## 1nc

### 1nc anthropocene

#### The world is ending and there’s nothing we can do, so vote neg to learn how to die—embracing their impacts functions as a thought experiment that’s the key to the only decisionmaking skills that really matter—our evidence postdates

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(Roy, “Learning How to Die in the Anthropocene”, <http://opinionator.blogs.nytimes.com/2013/11/10/learning-how-to-die-in-the-anthropocene/?_r=1&>, dml)

The challenge the Anthropocene poses is a challenge not just to national security, to food and energy markets, or to our “way of life” — though these challenges are all real, profound, and inescapable. The greatest challenge the Anthropocene poses may be to our sense of what it means to be human. Within 100 years — within three to five generations — we will face average temperatures 7 degrees Fahrenheit higher than today, rising seas at least three to 10 feet higher, and worldwide shifts in crop belts, growing seasons and population centers. Within a thousand years, unless we stop emitting greenhouse gases wholesale right now, humans will be living in a climate the Earth hasn’t seen since the Pliocene, three million years ago, when oceans were 75 feet higher than they are today. We face the imminent collapse of the agricultural, shipping and energy networks upon which the global economy depends, a large-scale die-off in the biosphere that’s already well on its way, and our own possible extinction. If homo sapiens (or some genetically modified variant) survives the next millenniums, it will be survival in a world unrecognizably different from the one we have inhabited.

Geological time scales, civilizational collapse and species extinction give rise to profound problems that humanities scholars and academic philosophers, with their taste for fine-grained analysis, esoteric debates and archival marginalia, might seem remarkably ill suited to address. After all, how will thinking about Kant help us trap carbon dioxide? Can arguments between object-oriented ontology and historical materialism protect honeybees from colony collapse disorder? Are ancient Greek philosophers, medieval theologians, and contemporary metaphysicians going to keep Bangladesh from being inundated by rising oceans?

Of course not. But the biggest problems the Anthropocene poses are precisely those that have always been at the root of humanistic and philosophical questioning: “What does it mean to be human?” and “What does it mean to live?” In the epoch of the Anthropocene, the question of individual mortality — “What does my life mean in the face of death?” — is universalized and framed in scales that boggle the imagination. What does human existence mean against 100,000 years of climate change? What does one life mean in the face of species death or the collapse of global civilization? How do we make meaningful choices in the shadow of our inevitable end?

These questions have no logical or empirical answers. They are philosophical problems par excellence. Many thinkers, including Cicero, Montaigne, Karl Jaspers, and The Stone’s own Simon Critchley, have argued that studying philosophy is learning how to die. If that’s true, then we have entered humanity’s most philosophical age — for this is precisely the problem of the Anthropocene. The rub is that now we have to learn how to die not as individuals, but as a civilization.

III.

Learning how to die isn’t easy. In Iraq, at the beginning, I was terrified by the idea. Baghdad seemed incredibly dangerous, even though statistically I was pretty safe. We got shot at and mortared, and I.E.D.’s laced every highway, but I had good armor, we had a great medic, and we were part of the most powerful military the world had ever seen. The odds were good I would come home. Maybe wounded, but probably alive. Every day I went out on mission, though, I looked down the barrel of the future and saw a dark, empty hole.

“For the soldier death is the future, the future his profession assigns him,” wrote Simone Weil in her remarkable meditation on war, “The Iliad or the Poem of Force.” “Yet the idea of man’s having death for a future is abhorrent to nature. Once the experience of war makes visible the possibility of death that lies locked up in each moment, our thoughts cannot travel from one day to the next without meeting death’s face.” That was the face I saw in the mirror, and its gaze nearly paralyzed me.

I found my way forward through an 18th-century Samurai manual, Yamamoto Tsunetomo’s “Hagakure,” which commanded: “Meditation on inevitable death should be performed daily.” Instead of fearing my end, I owned it. Every morning, after doing maintenance on my Humvee, I’d imagine getting blown up by an I.E.D., shot by a sniper, burned to death, run over by a tank, torn apart by dogs, captured and beheaded, and succumbing to dysentery. Then, before we rolled out through the gate, I’d tell myself that I didn’t need to worry, because I was already dead. The only thing that mattered was that I did my best to make sure everyone else came back alive. “If by setting one’s heart right every morning and evening, one is able to live as though his body were already dead,” wrote Tsunetomo, “he gains freedom in the Way.”

I got through my tour in Iraq one day at a time, meditating each morning on my inevitable end. When I left Iraq and came back stateside, I thought I’d left that future behind. Then I saw it come home in the chaos that was unleashed after Katrina hit New Orleans. And then I saw it again when Sandy battered New York and New Jersey: Government agencies failed to move quickly enough, and volunteer groups like Team Rubicon had to step in to manage disaster relief.

Now, when I look into our future — into the Anthropocene — I see water rising up to wash out lower Manhattan. I see food riots, hurricanes, and climate refugees. I see 82nd Airborne soldiers shooting looters. I see grid failure, wrecked harbors, Fukushima waste, and plagues. I see Baghdad. I see the Rockaways. I see a strange, precarious world.

Our new home.

The human psyche naturally rebels against the idea of its end. Likewise, civilizations have throughout history marched ~~blindly~~ toward disaster, because humans are wired to believe that tomorrow will be much like today — it is unnatural for us to think that this way of life, this present moment, this order of things is not stable and permanent. Across the world today, our actions testify to our belief that we can go on like this forever, burning oil, poisoning the seas, killing off other species, pumping carbon into the air, ignoring the ominous silence of our coal mine canaries in favor of the unending robotic tweets of our new digital imaginarium. Yet the reality of global climate change is going to keep intruding on our fantasies of perpetual growth, permanent innovation and endless energy, just as the reality of mortality shocks our casual faith in permanence.

The biggest problem climate change poses isn’t how the Department of Defense should plan for resource wars, or how we should put up sea walls to protect Alphabet City, or when we should evacuate Hoboken**.** It won’t be addressed by buying a Prius, signing a treaty, or turning off the air-conditioning. The biggest problem we face is a philosophical one: understanding that this civilization is already dead. The sooner we confront this problem, and the sooner we realize there’s nothing we can do to save ourselves, the sooner we can get down to the hard work of adapting, with mortal humility, to our new reality.

The choice is a clear one. We can continue acting as if tomorrow will be just like yesterday, growing less and less prepared for each new disaster as it comes, and more and more desperately invested in a life we can’t sustain. Or we can learn to see each day as the death of what came before, freeing ourselves to deal with whatever problems the present offers without attachment or fear.

If we want to learn to live in the Anthropocene, we must first learn how to die.

### 1nc t

#### Armed forces means humans not weapons

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

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.

#### ‘Hostilities’ doesn’t apply to accidental conflict

**Koh, 11,** - Legal Adviser, U.S. Department of State, professor of law at Yale (LIBYA AND WAR POWERS HEARING BEFORE THE COMMITTEE ON FOREIGN RELATIONS UNITED STATES SENATE ONE HUNDRED TWELFTH CONGRESS FIRST SESSION JUNE 28, 2011, <http://www.gpo.gov/fdsys/pkg/CHRG-112shrg68241/html/CHRG-112shrg68241.htm>)

Third, the risk of escalation is limited: U.S. military operations have not involved the presence of U.S. ground troops, or any significant chance of escalation into a broader conflict characterized by a large U.S. ground presence, major casualties, sustained active combat, or expanding geographical scope. Contrast this with the 1991 Desert Storm operation, which although also authorized by a United Nations Security Council resolution, presented ``over 400,000 [U.S.] troops in the area--the same order of magnitude as Vietnam at its peak--together with concomitant numbers of ships, planes, and tanks.'' \18\ Prior administrations have found an absence of ``hostilities'' under the War Powers Resolution in situations ranging from Lebanon to Central America to Somalia to the Persian Gulf tanker controversy, although members of the United States Armed Forces were repeatedly engaged by the other side's forces and sustained casualties in volatile geopolitical circumstances, in some cases running a greater risk of possible escalation than here.\19\

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\18\ John Hart Ely ``War and Responsibility: Constitutional Lessons of Vietnam and its Aftermath'' 50 (1993).

