios. Figure from the third working group of the latest IPCC report. A reduction of anthropogenic SO2 of around 50 percent worldwide over the next century, as projected in the most recent IPCC report, would result in a significant warming effect on the global climate. Sulfates are extremely short-lived particles, and emission reductions would have immediate effects on radiative forcing. A 50 percent reduction in sulfate aerosol emissions would reduce by half their current radiative forcing of -0.83 W m-2. This change in forcings would increase global temperatures by roughly 0.36 degrees C (.64 F) relative to a scenario where aerosol emissions remain constant. Figure three below shows the practical implications of a reduction in aerosols in the next century. If current greenhouse gas concentrations remain constant at current levels, scientists project about 1.34 degrees C (2.41 F) warming relative to pre-industrial temperatures by the end of the century (the world has already warmed 0.74 degrees C (1.33 F) in the past century, and 0.60 degrees C (1.08F) additional warming is in the pipeline as a result of Earth's thermal inertia). A reduction of anthropogenic atmospheric sulfate aerosols by 50 percent means that 1.34 degrees C (2.41 F) warming suddenly becomes 1.70 degrees C (3.06 F). Constant 2005 GHG Concentrations Constant SO2 1.34 degrees C (2.41 F) Reduced SO2 1.70 degrees C (3.06 F) Figure Three. Based on a simple calculation of radiative forcings of the current atmospheric concentration of greenhouse gases at equilibrium, assuming a climate sensitivity of roughly 0.87 degrees K. Also assuming that anthropogenic SO2 represent only 72 percent of total atmospheric SO2 flux and that the indirect aerosol effects of SO2 account for around 62 percent of total indirect aerosol forcing, or -0.43 W m-2

### AT Russia Accidents

#### No escalation – disagreements remain limited

Weitz 11 (Richard, senior fellow at the Hudson Institute and a World Politics Review senior editor 9/27/2011, “Global Insights: Putin not a Game-Changer for U.S.-Russia Ties,” <http://www.scribd.com/doc/66579517/Global-Insights-Putin-not-a-Game-Changer-for-U-S-Russia-Ties>)

Fifth, there will inevitably be areas of conflict between Russia and the United States regardless of who is in the Kremlin. Putin and his entourage can never be happy with having NATO be Europe's most powerful security institution, since Moscow is not a member and cannot become one. Similarly, the Russians will always object to NATO's missile defense efforts since they can neither match them nor join them in any meaningful way. In the case of Iran, Russian officials genuinely perceive less of a threat from Tehran than do most Americans, and Russia has more to lose from a cessation of economic ties with Iran -- as well as from an Iranian-Western reconciliation. On the other hand, these conflicts can be managed, since they will likely **remain limited and compartmentalized**. Russia and the West **do not have fundamentally conflicting vital interests of the kind countries would go to war over**. And as the Cold War demonstrated, nuclear weapons are a great pacifier under such conditions. Another novel development is that Russia is much more integrated into the international economy and global society than the Soviet Union was, and Putin's popularity depends heavily on his economic track record. Beyond that, there are objective criteria, such as the smaller size of the Russian population and economy as well as the difficulty of controlling modern means of social communication, that will constrain whoever is in charge of Russia.

#### ---No nuclear strike

Graham 7 (Thomas Graham, senior advisor on Russia in the US National Security Council staff 2002-2007, 2007, "Russia in Global Affairs” The Dialectics of Strength and Weakness http://eng.globalaffairs.ru/numbers/20/1129.html)

An astute historian of Russia, Martin Malia, wrote several years ago that “Russia has at different times been demonized or divinized by Western opinion less because of her real role in Europe than because of the fears and frustrations, or hopes and aspirations, generated within European society by its own domestic problems.” Such is the case today. To be sure, mounting Western concerns about Russia are a consequence of Russian policies that appear to undermine Western interests, but they are also a reflection of declining confidence in our own abilities and the efficacy of our own policies. Ironically, this growing fear and distrust of Russia come at a time when Russia is arguably less threatening to the West, and the United States in particular, **than it has been at any time since the end of the Second World War**. Russia does not champion a totalitarian ideology intent on our destruction, its military poses no threat to sweep across Europe, its economic growth depends on constructive commercial relations with Europe, and its strategic arsenal – while still capable of annihilating the United States – is under more reliable control than it has been in the past fifteen years and **the threat of a strategic strike approaches zero probability**. Political gridlock in key Western countries, however, precludes the creativity, risk-taking, and subtlety needed to advance our interests on issues over which we are at odds with Russia while laying the basis for more constructive long-term relations with Russia.

#### No risk of accidental/unauthorized war.

Dr. Leonid Ryabikhin, General (Ret.) Viktor Koltunov and Dr. Eugene Miasnikov, June 2009. Senior Fellow at the EastWest Institute; Deputy Director, Institute for Strategic Stability of Rosatom; and Senior Research Scientist, Centre for Arms Control, Energy, and Environmental Studies, Moscow Institute of Physics and Technology. “De-alerting: Decreasing the Operational Readiness of Strategic Nuclear Forces,” Discussion paper presented at the seminar on “Re-framing De Alert: Decreasing the Operational Readiness of Nuclear Weapons Systems in the U.S.-Russia Context,” [www.ewi.info/system/files/RyabikhinKoltunovMiasnikov.pdf](http://www.ewi.info/system/files/RyabikhinKoltunovMiasnikov.pdf).

Analysis of the above arguments shows, that they do not have solid grounds. Today Russian and U.S. ICBMs are not targeted at any state. High alert status of the Russian and U.S. strategic nuclear forces has not been an obstacle for building a strategic partnership. The issue of the possibility of an “accidental” nuclear war itself is hypothetical. Both states have developed and implemented constructive organizational and technical measures that practically exclude launches resulting from unauthorized action of personnel or terrorists. Nuclear weapons are maintained under very strict system of control that excludes any accidental or unauthorized use and guarantees that these weapons can only be used provided that there is an appropriate authorization by the national leadership. Besides that it should be mentioned that even the Soviet Union and the United States had taken important bilateral steps toward decreasing the risk of accidental nuclear conflict. Direct emergency telephone “red line” has been established between the White House and the Kremlin in 1963. In 1971 the USSR and USA signed the Agreement on Measures to Reduce the Nuclear War Threat. This Agreement established the actions of each side in case of even a hypothetical accidental missile launch and it contains the requirements for the owner of the launched missile to deactivate and eliminate the missile. Both the Soviet Union and the United States have developed proper measures to observe the agreed requirements.

#### No need to de-alert --- systems stable.

William J. Perry and James R. Schlesinger et al, 2009. Former Secretary of Defense, Michael and Barbara Berberian Professor at Stanford University, senior fellow at FSI and serves as co-director of the Preventive Defense Project, and former Secretary of Defense, Secretary of Energy and Director of the Central Intelligence Agency, Counselor to the Center for Strategic and International Studies, lecturer @ SAIS, Johns Hopkins University, PhD International Relations @ UPenn. “America’s Strategic Posture,” Report of the Congressional Commission on the Strategic Posture of the United States, media.usip.org/reports/strat\_posture\_report.pdf.

The second is de-alerting. Some in the arms control community have pressed enthusiastically for new types of agreements that take U.S. and Rus- sian forces off of so-called “hair trigger” alert. This is simply an erroneous characterization of the issue. The alert postures of both countries are in fact highly stable. They are subject to multiple layers of control, ensuring clear civilian and indeed presidential decision-making. The proper focus really should be on increasing the decision time and information available to the U.S. president—and also to the Russian president—before he might autho- rize a retaliatory strike. There were a number of incidents during the Cold War when we or the Russians received misleading indications that could have triggered an accidental nuclear war. With the greatly reduced tensions of today, such risks now seem relatively low. The obvious way to further reduce such risks is to increase decision time for the two presidents. The President should ask the Commander of U.S. Strategic Command to give him an analysis of factors affecting the decision time available to him as well as recommendations on how to avoid being put in a position where he has to make hasty decisions. It is important that any changes in the decision process preserve and indeed enhance crisis stability.

### AT ! Calc

#### ---Deterrence checks

Giorgio et al 10 (Maia Juel, Tina Søndergaard Madsen, Jakob Wigersma, Mark Westh, “Nuclear Deterrence in South Asia: An Assessment of Deterrence and Stability in the Indian – Pakistan Conflict,” Global Studies, Autumn, http://dspace.ruc.dk/bitstream/1800/6041/1/Project%20GS-BA%2c%20Autumn%202010.pdf)

To what extent has nuclear deterrence enhanced stability in the India-Pakistan conflict? Recalling the logical structure of the paper, we here wish to reconcile the three analyses and offer a coherent synthesis of the results in relation to the research question. In order to gather the threads it is beneficial to shortly reflect upon the main results of the three analyses. Firstly, the aim with the thesis was to explore if there is nuclear deterrence between India and Pakistan, based upon Waltz three requirements. After having undertaken this analysis, we can conclude that Waltz’s requirements for effective nuclear deterrence are in fact fulfilled in both countries. Thus, from a neorealist perspective, is it then possible to deduce that stability reigns between India and Pakistan as a result of nuclear deterrence? Taking a point of departure in neorealist assumptions and nuclear deterrence theory, there is indeed stability between India and Pakistan, as no major war has taken place between the countries, and more importantly, nuclear war has been avoided. Nuclear deterrence has thus been successful in creating stability on a higher structural level.

### **AT US Accidents**

#### US has no risk of accidents- arsenal upgrades

Rudney and Stanley ‘2K (Dealerting Proposals for Strategic Nuclear Forces: A Critical Analysis. By: , Robert Rudney, Senior Managing Editor of Comparative Strategy and Willis Stanley President of the National Institute for Public Policy,, Comparative Strategy, 01495933, Jan-Mar2000, Vol. 19, Issue 1

The U.S. record in maintaining a safe and secure nuclear deterrent over the past 50 years has been outstanding. According to Assistant Secretary of Defense Edward L. Warner, "**Because of changes in our posture and technical improvements in our systems, our nuclear weapons are less exposed to accident environments, and the likelihood of a nuclear accident has decreased significantly"** [ 2**]. The United States is committed to maintaining high confidence in the safety, reliability, and performance of the nuclear stockpile through an aggressive, well-funded stockpile-stewardship program.**

### **AT China/Russia Accidents**

#### Intelligence reports all go neg- no risk of Chinese or Russian accidents

Rudney and Stanley ‘2K(Robert and Willis, [Dealerting proposals for strategic nuclear forces: A critical analysis](http://www.informaworld.com/smpp/content%7Edb=all%7Econtent=a782371380), Comparative Strategy, 1521-0448, Volume 19, Issue 1, 2000)

Senior U.S. officials downplay allegations by Blair and other dealerting advocates that there is a significant risk of accidental or unauthorized launch of missiles by the Russians. In a December 1998 speech, Robert D. Walpole, National Intelligence Officer for Strategic and Nuclear Programs, summarized **the CIA's annual report** to Congress on foreign missile developments, which found that "an unauthorized or accidental launch of a Russian or Chinese strategic missile **is highly unlikely**, as long as current security procedures and systems are in place. **Russia employs an extensive array of technical and procedural safeguards and China keeps its missiles unfueled and without warheads mated**" [ [110](http://web.ebscohost.com.ezp-prod1.hul.harvard.edu/ehost/detail?vid=4&hid=8&sid=de0c5a2b-8f02-4092-8168-7ac07682c97e%40sessionmgr10&bdata=JnNpdGU9ZWhvc3QtbGl2ZSZzY29wZT1zaXRl#bib110)]. In communications to Congress in 1998, **both the CIA and the** Defense Intelligence Agency (**DIA**) asserted that the possibility of an unauthorized launch Russian strategic weapons **was very low because of the many safeguards** built into the system [ 111 ].

### **AT Red Lines**

#### Red lines solve

Ryabikhin et al. ‘9 (Discussion paper presented at the seminar on “Re-framing De-Alert: Decreasing the Operational Readiness of Nuclear Weapons Systems in the U.S.-Russia Context” in Yverdon, Switzerland, 21-23 21-23 June 2009 De-alerting: Decreasing the Operational Readiness of Strategic Nuclear Forces By Dr. Leonid RYABIKHIN Executive Secretary, Committee of Scientist for Global Security and Arms Control; Senior Fellow, EastWest Institute General (Ret.) Viktor KOLTUNOV Deputy Director, Institute for Strategic Stability of Rosatom Dr. Eugene MIASNIKOV Senior Research Scientist, Center for Arms Control, Energy and Environmental Studies

Besides that it should be mentioned that even the Soviet Union and the United States had taken important bilateral steps toward decreasing the risk of accidental nuclear conflict. **Direct emergency telephone “red line” has been established between the White House and the Kremlin in 1963. In 1971 the USSR and USA signed the Agreement on Measures to Reduce the Nuclear War Threat.** This Agreement established the actions of each side in case of even a hypothetical accidental missile launch **and it contains the requirements for the owner of the launched missile to deactivate and eliminate the missile.** Both the Soviet Union and 5 the United States have developed proper measures to observe the agreed requirements.