\19\ For example, in the Persian Gulf in 1987-88, the Reagan administration found the War Powers Resolution's pullout provision inapplicable to a reflagging program that was conducted in the shadow of the Iran-Iraq war; that was preceded by an accidental attack on a U.S. Navy ship that killed 37 crewmen; and that led to repeated instances of active combat with Iranian forces. See Grimmett, supra note 15, at 16-18.

#### Voting issue –explode the topic, including weapons systems turns this into an arms control topic – nuclear weapons, space weaponization, or the CWC could all be topics, makes being negative impossible

### 1nc nuclear agamben

#### Refuse attempts to reform the legal system and doom it to its own nihilistic destruction—we must refuse all conceptual apparatuses of capture

Prozorov 10. Sergei Prozorov, professor of political and economic studies at the University of Helsinki, “Why Giorgio Agamben is an optimist,” Philosophy Social Criticism 2010 36: pg. 1065

In a later work, Agamben generalizes this logic and transforms it into a basic ethical imperative of his work: ‘[There] is often nothing reprehensible about the individual behavior in itself, and it can, indeed, express a liberatory intent. What is disgraceful – both politically and morally – are the apparatuses which have diverted it from their possible use. We must always wrest from the apparatuses – from all apparatuses – the possibility of use that they have captured.’32 As we shall discuss in the following section, this is to be achieved by a subtraction of ourselves from these apparatuses, which leaves them in a jammed, inoperative state. What is crucial at this point is that the apparatuses of nihilism themselves prepare their demise by emptying out all positive content of the forms-of-life they govern and increasingly running on ‘empty’, capable only of (inflict- ing) Death or (doing) Nothing.

On the other hand, this degradation of the apparatuses illuminates the ‘inoperosity’ (worklessness) of the human condition, whose originary status Agamben has affirmed from his earliest works onwards.33 By rendering void all historical forms-of-life, nihi- lism brings to light the absence of work that characterizes human existence, which, as irreducibly potential, logically presupposes the lack of any destiny, vocation, or task that it must be subjected to: ‘Politics is that which corresponds to the essential inoperability of humankind, to the radical being-without-work of human communities. There is pol- itics because human beings are argos-beings that cannot be defined by any proper oper- ation, that is, beings of pure potentiality that no identity or vocation can possibly exhaust.’34

Having been concealed for centuries by religion or ideology, this originary inoperos- ity is fully unveiled in the contemporary crisis, in which it is manifest in the inoperative character of the biopolitical apparatuses themselves, which succeed only in capturing the sheer existence of their subjects without being capable of transforming it into a positive form-of-life:

[T]oday, it is clear for anyone who is not in absolutely bad faith that there are no longer historical tasks that can be taken on by, or even simply assigned to, men. It was evident start- ing with the end of the First World War that the European nation-states were no longer capa- ble of taking on historical tasks and that peoples themselves were bound to disappear.35

Agamben’s metaphor for this condition is bankruptcy: ‘One of the few things that can be

declared with certainty is that all the peoples of Europe (and, perhaps, all the peoples of the Earth) have gone bankrupt’.36 Thus, the destructive nihilistic drive of the biopolitical machine and the capitalist spectacle has itself done all the work of emptying out positive forms-of-life, identities and vocations, leaving humanity in the state of destitution that Agamben famously terms ‘bare life’. Yet, this bare life, whose essence is entirely con- tained in its existence, is precisely what conditions the emergence of the subject of the coming politics: ‘this biopolitical body that is bare life must itself be transformed into the site for the constitution and installation of a form-of-life that is wholly exhausted in bare life and a bios that is only its own zoe.’37

The ‘happy’ form-of-life, a ‘life that cannot be segregated from its form’, is nothing but bare life that has reappropriated itself as its own form and for this reason is no longer separated between the (degraded) bios of the apparatuses and the (endangered) zoe that functions as their foundation.38 Thus, what the nihilistic self-destruction of the appara- tuses of biopolitics leaves as its residue turns out to be the entire content of a new form-of-life. Bare life, which is, as we recall, ‘nothing reprehensible’ aside from its con- finement within the apparatuses, is reappropriated as a ‘whatever singularity’, a being that is only its manner of being, its own ‘thus’.39 It is the dwelling of humanity in this irreducibly potential ‘whatever being’ that makes possible the emergence of a generic non-exclusive community without presuppositions, in which Agamben finds the possi- bility of a happy life.

[If] instead of continuing to search for a proper identity in the already improper and sense- less form of individuality, humans were to succeed in belonging to this impropriety as such, in making of the proper being-thus not an identity and individual property but a singularity without identity, a common and absolutely exposed singularity, then they would for the first time enter into a community without presuppositions and without subjects.40

Thus, rather than seek to reform the apparatuses, we should simply leave them to their self-destruction and only try to reclaim the bare life that they feed on. This is to be achieved by the practice of subtraction that we address in the following section.

#### The 1ac is an attempt to command and control a situation whose destructive power is inherently outside of the possibility of comprehension, implicitly accepting the terms of a rigged game that makes a new kind of nuclear biopower that results in the destruction of all others and one’s own suicide possible.

Masco 12. Joseph Masco, Professor of Anthropology and of the Social Sciences at the University of Chicago, “The Ends of Ends,” Anthropological Quarterly [Volume 85, Number 4, Fall 2012](http://muse.jhu.edu/journals/anthropological_quarterly/toc/anq.85.4.html), pg. 1118

The scale of destruction detailed in sIOP-62 is a distinctive moment in human history and is, in Kant’s strict technical sense of the term, sublime. It is beyond comprehension, which raises a crucial issue about how the nuclear state resolves such terror/complexity. In national security plan- ning, the compensation for this experience of cognitive overload was a fixation on command and control, as well as the articulation of specific war calculations, marking degrees of violence for different nuclear war scenarios (see Kahn 1960, Eden 2004). What would likely be an unknown chaos of missiles and bombs launched for the first time from a vast range of technologies, located all over the planet under deeply varied condi- tions, appears on paper as a rational program of cause and effect, threat and preemption, attack and counter attack. this was an apocalyptic vi- sion presented simply as math. From 1962 until today, the sIOP nuclear war plan has been continually revised and rationalized for different global political contexts but never truly abandoned (McKinzie, cochran, Norris, and Arkin 2001). the US maintains the ability to destroy all major popula- tion centers outside the continental US within a few minutes of nuclear conflict. It is important to recognize that this technical capacity to deliver overwhelming violence to any part of the world in mere minutes has relied on structures of the imagination as well as on machines, threat projec- tions, and fantasies, as well as physics and engineering.