## 1NR – CP

### Solvency 2NC

#### Counterplan solves the whole aff –

#### Warming – citizen suits solve warming and generate international pressure address climate change. NO CHANCE they win a solvency deficit. The gormley evidence is the best piece of evidence on this issue in the debate. The counterplan lowers the currently high threshold for standing in warming suits, facilitating citizen challenges. This legal framework is modelled through transnational judicial dialogue, creating global institutional support for climate mitigation efforts.

#### Miscalc – the counterplan creates a constitutional ruling that prohibits launch on warning, only it uses the due process clause of the Fifth Amendment rather than the posterity clause. It establishes an equally rigorous legally defensible basis for denying launch on warning. That is our Goldstein evidence and there is no solvency deficit made to the Fifth Amendment ruling specifically. The president would be legally obligated to wait for detonation before launching a retaliatory strike.

#### AND, Citizen standing guarantees lawsuits, solves launch on warning

Goldstein 88 (Yonkel Goldstein, J.D., 1988, Stanford Law School, “The Failure of Constitutional Controls Over War Powers in the Nuclear Age: The Argument for a Constitutional Amendment,” Stanford Law Review July, 1988 40 Stan. L. Rev. 1543)

The third paragraph of the proposed amendment incorporates both the courts and the citizenry into the scheme. It is intended to reverse the long judicial tradition of granting deference to the Executive in military affairs. What is envisioned is something similar to "hard-look review," n277 which any citizen would have standing to initiate. In other [\*1589] words, courts would, at the initiation of a citizen, have a supervisory role to be certain that Congress has rationally considered the relevant data in military planning. Beyond ensuring some modicum of congressional rationality, however, courts would have to defer to congressional judgment in policy areas. Judicial competence to function in this area would be no different than in the host of other technical areas in which the courts provide oversight. Judges' expertise in these cases lies in their ability to ensure that legitimate issues are addressed in the decisionmaking process. Given the tremendous predominance of the Executive in this area, this proposal actually strengthens the policy underlying the separation of powers. If the separation of powers attempts to create an internal tension between the coordinate branches of government, the problem is that, due to executive hypertrophy, the other branches have been overwhelmed in this area, and not enough tension exists. By virtually ensuring that courts be involved, this proposal should create enough tension in the system so that the judicial and legislative branches together will have sufficient weight to deal with the Executive. This method may seem paradoxical at first. The courts have a strong tendency to avoid involving themselves in policies which require them to pass on the actions of the political branches. There is, however, nothing in this proposal that is more inconsistent with separation of powers than is the idea that courts can review laws, duly passed by Congress and signed by the President, in order to ascertain their constitutionality. Allowing any citizen to bring such a suit virtually guarantees that such suits will be brought. This is a necessary antidote to the significant institutional reticence to deal with difficult issues before public [\*1590] opinion is mobilized as a result of a crisis. Often, important options are foreclosed at that point, and planning cannot be optimal. There is no reason why responding to law suits which would be brought under this amendment would be any more burdensome for Congress than "hardlook" review has been for administrative agencies. Surely there will be some extra work. The potential benefits of that work, however, are quite likely to outweigh the costs. Professor Raoul Berger, in discussing decisionmaking during the Vietnam War, states: Perhaps the decisions would not have been better had they been debated in Congress, but, as George Reedy, former special assistant and then Press Secretary to President Lyndon Johnson, remarked, they could not have "been much worse. . . . [W]ithin the executive branch," states Reedy, "there exists a virtual horror of public debate on issues," compounded by the complacent assumption that the executive branch "have some sort of a truth that comes out of their technical expertise and that this truth . . . is not something to be debated." But executive decision itself suffers from a deep-seated malady; as Reedy points out, it lacks the benefit of "adversary discussion of issues"; the "so-called debates are really monologues in which one man is getting reflections of what he sends out." That courtiers are apt to reflect the desires of the monarch needs little documentation. n278

**Courts model the plan and rule in favor of environmental citizen’s suits – forces US emissions reductions**

**Guarino 11** -- Exec Editor @ Boston College Enviro Affairs Law Review, Edwards Wildman Palmer LLP Associate (Katherine A., 2011, "NOTE: THE POWER OF ONE: CITIZEN SUITS IN THE FIGHT AGAINST GLOBAL WARMING," 38 B.C. Envtl. Aff. L. Rev. 125, L/N)