US policymakers have experienced many moments of rupture in their global vision, shocks that might have recalibrated how threat, security, fears, and technology were organized. After U-2 pilot Gary Powers was shot down over the soviet Union in 1960, covert spy flights over the Ussr were stopped, leaving policy makers in the Us with no definitive intelligence on soviet military activities. It is difficult today to imagine a period more fraught, more susceptible to paranoid fantasy and projection, and more primed for nuclear conflict. US policymakers lacked basic information about Soviet society and military capabilities, creating a huge information gap that invited speculation and fantasy, as well as paranoia. In a national security culture rehearsing surprise attack, and negotiating increasing confrontations in Europe, southeast Asia, Africa, and Latin America, what could provoke a de-escalation in this nuclear system, which by the early 1960s was already primed for nuclear war on a minute-to-minute basis? the corona system offered a radically new perspective on cold War reali- ties but its role has been historically and culturally limited to revealing the objective facts of soviet nuclear capabilities, not the American fantasies that generated the “missile gap” in the first place.

the corona system was both cutting edge technology and a new form of expressive culture, an early planetary technology mobilized to com- bat official panic. The missed opportunity provided by the first corona photographs was to evaluate the fantasies and paranoia of an American military system that had so thoroughly misjudged the scale of the soviet technological capabilities that preemptive nuclear war was under consid- eration. Instead, the “missile gap” narrative was never publicly retracted, and the satellite photographs that proved this major discourse of the cold War to be false were classified top secret until 1995. Classification pro- tected the technology, but also the self-critique that corona photographs might have generated of official US projections. thus, an opportunity for a public discussion of how national fears are constituted out of a lack of information, fantasy, and political demonology was lost. Instead, a new effort to normalize nuclear crisis was pursued. the Us nuclear stockpile grew to over 30,000 weapons by the end of the 1960s, and space became an increasingly militarized domain. the sIOP target list would continue to grow through the 1980s, eventually including tens of thousands of global targets and constituting a nuclear war system so complex that it is very likely that no single human being understood its internal logics or likely effects. American ideologies of nuclear fear constantly threaten to over- whelm the material evidence of danger, and have become a core part of a now multigenerational commitment to militarism for its own sake. by 2011, the result is that the US spends as much as the rest of the world combined on military matters but has not yet achieved anything like “security.”

The corona system offers us, in Benjamin’s terms, an important oppor- tunity to “brush history against the grain” as it was both a technological marvel—a demonstration of the power of instrumental rationality—and a stark reality check on Us national security culture itself, offering a new optics on the psychopolitics of cold War (Orr 2006). the first photographic survey of the soviet Union from outer space showed that US policymakers took the world to the brink of nuclear war in response to their fantasies of soviet power, not the reality of soviet capabilities. this well documented insight might have produced a fundamental rethinking of how threat, secu- rity, and nuclear power were organized in the Us, establishing a caution- ary tale at the very least. but instead the corona photographs remained a highly classified set of facts through the cold War. this secrecy enabled a system of nuclear normalization to be reinforced rather than interrogated, securing the project of cold War for the next 30 years. In the end, the new optics offered by corona (on both soviet machines and American fanta- sies) were reduced simply to a push for new space technology—higher resolution photographs, better real time transition of data, and so on. In other words, the structure of the security state did not change even when confronted with evidence of its own fantasy projections and error. the “success” of corona ultimately produced an American cold War project even more focused on technological innovation and the projection of nu- clear power rather than one capable of re-thinking its own cultural terms, expert logics, or institutional practices.

The constant slippages between crisis, expertise, and failure are now well established in an American political culture. the cultural history of cold War nuclear crisis helps us understand why. Derrida (1984), work- ing with the long running theoretical discourse on the sublimity of death (which links Kant, Freud, and benjamin), describes the problem of the nuclear age as the impossibility of contemplating the truly “remainderless event” or the “total end of the archive.” For him, nuclear war is “fabulously textual” because until it occurs all you can do is tell stories about it, and because to write about it is to politically engage in a form of future making that assumes a reader, thus performing a kind of counter-militarization and anti-nuclear practice. In the early 1960s, the US nuclear war policy was officially known as “overkill,” referencing the redundant use of hydrogen bombs to destroy targets (rosenberg 1983). This “overkill” installs a new kind of biopower, which fuses an obliteration of the other with collective suicide. the means to an end here constitutes an actual and total end, making the most immediate problem of the nuclear age the problem of dif- ferentiating comprehension from compensation in the minute-to-minute assessment of crisis.

this seems to be a fundamental problem in Us national security cul- ture—an inability to differentiate the capacity for war with the act itself, or alternatively to evaluate the logics of war from inside war. today, space is filled with satellites offering near perfect resolution on the surface of the earth and able to transmit that data with great speed and precision to com- puters and cell phones, as well as early warning systems, missiles, and drones. What we cannot seem to do is find an exterior viewpoint on war itself—a perspective that would allow an assessment not only of the real- ity of conflict but also of the motivations, fantasies, and desires that sup- port and enable it. Indeed expert systems of all sorts—military, economic, political, and industrial—all seem unable to learn from failure and instead in the face of crisis simply retrench and remobilize longstanding and obvi- ously failed logics. War, for example, is not the exception but the norm in the US today—which makes peace “extreme.” so what would it take for Americans to consider not only the means to an end—that is, the tactics, the surges, the preemptions, and surgical strikes—but also to reevaluate war itself? What would it take to consider an actual end to such ends?

#### The 1ac’s invocation of the legal norm forcloses responding to nuclear weapons from the extreme, offering a leveling critique from the periphery and instead relying on the same legal-national security alliance that produced the atomic situation in an attempt to regulate it—the alternative is to reject the affirmative

Masco 12. Joseph Masco, Professor of Anthropology and of the Social Sciences at the University of Chicago, “The Ends of Ends,” Anthropological Quarterly [Volume 85, Number 4, Fall 2012](http://muse.jhu.edu/journals/anthropological_quarterly/toc/anq.85.4.html), pg. 1107

The concept of the extreme is relational, assuming a counterpoint to ev- eryday experience marked regular, unexceptional, banal. Yet, American life for decades has been founded on machines (and accompanying log- ics and affects) that are simultaneously infrastructural (and thus part of a normalized everyday) and extreme, in the sense of being unprecedentedly violent. Instrumental rationality has—in the form of the atomic bomb—pro- duced a world that is simultaneously normal and extreme, at once capable of informing everyday life or of ending it in a flash. In the atomic bomb, technological means and ends combine in a new constellation: one that exceeds modernist rationality, creating epistemic problems that are em- blematic of our moment. The kind of technical expertise responsible for producing the atomic bomb has engineered an industrialized, globalized, networked world, one now experiencing the combined pressures of politi- cal, military, economic, and environmental crises. In such a world—which relies on a highly developed social commitment to normalizing extremes in the effort to secure profit—self-knowledge and reflexive critique become both ever more vital, yet also more inherently fraught.

In an extreme age, we might well ask: what are the possibilities for a productive shock, an experience or insight that would allow us to rethink the terms of everyday life? In the discipline of biology, the recent discov- ery of microbial extremophiles in deep-sea volcanic vents has fundamen- tally challenged longstanding scientific definitions of life (Helmreich 2008). Living under conditions of extreme heat and pressure, these methane- eating beings have redefined the very limits of life on planet Earth and beyond. What could produce a similar effect in the domain of security? Opportunities for such a critique are ever present, an endless stream of moments in fact, yet constantly subsumed by the normalizing effects of a national security culture committed to a constant state of emergency. A return to basic questions of how to define profit, loss, and sustainability is a key concern today in the Us and this paper asks what kind of analy- sis could begin to redefine the limits of a collective security? What kind of de-familiarization and/or productive shock might allow insight into the cultural terms of expert judgment today in the Us, allowing us to rethink the logics and practices that have simultaneously produced a global war on terror, a global financial meltdown, and a planetary climate crisis? How can Americans—extremophiles of the national sort—assess their own his- tory within a national-cultural formation devoted to the normalization of violence (as war, as boom and bust capitalism, as environmental ruin) as the basis for everyday life?