IV. COMER V. MURPHY OIL USA: A TEST CASE FOR FUTURE GLOBAL WARMING PLAINTIFFS In the words of T.S. Eliot, the end of Comer v. Murphy Oil USA came, "[n]ot with a bang, but with a whimper." n211 In the wake of the startling dismissal of Comer based on a procedural technicality and the subsequent denial of the unorthodox writ of mandamus, the Supreme Court has granted its sister case, American Electric Power Co. (AEP), certiorari. n212 Because the Comer plaintiffs opted for a procedural resolution to their case instead of the usual certiorari, they essentially relegated the merits to the earlier-filed American Electric Power, Co. n213 That case will answer the same questions posed by Comer, namely whether parties injured by the effects of global warming have standing and whether global warming issues are justiciable. n214 As the Supreme Court examines, for the first time, the merits of a public nuisance suit against greenhouse-gas-emitting companies, it will likely be influenced by the developing trend in lower courts toward acceptance of public nuisance as a vessel for litigating global warming tort suits. n215 The fate of cases like AEP may be read through the lens of Comer. n216 [\*149] Global warming plaintiffs should turn to the "lost" Fifth Circuit panel decision in Comer in forming their arguments. However, **a complete victory on the merits for such global warming plaintiffs is dubious**. Part IV.A, below, predicts that the Supreme Court, in AEP, will probably follow the Fifth Circuit panel's original holding in Comer on the issues of standing, justiciability, and use of tort causes of action. As support for this decision, the Court will look to public nuisance pollution precedent and Massachusetts v. EPA. n217 Part IV.B foresees difficulty on the issue of causation when the merits are finally decided. n218 The chain of causation from injury to greenhouse gas emissions by individual defendants is simply too attenuated to satisfy proximate cause. n219 A. In Future Global Warming Tort Suits, the Supreme Court Will Likely Resurrect the Lost Fifth Circuit Panel Decision on the Issues of Standing, Justiciability, and Tort Causes of Action The only global warming case the Supreme Court has litigated is Massachusetts v. EPA. n220 Although in that case the Supreme Court addressed a different claim--**the ability of a state to challenge a rulemaking decision** by the EPA--that case **is pivotal in predicting how the Court will rule** in AEP. n221 The Court also has an interest in deciding this issue before it results in a flood of climate change suits. n222 Even though no plaintiff has actually recovered for global warming injury, recent appellate decisions allowing such plaintiffs to have their day in court has **opened a door that was once closed**. Private citizens can now choose an energy plant at random to blame for storm damage or flooding in their coastal home. n223 In light of this new judicial tolerance of global warming suits, it is likely that many plaintiffs will initiate such suits until the Supreme Court rules on the issue. n224 [\*150] 1. Justiciability Based on its own interpretations of the political question doctrine, the Supreme Court will likely uphold the justiciability of a state tort claim like the one in AEP. n225 Since Massachusetts v. EPA did not deal directly with justiciability, global warming plaintiffs will have to rely on the political question standard as set out in Baker v. Carr and Nixon v. United States. n226 The Fifth Circuit failed to apply the Baker factors at all because it found that the defendants had not proven that the plaintiffs' state tort claim was textually committed to a political branch of government. n227 The Court may find that the Fifth Circuit misread its political question doctrine precedent. n228 Since Baker states that finding any one of its factors "inextricable from the case at bar" would implicate the political question doctrine, the Supreme Court may have implied that the factors should be analyzed as a whole. n229 However, the stronger argument seems to be that the 1993 case, Nixon, clarified the Supreme Court's intent as to the 1962 Baker factors. In Nixon, the Supreme Court recognized that before the Baker factors could be applied, a preliminary assessment of whether the issue was textually committed to a political branch was necessary. n230 This is a logical interpretation of Baker because the policy behind the Baker factors is in favor of upholding justiciability. n231 This purpose is strengthened by the fact that, since Baker, the Supreme Court has only dismissed two cases for nonjusticiability, one of which was Nixon. n232 The Fifth Circuit panel in Comer cited extensive precedent for the notion that federal courts may not abstain from deciding a case once they have jurisdiction, and that the political question doctrine is a limited exception to that rule. n233 The Supreme Court has held that a federal court cannot avoid its responsibility to decide a case merely because [\*151] it has political implications, n234 lies outside the scope of a federal judge's expertise, or because it is difficult, complex, novel, or esoteric. n235 Global warming certainly has political implications because the government is currently deciding whether to pass legislation regarding greenhouse gas emissions. n236 Tort recovery for injury from global warming is novel and possibly complex, but both of those qualities do not make it nonjusticiable. n237 Therefore, in evaluating the justicability of the AEP claims, the Supreme Court will likely agree with the Fifth Circuit's panel opinion in Comer that the state tort claim for injury from global warming is justiciable because there is no constitutional or statutory provision committing the issue to a political branch. n238 2. Standing In a global warming case like AEP, the Supreme Court will likely hold that the plaintiffs have standing to sue for tort injury from global warming because of its similar holding for global warming plaintiffs in Massachusetts v. EPA. n239 Although Massachusetts v. EPA dealt with a statutory claim under the Clean Air Act, the Court still went through the same Article III standing analysis. n240 This is because standing is a prerequisite for all suits. n241 The main difference between Massachusetts v. EPA and AEP is that in the former case, the plaintiff was a state. n242 However, the plaintiffs in AEP include both states and private land trusts, and thus may cite Massachusetts v. EPA as a case in which the Court granted state global warming plaintiffs special solicitude in the standing analysis. n243 Justices Scalia, Thomas, and Alito, and Chief Justice Roberts will almost certainly vote to deny standing based on their dissenting opinion in Massachusetts v. EPA. n244 There, Chief Justice Roberts recognized [\*152] the catastrophic implications of global warming, but, in the interest of efficiency, would have denied standing because it is a crisis that may ultimately affect "nearly everyone on the planet." n245 Private individuals may also achieve standing based on Massachusetts v. EPA. The majority opinion contains no holding that says citizen plaintiffs cannot assert injury from global warming for standing purposes. n246 On the contrary, it treats the Commonwealth as an injured property owner. n247 The best argument for individual plaintiffs will be that the Massachusetts v. EPA decision granted parens patriae standing and proprietary standing concurrently, thus implying that Massachusetts would have achieved standing even if it were not a state. n248 It is true that in making the subsidiary determination of proprietary standing, the Court exceeded its narrow duty of only ruling on the necessary issues. n249 This type of analysis also made Massachusetts v. EPA a confusing decision to interpret n250 --it was thoroughly criticized by Chief Justice Roberts's dissent. n251 [\*153] However, the message of Massachusetts v. EPA is clear: injury from global warming is a cognizable claim for standing purposes. n252 Based on the Supreme Court's acceptance of standing based on global warming injury, global warming plaintiffs will likely satisfy the injury prong of standing. n253 Since the Court already decided in Massachusetts v. EPA that loss of coastline from rising tides brought on by global warming is a "concrete" and "particular" injury under the Lujan test, n254 it would likely agree with the Fifth Circuit that damage from increased storm severity, another effect of global warming, is a sufficiently particularized injury. n255 In fact, the Massachusetts Court specifically recognized the connection between rising ocean temperatures from global warming and an increase in the "ferocity of hurricanes." n256 Proving redressability by money damages in a future case may be more difficult. n257 The AEP plaintiffs will not encounter this problem, as they seek an injunction, n258 but money damages were requested in Comer [\*154] and could be a part of future climate change cases. Since Massachusetts v. EPA granted the Commonwealth merely a procedural remedy--the ability to challenge the EPA's denial of their rulemaking petition--if future climate change plaintiffs request money damages, the Court may hold that the injury of global warming plaintiffs cannot be redressed by money damages. n259 However, for standing purposes, the Court does not need to actually give the plaintiffs money; it simply must decide whether money would alleviate their injury in some way. n260 Although, arguably, money will not lessen the effects of global warming, it will allow the plaintiffs the ability to rebuild and restore the property they lost. n261 No court has ever granted money damages for injury from global warming. However, the Supreme Court need only look to the whole of tort law for the principle that an award of money damages can and does redress injuries from a myriad of sources. n262 Massachusetts v. EPA also stands for the principle that any contribution to global warming through greenhouse gas emissions is sufficient to prove causation in the standing analysis. n263 The Fifth Circuit panel in Comer relied directly on the Supreme Court's words in Massachusetts v. EPA that the EPA's "meaningful contribution" to global warming by refusing to regulate greenhouse gases sufficiently proved traceability. n264 The defendants' alternative argument that "the causal link between emissions, sea level rise, and Hurricane Katrina is too attenuated," was also dismissed because of its similarity to a failed argument in Massachusetts v. EPA. n265 The Fifth Circuit relied also on the Supreme Court's acceptance of the link between greenhouse gas emissions and global warming. n266 It recognized that not only had the Court accepted "a causal chain virtually identical" to that of the plaintiffs, but it had gone one step further and recognized injury stemming from the EPA, an [\*155] agency that did not directly emit the greenhouse gases. n267 It is clear from this comparison that the Fifth Circuit agreed with the Supreme Court's treatment of the standing issue for global warming cases. n268 Because of the stark similarity between the injury and causation alleged in AEP, Comer, and Massachusetts v. EPA, it is likely that the Supreme Court would agree with the Fifth Circuit panel's 2009 ruling when it hears AEP. n269 B. The Final Barrier: Proof of Causation Despite the recent successes of global warming plaintiffs on the preliminary issues of justiciability and standing, they have yet to encounter the most formidable barrier of all: proof on the merits. n270 The difference between the burden of proof for standing at the pleading stage and the burden for proof on the merits is significant. n271 At the pleading stage, the plaintiffs only need to make general allegations of harm, as yet unsupported by specific facts. n272 The plaintiffs in Comer succeeded before the Fifth Circuit panel based on this lowered bar to standing. n273 However, the court stopped short of addressing the merits of the claims, and thus, of awarding damages at this stage. n274 On the merits, global warming plaintiffs would be forced to support their claims by a preponderance of the evidence. n275 Proximate cause would have presented the greatest obstacle to the Comer plaintiffs because the chain of causation from defendants' emission of greenhouse gases, to global warming, to increased storm intensity, to Hurricane Katrina, to damaged property, was extremely attenuated. n276 [\*156] In fact, the Fifth Circuit judge in Comer intimated that he would have affirmed a dismissal on proximate cause grounds. n277 Similarly, District Court Judge Senter foresaw "daunting evidentiary problems" for the plaintiffs if they sought to prove causation by a preponderance of the evidence. n278 The Supreme Court, in addressing proximate cause in the AEP case, will likely recognize that the early pollution cases analogized by global warming plaintiffs are in fact quite different when it comes to causation. n279 In Georgia v. Tennessee Copper Co., for example, the chain of causation extended directly from the defendants' isolated emission of "noxious gas" to the effect the gas had on the neighboring state. n280 In contrast, global warming stems from an incalculable number of sources and affects the entire planet in ways that are still not fully understood by scientists. For global warming plaintiffs, the defendants' emission of greenhouse gases is not the "but-for" cause of the injury-causing effect of global warming. n281 For example, in Comer that was Hurricane Katrina. n282 Hurricanes are natural processes that would occur even without global warming. n283 The Comer plaintiffs' contribution argument, while sufficient for standing, would likely be insufficient to prove tort proximate cause. n284 Since no global warming claim brought under a tort cause of action has yet been litigated on the merits, global warming plaintiffs will be left without a means of supporting their tenuous claims. CONCLUSION Within the span of nine months, the Fifth Circuit flung open and then slammed shut the doors of the court on plaintiffs seeking money damages from contributors to global warming. n285 **But all is not yet lost**. As one of the Comer plaintiffs mused, [\*157] Although the victory was taken away from these citizens in the most unusual and unfortunate of ways, the refusal of the United States Supreme Court to take action in no way erases the words so eloquently written by Judge James Dennis, nor does it diminish this first effort as a guide and an inspiration for the future. n286 Should the Supreme Court accept the challenge that thirteen Fifth Circuit judges shirked, and choose to resurrect the lost panel decision for American Electric Power, Co. (AEP) and its progeny, it could mean a **flood of citizen litigation for climate change**. n287 In the past two decades, the effects of global warming have grown increasingly more bothersome, swallowing coastlines with rising tides, raising temperatures in already arid regions, and creating some of the most ferocious storms in history. n288 These effects have caused injury to millions of people and their property, and will only continue to wreak further havoc. n289 Once upon a time, the standing analysis was strict. n290 Plaintiffs could not gain access to the courts with an attenuated claim of causation. n291 However, the Supreme Court's landmark decision in Massachusetts v. EPA turned the tables in favor of global warming plaintiffs. n292 In recognizing a seemingly endless chain of causation as sufficient to confer standing, the Supreme Court gave its imprimatur to future global warming suits. n293 The problem is, standing does not end the inquiry. Once global warming plaintiffs drag their long chains of causation into a merits battle, their arguments may not have the same force. Under a higher proximate cause standard, "fair traceability" is no longer a viable connection between the defendants' actions and the [\*158] plaintiffs' harm. n294 The chain will break under the strain of tort causation. n295 For the meantime, the Supreme Court has not ruled on any tort global warming cases. AEP still stands as a triumphant beacon of judicial activism, lighting the way for cases like Comer that came closer than ever to victory against global warming contributors. n296 The Second Circuit in AEP marked a departure from the strict standing test of Lujan, as would Comer, had the 2009 panel decision been left intact. n297 Ultimate resolution of global warming tort suits in favor of the plaintiffs would likely encourage more victims of hurricanes and coastal inundation to bring suit against local greenhouse-gas-emitting villains. n298 The time has come for the courts to choose the role they will play in defending the Earth from global warming.