This short paper does not provide an answer to these questions (would that it could!), but rather seeks to offer a provocation and a meditation on paths constantly not taken in US national security culture. It asks: how can we read against the normalizing processes of the security state to assess alternative futures, alternative visions rendered invisible by the complex logistics of military science, economic rationality, and global governance? to do so is to break from the normalizing force of everyday national secu- rity/capitalism, and interrogate the assumed structures of security and risk that support a global American military deployment and permanent war posture. To accomplish this kind of critical maneuver, however, one needs to be able to recognize the alternative futures rendered void by the specific configurations of politics and threat empowering military industrial action at a given moment. An extreme critique requires the ability to assess the alternative costs and benefits that remain suspended within the spaces of an everyday American life constantly rehearsing (via media, political culture, and military action) terror as normality. What follows then is both an examination and a performance of extremity—pushing a critical history and theory well beyond the usual scholarly comfort level. It seeks less to settle and explain than to agitate and provoke.

### 1nc groupthink

#### Get real – this is the same Congress that annually tries to block the debt ceiling. The only thing Eric Cantor or Mitch McConnell will contribute to decision-making is intellectual diarrhea

#### Empirically Congress can’t solve – the best example of group-think was Iraq – where Bush requested formal Congressional authorization, submitted all of the flawed intel to Congress and Congress gave it unanimous approval

#### No groupthink—executives are fragmented and pluralistic—Congress links harder

**Posner and Vermeule, 7** – \*Kirkland and Ellis Professor of Law at the University of Chicago Law School AND \*\*professor at Harvard Law School (Eric and Adrian, Terror in the Balance: Security, Liberty, and the Courts p. 46-47)

The idea that Congress will, on net, weed out bad policies rests on an institutional comparison. The president is elected by a national constituency on a winner-take-all basis (barring the remote chance that the Electoral College will matter), whereas Congress is a summation of local constituencies and thus affords more voice to political and racial minorities. At the level of political psychology, decisionmaking within the executive is prone to group polarization and other forms of groupthink or irrational panic,51 whereas the internal diversity of legislative deliberation checks these forces. At the level of political structure, Congress contains internal veto gates and chokepoints—consider the committee system and the fi libuster rule—that provide minorities an opportunity to block harmful policies, whereas executive decisionmaking is relatively centralized and unitary.

The contrast is drawn too sharply, because in practice the executive is a they, not an it. Presidential oversight is incapable of fully unifying executive branch policies, which means that disagreement flourishes within the executive as well, dampening panic and groupthink and providing minorities with political redoubts.52 Where a national majority is internally divided, the structure of presidential politics creates chokepoints that can give racial or ideological minorities disproportionate influence, just as the legislative process does. Consider the influence of Arab Americans in Michigan, often a swing state in presidential elections.

It is not obvious, then, that statutory authorization makes any difference at all. One possibility is that a large national majority dominates both Congress and the presidency and enacts panicky policies, oppresses minorities, or increases security in ways that have ratchet effects that are costly to reverse. If this is the case, a requirement of statutory authorization does not help. Another possibility is that there are internal institutional checks, within both the executive branch and Congress, on the adoption of panicky or oppressive policies and that democratic minorities have real infl uence in both arenas. If this is the case, then a requirement of authorization is not necessary and does no good. Authorization only makes a difference in the unlikely case where the executive is thoroughly panicky, or oppressively majoritarian, while Congress resists the stampede toward bad policies and safeguards the interests of oppressed minorities.

Even if that condition obtains, however, the argument for authorization goes wrong by failing to consider both sides of the normative ledger. As for majoritarian oppression, the multiplicity of veto gates within Congress may allow minorities to block harmful discrimination, but it also allows minorities to block policies and laws which, although targeted, are nonetheless good. As for panic and irrationality, if Congress is more deliberative, one result will be to prevent groupthink and slow down stampedes toward bad policies, but another result will be to delay necessary emergency measures and slow down stampedes toward good policies. Proponents of the authorization requirement sometimes assume that quick action, even panicky action, always produces bad policies. But there is no necessary connection between these two things; expedited action is sometimes good, and panicky crowds can stampede either in the wrong direction or in the right direction. Slowing down the adoption of new policies through congressional oversight retards the adoption not only of bad policies, but also of good policies that need to be adopted quickly if they are to be effective.

#### None of Obama’s mistakes resulted from groupthink—unprecedented number of anti-groupthink mechanisms

Kennedy, 12 [ Copyright (c) 2012 Gould School of Law Southern California Interdisciplinary Law Journal Spring, 2012 Southern California Interdisciplinary Law Journal 21 S. Cal. Interdis. L.J. 633 LENGTH: 23138 words NOTE: THE HIJACKING OF FOREIGN POLICY DECISION MAKING: GROUPTHINK AND PRESIDENTIAL POWER IN THE POST-9/11 WORLD NAME: Brandon Kennedy\* BIO: \* Class of 2012, University of Southern California Gould School of Law; M.A. Regional Studies: Middle East 2009, Harvard Graduate School of Arts and Sciences; B.A. Government 2009, Harvard University.]

A. Anti-Groupthink Decision-Making Practices The Obama team adopted several decision-making practices that helped counter the groupthink that had plagued the Bush team. These practices produced a moderate level of cohesiveness, greatly limited structural organizational faults, and reduced threats that could give rise to a provocative situational context. 1. Building Moderate Cohesiveness "Hillary and I were friends before this started ... . We had this very vituperative campaign, but, you know, she is smart and we ought to be able to do something with her." n225 After his election, Obama sought out people to fill the Cabinet and White House staff positions based on each member's experience and the different contributions they could bring to the table. While political ideology was one factor to consider, it was not elevated above other qualities. Above all, Obama seemed to want to succeed by considering all possible options, and the only way to do that was by including people who thought differently from him and who would challenge his thinking. n226 Obama thus set about to build a team that would work well together, but whose members would also engage in critical thinking and evaluate all possible options when making decisions. Obama sought to strike this balance by including both friends and political allies, such as David Axelrod and Rahm Emanuel, and also outsiders and even former rivals. n227 For example, in a somewhat controversial move, Obama chose to keep Bush's Secretary of Defense, Robert Gates, citing the importance of continuity and expertise. n228 Obama also wished to heal the wounds inflicted [\*671] during a bitter nomination campaign and appoint a strong Secretary of State, so he offered Hillary Clinton the post. n229 For the position of CIA Director, Obama chose Leon Panetta, who, as an outsider, would help improve the Agency's image, which had been severely tarnished due to controversial pre-Iraq War intelligence, interrogation techniques, and its domestic spying program. n230 Thus, the manner in which Obama built his decision-making group laid the foundation for avoiding groupthink. 2. Roles of Critical Evaluator Assigned to Each Member Joe, I want you to say exactly what you think. And I want you to ask the toughest questions you can think of. And the reason is ... because I think the American people ... and our troops are best served by a vigorous debate on these kinds of life-or-death issues. n231 Obama used these words to encourage Vice President Joe Biden to be an aggressive contrarian in national security team meetings regarding strategy for Afghanistan. n232 And, at a September 13, 2009, national security meeting, Obama told his team "We need to come to this with a spirit of challenging our assumptions ... . Don't bite your tongue. Everybody needs to say what's on their mind." n233 In statements such as these, Obama sought to ensure that each member of his team contributed independently and critically to any decision making. 3. Leader's Impartiality at the Outset When assessing the Afghanistan War, Obama told his national security team, "We have no good options here," n234 therefore establishing that he would not accept only a single solution from only an individual high-ranking member. n235 Obama preferred to have a full range of options comprehensively discussed in order for him to remain impartial. n236 In making decisions, Obama critically questioned all proposals and did not state his preference for a specific policy until the group had fully explored all options. n237 [\*672] 4. Consultation with Trusted Outsiders "Mr. President, I shared the [troop surge] option with the chiefs before I came over." General James Cartwright, Vice Chairman of the Joint Chiefs of Staff, uttered these words to Obama at a national security meeting on November 23, 2009. n238 Throughout the Afghanistan strategy review of 2009, trusted associates in each member's unit of the executive branch consulted each other and reported back to the primary decision-making national security team. n239 As Janis postulates, this seems to have helped the group avoid groupthink because they were consistently seeking opinions from outside of the decision-making group. 5. Consultation with Outside Experts "I know you don't want to work full-time in government," Obama told Bruce Riedel, a national security expert at the Brookings Institution, "but here's a proposition. Will you come into government for 60 days, work in the [National Security Council], do a strategic review of Afghanistan and Pakistan?" n240 This kind of consultation with non-governmental experts took place as well. For example, just as a troubled corporation might hire outside consultants, General Stanley McChrystal's Afghanistan strategy review included bringing outside experts into a war zone to assess the situation. n241 The idea behind this review team came in part from General David Petraeus's 2007 playbook for Iraq (when the largely successful troop surge took place). n242 The review team consisted of "an experienced group [\*673] of analysts who were willing to challenge the assumptions of high-ranking generals." n243 6."Second Chance" Meeting for Expression of Doubts "Why are we having another meeting about this? I thought this was finished Wednesday. Why do we keep having these meetings after we have all agreed?" n244 Although expressing slight exasperation, Obama proceeded with a "last chance" meeting before deciding to send 30,000 additional troops to Afghanistan. n245 This meeting served as a final opportunity for group members (especially Pentagon officials, in this instance) to share residual doubts and to rethink the entire issue before making a definitive choice. n246