**Counterplan solves warming – facilitates court engagement overcoming current litigation problems**

**Long 8** (Andrew Long, Assistant Professor of Law, Florida Coastal School of Law., International Consensus and U.S. Climate Change Litigation, 33 Wm. 26 Mary Envtl. L., 26 Pol’y Rev. 177 (2008), <http://scholarship.law.wm.edu/wmelpr/vol33/iss1/4>)

Advantages of Bringing International Norms into Domestic Climate Change Cases Although domestic U.S. climate change cases to date have an important role in the international dialogue concerning climate change action, a more explicit and direct discussion of the relationship would be beneficial in several ways. In particular, such discussion would enhance the United States' leadership position in the international community, promote the effectiveness of the international climate regime, encourage consistency in domestic climate change law, and enable additional checks on agency actions at the domestic-global interface.2 " 1. Enhancing U.S. International Leadership In a time of unfavorable global opinion toward the United States, **explicit** judicial involvement with international norms will move the United States closer to the international community by acknowledging the relevance of **international environmental norms** for our legal system. As in other contexts, **explicit** judicial internalization of climate change norms would "build[ ] **U.S. 'soft power**,' [enhance] its moral authority, and strengthen[ ] U.S. capacity for global leadership"2 °3 on climate change, and other global issues. More specifically, **domestic judicial consideration of the global climate regime** would reaffirm that although the United States has rejected Kyoto, we take the obligation to respect the global commons seriously by recognizing that obligation as a facet of the domestic legal system. U.S. courts' overall failure to interact with the international climate regime, as in other issue areas, has "serious consequences for their roles in international norm creation."2 " As judicial understandings of climate change law converge, the early and consistent contributors to the transnational judicial dialogue will likely play the strongest role in shaping the emerging international normative consensus.2 "' As Justice L'HeureuxDub6 of the Canadian Supreme Court noted in an article describing the decline of the U.S. Supreme Court's global influence, "[decisions which look only inward ... have less relevance to those outside that jurisdiction." °6 Thus, if U.S. courts hope to participate in shaping the normative position on climate change adopted by judiciaries throughout the world, explicit recognition of the relationship between domestic and international law is vital. With climate change in particular, norm development through domestic application should be an important aspect of global learning. The problem requires a global solution beyond the scope of any prior multilateral environmental agreements. This provides a situation in which U.S. judicial reasoning in applying aspects of climate regime thinking to concrete problems will fall into fertile international policy soil. Accordingly, the recognition of international norms in domestic climate change litigation may play a strengthening role in the perception of U.S. leadership, encourage U.S. development and exportation of effective domestic climate strategies, and promote international agreements that will enhance consistency with such approaches. In short, explicit judicial discussion of international climate change norms as harmonious with U.S. law can enhance U.S. ability to regain a global leadership position on the issue and, thereby, more significantly shape the future of the international climate regime.

### SOLVENCY DEBATE FIRST

### A2 CP Can’t solve actual and imminent

#### Fifth amendment cites sustained damage in terms of the right for people to control their own lives – in a world without the fifth amendment ruling the launch on warning is determined by computers which violates peoples right to control their own lives – proves the sustained damage – that’s the 1NC evidence

#### Second – we still rule on the due process clause- just on the Fifth Amendment

### A2 Solvency Deficits

#### At worst – CP solves all of the warming adv because citizen suits are enough to spur action – no other independent reason that’s K

### Net Benefit: 2NC

#### Our net benefit outweighs the case:

#### 1. Threshold of a link – the aff creates a broad precedent for respecting future generations; this devastates the ability to keep current reproductive rights in place. That’s our Marcin evidence.

#### 2. Reproductive rights are crucial to prevent overpopulation - Overpop risks extinction and makes every impact inevitable by encroaching on key habitats, destroying the ozone layer and creating deforestation. That’s Cote.

#### AND, Ozone depletion causes extinction

**Greenpeace 95** (Full of Holes: Montreal Protocol and the Continuing Destruction of the Ozone Layer -- A Greenpeace Report with contributions from Ozone Action, http://archive.greenpeace.org/ozone/holes/holebg.html)

When chemists Sherwood Rowland and Mario Molina first postulated a link between chlorofluorocarbons and ozone layer depletion in 1974, the news was greeted with scepticism, but taken seriously nonetheless. The **vast majority of credible scientists** have since confirmed this hypothesis. The ozone layer around the Earth shields us all from harmful ultraviolet radiation from the sun. Without the ozone layer, life on earth would not exist. Exposure to increased levels of ultraviolet radiation can cause cataracts, skin cancer, and immune system suppression in humans as well as innumerable effects on other living systems. This is why Rowland's and Molina's theory was taken so seriously, so quickly - **the stakes** **are literally the continuation of life on earth.**

**3. Expansive interpretations of the Posterity Clause would reverse Roe**

**Marcin 8** (Raymond, Professor of Law, The Catholic University of America School of Law, "GOD'S LITTLEST CHILDREN AND THE RIGHT TO LIVE: THE CASE FOR A POSITIVIST PRO-LIFE OVERTURNING OF ROE," 25 J. Contemp. Health L. & Pol'y 38, lexis)

In recognizing the right to privacy in the abortion decision on terms so broad as to amount to a virtually unlimited right to abortion on demand, the United States Supreme Court, in its Roe and Planned Parenthood decisions, has failed to secure the blessings of liberty to a portion of our posterity. Some might be inclined to argue that the Roe decision has deprived a portion of our posterity of the inalienable right to life. In light of the legislative history of the "Blessings of Liberty . . . to our Posterity" clause, both propositions would seem to be tenable. To some, of course, neither proposition will seem persuasive. What cannot be gainsaid, however, is that the Roe decision neglected one small bit of relevant input, i.e., the fact that we, the people, ordained and established the Constitution not only to secure the blessings of liberty to ourselves, but also to secure those very same blessings to our "Posterity." n78 Our Constitution proclaims itself to be [\*66] posterity-oriented. We, in that Constitution, have proclaimed ourselves to be a posterity-oriented people. The problem with the Roe decision from a positivist perspective is that, at best, the decision has failed to take that textually specific posterity orientation into account; at worst, it has denied it. In either case the Roe decision is wanting.

#### 4. US policy is critical to the success of global efforts to slow population growth –

De Valk 03 (EJ, Expert on Biodiversity @ Population Connection, "Statement of Policy--Mission Statement," 5/3, <http://www.populationconnection.org/About_Us/policies.html>)

Population Connection believes the well-being and even the survival of humanity **depend on the attainment of an equilibrium between population and the environment**. Just as the earth and its resources of land, air and water are limited, so are the demands that can be placed upon them.¶ Continued population growth is foremost among the factors aggravating deforestation, wildlife extinction, climate change and other critical environmental and social problems. It also erodes democratic government, multiplies urban problems, consumes agricultural land, increases volumes of waste, heightens competition for scarce resources and threatens the aspirations of the poor for a better life. ¶ **The only acceptable solution to the population problem is through** expanding educational, advocacy and service efforts that lower birth rates. Rather than support a larger population at a poorer level, we believe it is preferable to support a smaller population at adequate standards of living. ¶ Population Connection recognizes the gravity of global overpopulation and encourages citizens in every nation to work towards slowing population growth. Recognizing the interdependence of the nations of the earth, we support the development and growth of citizen organizations in other countries dedicated to those ends. ¶ As a U.S. based organization, Population Connection works primarily to educate and motivate Americans to help meet the global population challenge, and to mobilize this support for the adoption of policies and programs necessary to slow global population growth. Because the United States is the chief consumer of the world's resources, slowing its population growth is disproportionately important for protecting the global environment. **Because the United States has a major influence on international political, economic and military affairs**, reshaping its policies is important **for the success of international efforts to slow population growth.**

### A2: Intergenerational Rights Solve

#### Nope – this Weiss evidence is awful – just says that intergenerational rights have implications for population policies – doesn’t list the population policies that are currently in place, proves that they wouldn’t be legislatively feasible

#### Weiss also says that a generation should have choice under Prosterity – choice means that there is no obligation to curtail population explosion

**Specifically---Expansive interpretations of the Posterity Clause would reverse Roe**

**Marcin 8** (Raymond, Professor of Law, The Catholic University of America School of Law, "GOD'S LITTLEST CHILDREN AND THE RIGHT TO LIVE: THE CASE FOR A POSITIVIST PRO-LIFE OVERTURNING OF ROE," 25 J. Contemp. Health L. & Pol'y 38, lexis)

In recognizing the right to privacy in the abortion decision on terms so broad as to amount to a virtually unlimited right to abortion on demand, the United States Supreme Court, in its Roe and Planned Parenthood decisions, has failed to secure the blessings of liberty to a portion of our posterity. Some might be inclined to argue that the Roe decision has deprived a portion of our posterity of the inalienable right to life. In light of the legislative history of the "Blessings of Liberty . . . to our Posterity" clause, both propositions would seem to be tenable. To some, of course, neither proposition will seem persuasive. What cannot be gainsaid, however, is that the Roe decision neglected one small bit of relevant input, i.e., the fact that we, the people, ordained and established the Constitution not only to secure the blessings of liberty to ourselves, but also to secure those very same blessings to our "Posterity." n78 Our Constitution proclaims itself to be [\*66] posterity-oriented. We, in that Constitution, have proclaimed ourselves to be a posterity-oriented people. The problem with the Roe decision from a positivist perspective is that, at best, the decision has failed to take that textually specific posterity orientation into account; at worst, it has denied it. In either case the Roe decision is wanting.

#### That wrecks global overpop policies

Ehrlich and Ehrlich 97 (Paul and Anne, Prof of Population Studies + Senior Research Associate in Biological Sciences @ Stanford, Winter, 27 Envtl. L. 1187, lexis)

Religious beliefs and traditions have often presented barriers to efforts to reduce population growth. The Vatican, in particular, has maintained political opposition to family planning programs and is adamantly opposed to abortion. 78 Still, family planning programs now exist in virtually every nation and have been at least tacitly accepted - and sometimes even supported - by local church authorities. Furthermore, the reproductive behavior of Catholics is usually similar to that of people of other religions in the same societies. 79 Nevertheless, Papal opposition is officially maintained, hindering support for programs in developing nations and lessening the chances for establishing effective population policies in the United States. The latter is especially pernicious, not only because of the environmental damage done by a vast overpopulation of American superconsumers, 80 but because U.S. policies (or the lack thereof) are widely emulated.

### A2 Soil Extinction

#### ----Evidence doesn’t say anything about intergenerational rights… no internal link to solving this

**Soil improvements now**

**Hayward ‘11** [Steven P, american author, political commentator, and policy scholar. He argues for libertarian and conservative viewpoints in his writings. He writes frequently on the topics of environmentalism, law, economics, and public policy.2011 Almanac of Environmental Trends¶ by Steven F. Hayward¶ April 2011¶ ISBN-13: 978-1-934276-17-4, <http://www.pacificresearch.org/docLib/20110419_almanac2011.pdf>]

Quick: What’s the largest public-policy success story in American society over the last generation? The dramatic reduction in the crime rate, which has helped make major American cities livable again? Or welfare reform, which saw the nation’s welfare rolls fall by more than half since the early 1990s? Both of these accomplishments have received wide media attention. Yet the right answer might well be the environment. As Figure 1 displays, the reduction in air pollution is comparable in magnitude to the reduction in the welfare rolls, and greater than the reduction in the crime rate—both celebrated as major public-policy success stories of the last two decades. Aggregate emissions of the six “criteria” pollutants1 regulated under the Clean Air Act have fallen by **53 percent** since 1970, while the proportion of the population receiving welfare assistance is down 48 percent from 1970, and the crime rate is only 6.4 percent below its 1970 level. (And as we shall see, this aggregate nationwide reduction in emissions greatly understates the actual improvement in ambient air quality in the areas with the worst levels of air pollution.) Measures for **water quality**, **toxic**-chemical **exposure**, **soil erosion**, **forest growth**, **wetlands**, **and** several other areas of environmental concern **show similar positive trends**, as this Almanac reports. To paraphrase Mark Twain, reports of the demise of the environment have been **greatly exaggerated**. Moreover, there is good reason to believe that these kinds of improvements will be experienced in the rest of the world over the course of this century. We’ll examine some of the early evidence that this is already starting to occur. The chief drivers of environmental improvement are economic growth, constantly increasing resource efficiency, technological innovation in pollution control, and the deepening of environmental values among the American public that have translated to changed behavior and consumer preferences. Government regulation has played a vital role, to be sure, but in the grand scheme of things regulation can be understood as a lagging indicator, often achieving results at needlessly high cost, and sometimes failing completely. Were it not for rising affluence and technological innovation, regulation would have much the same effect as King Canute commanding the tides. INTRODUCTION introduction 3 figure 1 a comparison of crime rate, Welfare, and air Pollution, 1970–2007 -60.0% -40.0% -20.0% 0.0% 20.0% 40.0% 60.0% 1970 1975 1980 1985 1990 1995 2000 2005 2007 % of Population on Welfare Crime Rate (per 100,000 population) Aggregate Emissions Source: FBI Uniform Crime Reports, U.S. Department of Health and Human Services, EPA 4 Almanac of Environmental Trends The American public remains largely unaware of these trends. For most of the last 40 years, public opinion about the environment has been pessimistic, with large majorities—sometimes as high as 70 percent—telling pollsters that they think environmental quality in the United States is getting worse instead of better, and will continue to get worse in the future. One reason for this state of opinion is media coverage, which emphasizes bad news and crisis; another reason is environmental advocacy groups, for whom good news is bad news. As the cliche goes, you can’t sell many newspapers with headlines about airplanes landing safely, or about an oil tanker docking without a spill. Similarly, slow, long-term trends don’t make for good headline copy. INTRODUCTIONintroduction 5Improving Trends:Causes and ConsequencesMost environmental commentary dwells on the laws and regulations we have adoptedto achieve our goals, but it is essential to understand the more important role of technologyand economic growth in bringing about favorable environmental trends. Thebest way to see this is to look at some long-term trends in environmental quality thatpredate modern environmental legislation.To be sure, the earliest phases of the Industrial Revolution led to severe environmentaldegradation. But the inexorable process of technological innovation andthe drive for efficiency began to remedy much of this damage far earlier than iscommonly perceived. In addition, new technologies that we commonly regard as environmentally destructive often replaced older modes of human activity that were far worse by comparison. A good example is the introduction of coal for heating andenergy in Britain.