#### No risk of aggressive Chinese expansion or destabilization now – but a US Asian deterrence strategy causes war with China

**Yongnian 12** [Zheng Yongnian, 9-29-2012, director of the East Asian Institute of the National University of Singapore, “US Asia-Pacific strategy destabilizes region”]

The United States claims that its high-profile “pivot to Asia” strategy aims to “deter” the threat from a rising China in order to maintain the existing order in Asia. But the effects of this strategy seem to prove just the opposite. Is Asia now more stable than it was before the U.S.’s adoption of this Asia-Pacific strategy? Obviously not. China and the U.S. had been living on relatively good terms before. But dramatic changes have happened in Asia due to America’s new policy. Before this new policy, China and other Asian nations had been constantly adjusting themselves to cater to the needs of others. Most Asian countries, ASEAN nations in particular, adopted a pragmatic foreign policy. They regarded China’s economic growth as an opportunity and accordingly adjusted their relations with China. Meanwhile, China prioritized its economic and trade relations with other Asian countries, and accordingly kept a low profile on political and strategic issues and recognized the leading role of ASEAN. It was because of this mutual effort that the relationship between ASEAN nations and China had rapidly progressed, and the bilateral relations between China and other Asian countries became gradually institutionalized through various regional, international, bilateral and multilateral channels. Some Western scholars have already realized the fact that during the past three decades, Asia maintained peace despite China’s rapid growth, seemingly disproving the “tragedy of great power politics” in which an emerging power will eventually challenge the existing great power. Peace in Asia, to a large extent, was a result of rational choices and mutual adjustment of Asian countries including China. China placed its strategic priorities on economy and trade instead of the military. The so called “threat” that the U.S. faces in Asia ― fears that China will eventually push it out of Asia ― is therefore more cognitive than real. Where do these fears come from? There are many contributing factors, including the so-called “security dilemma” caused by structural anarchy in international relations, differences in political ideology, and a lack of mutual trust.

#### No aggressive China rise or war now

**Junbo 12** [Dr Jian Junbo, 9-26-2012, assistant professor of the Institute of International Studies at Fudan University, Shanghai, “US pivots toward trouble in West Pacific”]

A careful review of China's positions and claims on islands and waters in the South and East China seas will show that Beijing has not changed its stance for decades. It is not new. It should also be noted that similar positions and claims are also held by Taiwan, a democratic island politically separated from mainland China. What does this mean? It means Beijing's positions over territorial disputes have nothing to do with its rise, its political system or its internal politics. The challenge is from the outside - its neighbors, with the backing of the US.

### 1nc terrorism

#### Technostrategic nuclear discourse sanitizes war

**Bleiker, 03 (**Roland, Poli.Sci., Int’l Rtlns, U. Queensland, “Aestheticising Terrorism: Alternative Approaches to 11 September,” Australian Journal of Politics and History, EBSCO)

The complexities of terrorism, and of world politics in general, cannot be understood or addressed by dogmatic approaches that simply advocate a return to “realism, not abstract philosophising”. And yet, such approaches are as prevalent in academic analysis as they are in popular discourse. Consider one of the most influential and sophisticated contemporary commentators on international affairs, Alexander Wendt: “Poetry, literature and other humanistic disciplines are not designed to explain global war or third world poverty, and as such if we want to solve those problems our best hope, slim as it may be, is social science.”54 As Kant already knew, and as this essay outlined at the outset, such an approach is problematic because it provides a few dominant forms of insight, usually those emerging from reason, with the power to synchronise a variety of otherwise rather disparate faculties, from imagination to intuition. The consequences are manifold. The techno-strategic language of defence analysis, for instance, has become the most accepted — and by definition most credible and rational — way of assessing issues of terrorism and security in general. The (realist) language that defence intellectuals speak is not only highly abstract, but also sanitises war and creates a distance from the grotesque realities of nuclear weapons. The terms created through this techno-strategic language, such as “clean bombs” or “collateral damage”, make it possible for analysts to focus on technical issues without having to deal with the possible moral consequences of their work, including the prospect of what Herman Kahn once called a “wargasm” — a nuclear holocaust that precipitates the end of humanity. Fortunately, the Cold War was one of the very few arms races that did not culminate in outright war. But the realist mindset and language that had guided its strategic “logic” continue to delineate our understanding of security.

#### No accidental war

**Mueller** **10** - Woody Hayes chair of national security studies at Ohio State University (John, Atomic Obsession, p. 100-101)

It is a plausible argument that, all other things equal, if the number of nuclear weapons in existence increases, the likelihood one will go off by accident will also increase. In fact, all things haven't been equal. As nuclear weapons have increased in numbers and sophistication, **so have safety devices and procedures**. Precisely because the weapons are so dangerous, extraordinary efforts to keep them from going off by accident or by an unauthorized deliberate act have been instituted, and these measures have, so far, been effective: no one has been killed in a nuclear explosion since Nagasaki. Extrapolating further from disasters that have not occurred, many have been led to a concern that, triggered by a nuclear weapons accident, a war could somehow be started through an act of desperation or of consummate sloppiness. Before the invention of nuclear weapons, such possibilities were not perhaps of great concern, because no weapon or small set of weapons could do enough damage to be truly significant. Each nuclear weapon, however, is capable of destroying in an instant more people than have been killed in an average war, and the weapons continue to exist in the tens of thousands. However, even if a bomb, or a few bombs, were to go off, it does not necessarily follow that war would result. For that to happen, it is assumed, the accident would have to take place at a time of war-readiness, as during a crisis, when both sides are poised for action and when one side could perhaps be triggered – or panicked –into major action by an explosion mistakenly taken to be part of, or the prelude to, a full attack. This means that the unlikely happening –a nuclear accident – would have to **coincide precisely** with an event, a militarized international crisis, something that is rare to begin with, became more so as the cold war progressed, and has become even less likely since its demise. Furthermore, even if the accident takes place during a crisis, **it does not follow that escalation** or hasty response **is** inevitable, or even very **likely**. As Bernard Brodie points out, escalation scenarios essentially impute to both sides "a well-nigh limitless concern with saving face" and/or "a deal of ground-in automaticity of response and counterresponse." None of this was in evidence during the Cuban missile crisis when there were accidents galore. An American spy plane was shot down over Cuba, probably without authorization, and another accidentally went off course and flew threateningly over the Soviet Union. As if that weren’t enough, a Soviet military officer spying for the West sent a message, apparently on a whim, warning that the Soviets were about to attack.31 **None of these remarkable events triggered anything** in the way of precipitous response. They were duly evaluated and then ignored. Robert Jervis points out that "when critics talk of the impact of irrationality, they imply that all such deviations will be in the direction of emotional impulsiveness, of launching an attack, or of taking actions that are terribly risky. But irrationality could also lead a state to passive acquiescence." In moments of high stress and threat, people can be said to have three psychological alternatives: (1) to remain calm and rational, (2) to refuse to believe that the threat is imminent or significant, or to panic, lashing out frantically and incoherently at the threat. Generally, people react in one of the first two ways. In her classic study of disaster behavior, Martha Wolfenstein concludes, “The usual reaction is one of being unworried.” In addition, the historical record suggests that **wars simply do not begin by accident**. In his extensive survey of wars that have occurred since 1400, diplomat-historian Evan Luard concludes, "It is impossible to identify a single case in which it can be said that a war started accidentally; in which it was not, at the time the war broke out, the deliberate intention of at least one party that war should take place." Geoffrey Blainey, after similar study, very much agrees: although many have discussed "accidental" or "unintentional" wars, "it is difficult," he concludes, "to find a war which on investigation fits this description." Or, as Henry Kissinger has put it dryly, "Despite popular myths, large military units do not fight by accident."

#### Presidential war power expansion is inevitable – legal restrictions are temporary and unenforceable in the long term

**Posner and Vermeule, 10** - \*professor of law at the University of Chicago AND \*\*professor of law at Harvard (Eric and Adrian, The Executive Unbound, p. 41-45)

Liberal legalists, following Madison, describe Congress as the deliberative institution par excellence. On this view, Congress is a summation of local majorities, bringing local information and diverse perspectives to national issues. The bicameral structure of Congress aids deliberation; the House shifts rapidly in response to changing conditions and national moods, while the Senate provides a long-term perspective, and cools off overheated or panicky legislation. The Madisonian emphasis on the cooling-off function of the Senate functions as a check on executive claims that an emergency is at hand.

The application of the Madisonian view to crises or emergencies is the default position among legal academics. On this view, even in crisis situations the executive may act only on the basis of clear congressional authorization that follows public deliberation, and the executive’s actions must presumptively be subject to judicial review. A proviso to the Madisonian view is that if immediate action is literally necessary, the executive may act, but only until Congress can convene to deliberate; if the executive’s interim actions were illegal, it must seek ratification from Congress and the public after the fact.53

In the Schmittian view, by contrast, the Madisonian vision of Congress seems hopelessly optimistic. Even in normal times, Schmitt believed, the deliberative aspirations of classical parliamentary democracy have become a transparent sham under modern conditions of party discipline, interest-group conflict, and a rapidly changing economic and technical environment. Rather than deliberate, legislators bargain, largely along partisan lines. Discussion on the legislative floor, if it even occurs, is carefully orchestrated posturing for public consumption, while the real work goes on behind closed doors, in party caucuses.

How does this picture relate to Schmitt’s point that legislatures invariably “come too late” to a crisis? Crises expose legislative debility to view, but do not create it. Indeed, legislative failure during crises is in part a consequence of legislative failure during the normal times that precede crises. The basic dilemma for legislators, is that before a crisis, they lack the motivation and information to provide for it in advance, while after the crisis has begun, they lack the capacity to manage it themselves. We will describe each horn of the dilemma in detail.

BEFORE THE CRISIS

In the precrisis state, legislatures mired in partisan conflict about ordinary politics lack the motivation to address long-term problems. Legislators at this point act from behind a veil of uncertainty about the future, and may thus prove relatively impartial; at least high uncertainty obscures the distributive effects of legislation for the future, and thus reduces partisan opposition. However, by virtue of these very facts, there is no strong partisan support for legislation, and no bloc of legislators has powerful incentives to push legislation onto the crowded agenda. The very impartiality that makes ex ante legislation relatively attractive, from a Madisonian perspective, also reduces the motivation to enact it.

This point is related to, but distinct from, Schmitt’s more famous claim about the “norm” and the “exception.” In a modern rendition, that claim holds that ex ante legal rules cannot regulate crises in advance, because unanticipated events will invariably arise. Legislatures therefore either decline to regulate in advance or enact emergency statutes with vague standards that defy judicial enforcement ex post. Here, however, a different point is at issue: even if ex ante legal rules could perfectly anticipate all future events, legislatures will often lack the incentive to adopt them in advance.

Occasionally, when a high-water mark of public outrage against the executive is reached, legislatures do adopt framework statutes that attempt to regulate executive behavior ex ante; several statutes of this kind were adopted after Watergate. The problem is that new presidents arrive, the political coalitions that produced the framework statute come apart as new issues emerge, and public outrage against executive abuses cools. Congress soon relapses into passivity and cannot sustain the will to enforce, ex post, the rules set out in the framework statutes. As we will discuss more fully in chapter 3, the post-Watergate framework statutes have thus, for the most part, proven to impose little constraint on executive action in crisis, in large part because Congress lacks the motivation to enforce them.

DURING THE CRISIS

The other horn of the dilemma arises after the crisis has begun to unfold. Because of their numerous memberships, elaborate procedures, and internal structures, such as bicameralism and the committee system, and internal problems of collective action, legislatures can rarely act swiftly and decisively as events unfold. The very complexity and diversity that make legislatures the best deliberators, from a Madisonian perspective, also raise the opportunity costs of deliberation during crises and disable legislatures from decisively managing rapidly changing conditions. After 9/11, everyone realized that another attack might be imminent; only an immediate, massive response could forestall it. In September 2008, the financial markets needed immediate reassurance: only credible announcements from government agencies that they would provide massive liquidity could supply such reassurance. Indeed, though commentators unanimously urged Congress to take its time, within weeks the Bush administration was being criticized for not acting quickly enough. In such circumstances, legislatures are constrained to a reactive role, at most modifying the executive’s response at the margins, but not themselves making basic policy choices.

Liberal legalists sometimes urge that the executive, too, is large and unwieldy; we pointed out in the introduction that the scale of executive institutions dwarfs that of legislative and judicial institutions. On this view, the executive has no systematic advantages in speed and decisiveness. Yet this is fatally noncomparative. The executive is internally complex, but it is structured in a far more hierarchical fashion than is Congress, especially the Senate, where standard procedure requires the unanimous consent of a hundred barons, each of whom must be cosseted and appeased. In all the main cases we consider here, the executive proved capable of acting with dispatch and power, while Congress fretted, fumed, and delayed.