### A2 Perm

#### Obviously still links to the net benefits – first is the politics DA

#### Even your author concedes the risk of backlash

Davidson 8 (John, Prof of PoliSci @ Univ. of Oregon, "Taking Posterity Seriously: Intergenerational Justice," http://webcache.googleusercontent.com/search?q=cache:xP3aKea\_4y8J:vlscli.wordpress.com/2008/01/28/taking-posterity-seriously-intergenerational-justice/+&cd=1&hl=en&ct=clnk&gl=us)

Might it not be more useful to confine use of the Posterity Clause to arguments in favor of broadening the standing doctrine so as to support the justiciability of statutory and common law claims against rapacious \*private\* actors? Otherwise, doesn’t one run the risk of backlash?¶ I agree that caution is warranted, for exactly the reasons you suggest. Recognizing posterity’s constitutional interests, in any form and to any degree, is a step into largely uncharted legal waters. Some judge will have to take that first step, and it will require uncommon boldness. It would benefit nobody if we were to make that step any longer or higher than absolutely necessary.

Second is the reproductive rights DA

#### The aff would negate the state action doctrine

Rodgers and Davidson (William and John, Prof of Envt Law @ Univ. of Washington + Prof of PoliSci @ Univ. of Oregon, "BRIEF OF LAW PROFESSORS AS AMICI CURIAE IN SUPPORT OF

PLAINTIFFS-APPELLANTS SEEKING REVERSAL," http://law.uoregon.edu/assets/facultydocs/mwood/FiledLawProfAmicus.pdf)

Respondents in the instant case invoke two general constitutional principles ¶ to support their contention that, even if there is a constitutionally mandated federal ¶ public trust interest in the atmosphere, the trust cannot support Appellants' claims ¶ for relief. The first of these principles is that the Constitution imposes no ¶ affirmative obligations on the federal government to act. The second is that the ¶ Constitution’s restrictions apply to limit government conduct only, not private ¶ conduct. Both claims are unfounded. 1. Affirmative Duty ¶ Relying on the premise that the Constitution does not require government to ¶ act,59 Respondents conclude that a federal Public Trust Doctrine, even if grounded ¶ in the Constitution, cannot impose an affirmative duty on government to protect ¶ the atmosphere or other sovereign resources. But as Justice Jackson said, the ¶ Constitution is not “a suicide pact." Terminiello v. City of Chicago, 337 U.S. 1, ¶ 37 (1949). The instant case is not controlled by the general admonition against ¶ affirmative duties because an exception applies when government has placed limits ¶ on the ability of citizens to act on their own behalf. As the Court explained in ¶ DeShaney v. Winnebago: The affirmative duty to protect arises . . . from the limitation which ¶ [the government] has imposed on [the citizen’s] freedom to act on his ¶ own behalf . . . . ¶ ¶ 489 U.S. at 200. By failing to address the threat posed by carbon emissions to the ¶ climate, the federal government has imposed limits on the public’s ability to act on ¶ its own behalf. The Clean Air Act (“CAA”) provides the Environmental ¶ Protection Agency (“EPA”) with the authority and the means to permit and limit ¶ carbon emissions. Am. Elec. Power Co. v. Connecticut, 131 S. Ct. 2527, 2537-38 ¶ (2011). However, due to the displacing and preemptive effect that federal courts ¶ have read into that statute, the public has had no legal recourse against polluters ¶ under a federal common law nuisance theory when the EPA fails to act to reduce ¶ emissions scientifically determined to be necessary to preserve a stable climate. ¶ See Comer v. Murphy Oil USA, Inc., 839 F. Supp. 2d 849, 865 (S.D. Miss. 2012) ¶ aff’d, 718 F.3d 460 (5th Cir. 2013).¶ The Supreme Court has held that the CAA also displaces any federal ¶ common law nuisance action to seek abatement of carbon-dioxide emissions from ¶ fossil fuel fired power plants. Am. Elec. Power Co., 131 S. Ct. at 2537. On similar ¶ grounds, courts have denied states relief based on state common law claims. See, ¶ e.g., N. Carolina, ex rel. Cooper v. Tennessee Valley Authority, 615 F.3d 291, 303 ¶ (4th Cir. 2010). Federal courts have also rejected local and state legislative ¶ attempts to curtail emissions. See, e.g., Ophir v. City of Boston, 647 F. Supp.2d 86 (D. Mass. 2009) (holding local ordinance requiring taxis to be hybrid vehicles is ¶ preempted by a federal statute). ¶ Because the federal government has effectively imposed severe limits on the ¶ right of citizens and the states to take action to protect the atmosphere, the usual ¶ presumption against imposing affirmative constitutional duties does not apply. As ¶ noted in DeShaney, an affirmative duty arises from the limitations imposed. The ¶ constitutionally cognizable sovereign interest of later legislatures and later ¶ generations of United States citizens in a stable atmosphere, an interest underlying ¶ all national political and economic interests, requires vindication through ¶ affirmative government action, or through removal of the statutory and doctrinal ¶ barriers preventing citizens from acting on their own behalf. As the preeminent ¶ climatologist, Dr. James Hansen, has warned, “Failure to act with all deliberate ¶ speed in the face of the clear scientific evidence of the long term dangers posed is ¶ the functional equivalent of a decision to eliminate the option of later generations ¶ and their legislatures to preserve a habitable climate system.”60¶ “A constitution is framed for ages to come, and is designed to approach ¶ immortality as nearly as human institutions can approach it. Its course cannot ¶ always be tranquil.” Cohens v. Virginia, 19 U.S. 264 (1821). The “government imposed limitations” exception to the usual presumption against affirmative ¶ constitutional duties has most often been invoked in defense of individual rights, ¶ but it has even greater force in defense of common, publicly shared rights. ¶ Governmental officials have breached their sovereign responsibility to secure ¶ citizens’ lives, liberty, and property and must be held to account. ¶ 2. State Action ¶ Of course, the presumption against affirmative constitutional duties is ¶ relevant only if we assume that that the federal government has been a passive ¶ actor in regards to carbon emissions and climate change. On the other hand, if the ¶ federal government is actively engaged in the destruction of the climate, it would ¶ trigger the exception to the presumption. In fact, as alleged in the instant ¶ Complaint, the federal government has been and remains directly involved in ¶ climate destruction in several ways. Complaint at 53-65, 145-150. ¶ The federal government has hardly been a neutral bystander concerning ¶ GHG emissions from fossil fuels. In fact, the government has actively promoted ¶ the extraction and consumption of fossil fuels and, the resulting greenhouse gas ¶ emissions. The federal government, therefore, is not entitled to invoke the general ¶ presumption against affirmative constitutional duties.