The main implication of this contrast is that crises in the administrative state tend to follow a similar pattern. In the first stage, there is an unanticipated event requiring immediate action. Executive and administrative officials will necessarily take responsibility for the front-line response; typically, when asked to cite their legal authority for doing so, they will either resort to vague claims of inherent power or will offer creative readings of old statutes. Because legislatures come too late to the scene, old statutes enacted in different circumstances, and for different reasons, are typically all that administrators have to work with in the initial stages of a crisis. “Over time, the size and complexity of the economy will outgrow the sophistication of static financial safety buffers”54—a comment that can also be made about static security safety buffers, which the advance of weapons technology renders obsolete. In this sense, administrators also “come too late”—they are forced to “base decisions about the complex, ever-changing dynamics of contemporary economic [and, we add, security] conditions on legal relics from an oftentimes distant past.”55

Thus Franklin Roosevelt regulated banks, in 1933, by offering a creative reading of the Trading with the Enemy Act of 1917, a statute that needless to say was enacted with different problems in mind. Likewise, when in 2008 it became apparent on short notice that the insurance giant AIG had to be bailed out, lest a systemwide meltdown occur, the Treasury and Federal Reserve had to proceed through a strained reading of a hoary 1932 statute. While the statute authorized “loans,” it did not authorize government to purchase private firms; administrators structured a transaction that in effect accomplished a purchase in the form of a loan. Ad hoc “regulation by deal,”56 especially in the first phase of the financial crisis, was accomplished under the vague authority of old statutes. The pattern holds for security matters as well as economic issues, and for issues at the intersection of the two domains. Thus after 9/11, the Bush administration’s attempts to choke off Al Qaeda’s funding initially proceeded in part under provisions of the International Emergency Economic Powers Act, a 1977 statute whose purpose, when enacted, was actually to restrict the president’s power to seize property in times of crisis.57

#### Obama would ignore the plan

Michael J., Garcia2003; JD – Georgetown University Law Center, “A Necessary Response: The Lack of Domestic and International Constraints Upon a U.S. Nuclear Response to a Terrorist Attack”, The Georgetown Journal of Law & Public Policy, Summer, 1 Geo. J.L. & Pub. Pol'y 515, Lexis

In the face of a significant terrorist attack, the President might not wait for congressional authorization to respond with a nuclear weapon. Presidents have long held that congressional authorization is only necessary when the United States is initiating a war; if the United States is already under attack, however, a war already exists in fact and the President needs no additional congressional authorization to respond militarily. n73 Some presidents have gone so far as to argue that congressional authorization is unnecessary in certain instances in which the United States has not been attacked, such as when enforcing a U.N. Security Council resolution. n74 In signing the joint resolution permitting the use of force in response to September 11, President Bush indicated that while he welcomed congressional support for the war effort, he also believed that it was unnecessary given the Executive's inherent power to respond to attacks against the United States. n75

#### Combined probability approaches zero

**Schneidmiller 9** (Chris, Experts Debate Threat of Nuclear, Biological Terrorism, 13 January 2009, http://www.globalsecuritynewswire.org/gsn/nw\_20090113\_7105.php, AMiles)

There is an "almost **vanishingly small" likelihood** that terrorists would ever be able to acquire and detonate a nuclear weapon, one expert said here yesterday (see GSN, Dec. 2, 2008). In even the most likely scenario of nuclear terrorism, there are 20 barriers between extremists and a successful nuclear strike on a major city, said John Mueller, a political science professor at Ohio State University. The process itself is seemingly straightforward but exceedingly difficult -- buy or steal highly enriched uranium, manufacture a weapon, take the bomb to the target site and blow it up. Meanwhile, variables strewn across the path to an attack would increase the complexity of the effort, Mueller argued. Terrorists would have to bribe officials in a state nuclear program to acquire the material, while avoiding a sting by authorities or a scam by the sellers. The material itself could also turn out to be bad. "Once the purloined material is purloined, [police are] going to be chasing after you. They are also going to put on a high reward, extremely high reward, on getting the weapon back or getting the fissile material back," Mueller said during a panel discussion at a two-day Cato Institute conference on counterterrorism issues facing the incoming Obama administration. Smuggling the material out of a country would mean relying on criminals who "are very good at extortion" and might have to be killed to avoid a double-cross, Mueller said. The terrorists would then have to find scientists and engineers willing to give up their normal lives to manufacture a bomb, which would require an expensive and sophisticated machine shop. Finally, further technological expertise would be needed to sneak the weapon across national borders to its destination point and conduct a successful detonation, Mueller said. Every obstacle is "difficult but not impossible" to overcome, Mueller said, putting the chance of success at no less than one in three for each. The likelihood of successfully passing through each obstacle, in sequence, would be roughly one in 3 1/2 billion, he said, but for argument's sake dropped it to 3 1/2 million. "It's a total gamble. This is a very expensive and difficult thing to do," said Mueller, who addresses the issue at greater length in an upcoming book, Atomic Obsession. "So unlike buying a ticket to the lottery ... you're basically putting everything, including your life, at stake for a gamble that's maybe one in 3 1/2 million or 3 1/2 billion." Other scenarios are even less probable, Mueller said. A nuclear-armed state is "exceedingly unlikely" to hand a weapon to a terrorist group, he argued: "States just simply won't give it to somebody they can't control." Terrorists are also not likely to be able to steal a whole weapon, Mueller asserted, dismissing the idea of "loose nukes." Even Pakistan, which today is perhaps the nation of greatest concern regarding nuclear security, keeps its bombs in two segments that are stored at different locations, he said (see GSN, Jan. 12). Fear of an "extremely improbable event" such as nuclear terrorism produces support for a wide range of homeland security activities, Mueller said. He argued that there has been a major and costly overreaction to the terrorism threat -- noting that the Sept. 11 attacks helped to precipitate the invasion of Iraq, which has led to far more deaths than the original event. Panel moderator Benjamin Friedman, a research fellow at the Cato Institute, said academic and governmental discussions of acts of nuclear or biological terrorism have tended to focus on "worst-case assumptions about terrorists' ability to use these weapons to kill us." There is need for consideration for what is probable rather than simply what is possible, he said. Friedman took issue with the finding late last year of an experts' report that an act of WMD terrorism would "more likely than not" occur in the next half decade unless the international community takes greater action. "I would say that the report, if you read it, actually offers no analysis to justify that claim, which seems to have been made to change policy by generating alarm in headlines." One panel speaker offered a partial rebuttal to Mueller's presentation. Jim Walsh, principal research scientist for the Security Studies Program at the Massachusetts Institute of Technology, said he agreed that nations would almost certainly not give a nuclear weapon to a nonstate group, that most terrorist organizations have no interest in seeking out the bomb, and that it would be difficult to build a weapon or use one that has been stolen.

#### No interest in WMD

**Mueller 10**—Professor of Political Science and International Relations @ Ohio State. Widely-recognized expert on terrorism threats in foreign policy. AB from U Chicago, MA in pol sci from UCLA and PhD in pol sci from UCLA (John, “Calming Our Nuclear Jitters”, Issues in Science & Technology, 07485492, Winter 2010, Vol. 26, Issue 2, EBSCO, RBatra)

The al Qaeda factor The degree to which al Qaeda, the only terrorist group that seems to want to target the United States, has pursued or even has much interest in a nuclear weapon may have been exaggerated. The 9/11 Commission stated that "al Qaeda has tried to acquire or make nuclear weapons for at least ten years," but the only substantial evidence it supplies comes from an episode that is supposed to have taken place about 1993 in Sudan, when al Qaeda members may have sought to purchase some uranium that turned out to be bogus. Information about this supposed venture apparently comes entirely from Jamal al Fadl, who defected from al Qaeda in 1996 after being caught stealing $110,000 from the organization. Others, including the man who allegedly purchased the uranium, assert that although there were various other scams taking place at the time that may have served as grist for Fadl, the uranium episode never happened. As a key indication of al Qaeda's desire to obtain atomic weapons, many have focused on a set of conversations in Afghanistan in August 2001 that two Pakistani nuclear scientists reportedly had with Osama bin Laden and three other al Qaeda officials. Pakistani intelligence officers characterize the discussions as "academic" in nature. It seems that the discussion was wide-ranging and rudimentary and that the scientists provided no material or specific plans. Moreover, the scientists probably were incapable of providing truly helpful information because their expertise was not in bomb design but in the processing of fissile material, which is almost certainly beyond the capacities of a nonstate group. Kalid Sheikh Mohammed, the apparent planner of the 9/11 attacks, reportedly says that al Qaeda's bomb efforts never went beyond searching the Internet. After the fall of the Taliban in 2001, technical experts from the CIA and the Department of Energy examined documents and other information that were uncovered by intelligence agencies and the media in Afghanistan. They uncovered no credible information that al Qaeda had obtained fissile material or acquired a nuclear weapon. Moreover, they found no evidence of any radioactive material suitable for weapons. They did uncover, however, a "nuclear-related" document discussing "openly available concepts about the nuclear fuel cycle and some weapons-related issues." Just a day or two before al Qaeda was to flee from Afghanistan in 2001, bin Laden supposedly told a Pakistani journalist, "If the United States uses chemical or nuclear weapons against us, we might respond with chemical and nuclear weapons. We possess these weapons as a deterrent." Given the military pressure that they were then under and taking into account the evidence of the primitive or more probably nonexistent nature of al Qaedas nuclear program, the reported assertions, although unsettling, appear at best to be a desperate bluff. Bin Laden has made statements about nuclear weapons a few other times. Some of these pronouncements can be seen to be threatening, but they are rather coy and indirect, indicating perhaps something of an interest, but not acknowledging a capability. And as terrorism specialist Louise Richardson observes, "Statements claiming a right to possess nuclear weapons have been misinterpreted as expressing a determination to use them. This in turn has fed the exaggeration of the threat we face." Norwegian researcher Anne Stenersen concluded after an exhaustive study of available materials that, although "it is likely that al Qaeda central has considered the option of using non-conventional weapons," there is "little evidence that such ideas ever developed into actual plans, or that they were given any kind of priority at the expense of more traditional types of terrorist attacks." She also notes that information on an al Qaeda computer left behind in Afghanistan in 2001 indicates that only $2,000 to $4,000 was earmarked for weapons of mass destruction research and that the money was mainly for very crude work on chemical weapons. Today, the key portions of al Qaeda central may well total only a few hundred people, apparently assisting the Taliban's distinctly separate, far larger, and very troublesome insurgency in Afghanistan. Beyond this tiny band, there are thousands of sympathizers and would-be jihadists spread around the globe. They mainly connect in Internet chat rooms, engage in radicalizing conversations, and variously dare each other to actually do something. Any "threat," particularly to the West, appears, then, principally to derive from self-selected people, often isolated from each other, who fantasize about performing dire deeds. From time to time some of these people, or ones closer to al Qaeda central, actually manage to do some harm. And occasionally, they may even be able to pull off something large, such as 9/11. But in most cases, their capacities and schemes, or alleged schemes, seem to be far less dangerous than initial press reports vividly, even hysterically, suggest. Most important for present purposes, however, is that any notion that al Qaeda has the capacity to acquire nuclear weapons, even if it wanted to, looks farfetched in the extreme. It is also noteworthy that, although there have been plenty of terrorist attacks in the world since 2001, all have relied on conventional destructive methods. For the most part, terrorists seem to be heeding the advice found in a memo on an al Qaeda laptop seized in Pakistan in 2004: "Make use of that which is available … rather than waste valuable time becoming despondent over that which is not within your reach." In fact, history consistently demonstrates that terrorists prefer weapons that they know and understand, not new, exotic ones.

#### Terrorists aren’t a threat until we construct them as such – causes genocide

**Jackson 5** (Richard, Lecturer in International Politics at the University of Manchester, “Language Power and Politics: Critical Discourse Analysis and the War on Terrorism,” 49th Parallel, <http://www.49thparallel.bham.ac.uk/back/issue15/jackson1.htm>, dml)

Another ubiquitous feature of the discourse of the ‘war on terrorism’ is the scripting of a perpetual state of threat and danger. As David Campbell has eloquently shown, discourses of danger and foreign threat have been integral in constituting and disciplining American identity as practiced through its foreign policy.[[37]](http://www.49thparallel.bham.ac.uk/back/issue15/jackson1.htm" \l "_edn37" \o ") Collectivities, especially those as disparate and diverse as America, are often only unified by an external threat or danger; in this sense, threat creation can be functional to political life. Historically, the American government has relied on the discourse of threat and danger on numerous occasions: the ‘red scares’ of the native Americans who threatened the spread of peaceful civilization along the Western frontier, the workers’ unrest at the time of the Bolshevik Revolution, and the threat to the American way of life during the cold war; the threat of ‘rogue states’ like Libya, Panama, Iran, North Korea, and Iraq; and the threats posed by the drug trade, the proliferation of weapons of mass destruction, and now of course, terrorism. These discourses of danger are scripted for the purposes of maintaining inside/outside, self/other boundaries—they write American identity—and for enforcing unity on an unruly and (dis)United States.

Of course, there are other more mundane political functions for constructing fear and moral panic: provoking and allaying anxiety to maintain quiescence, de-legitimizing dissent, elevating the status of security actors, diverting scarce resources into ideologically driven political projects, and distracting the public from more complex and pressing social ills.[[38]](http://www.49thparallel.bham.ac.uk/back/issue15/jackson1.htm" \l "_edn38" \o ") This is not to say that terrorism poses no real threat; the dangers can plainly be seen in the images of falling bodies and the piles of rubble at ‘Ground Zero’. Rather, it is to point out that dangers are those facets of social life interpreted as threats (in one sense, dangers do not exist objectively, independent of perception), and what is interpreted as posing a threat may not always correspond to the realities of the actual risk of harm. Illegal narcotics, for example, pose less of a risk than the abuse of legal drugs, but a ‘war on drugs’ makes it otherwise. Similarly, the ‘war on terrorism’ is a multi-billion dollar exercise to protect Americans from a danger that, excluding the September 11, 2001 attacks, killed less people per year over several decades than bee stings and lightening strikes. Even in 2001, America ’s worst year of terrorist deaths, the casualties from terrorism were still vastly outnumbered by deaths from auto-related accidents, gun crimes, alcohol and tobacco-related illnesses, suicides, and a large number of diseases like influenza, cancer, and heart disease. Globally, terrorism, which kills a few thousand per year, pales into insignificance next to the 40,000 people who die every day from hunger, the half a million people who die every year from small wars, the 150,000 annual deaths from increased diseases caused by global warming,[[39]](http://www.49thparallel.bham.ac.uk/back/issue15/jackson1.htm" \l "_edn39" \o ") and the millions who die from AIDS. And yet, the whole world is caught up in the global ‘war on terrorism’ whose costs so far run into the hundreds of billions of dollars. In other words, in a world of multiple threats, many of which pose a far greater risk to individual safety (according to Dr David King, Britain’s chief scientist, global warming is a greater threat to humanity than terrorism), the fact that terrorism is widely seen as posing the greatest and most immediate threat is due to the deliberate construction of a discourse of danger.

The initial construction of the threat of terrorism involved fixing the attacks of 9/11 as the start of a whole new ‘age of terror’, rather than as an extraordinary event, or an aberration (out of 18,000 terrorist attacks since 1968 only a dozen or so have caused more than 100 deaths; high-casualty terrorist attacks are extremely rare and 9/11 was the rarest of the rare). Instead, the attacks were interpreted as the dawning of a new era of terrorist violence that knew no bounds. As Bush stated, ‘All of this was brought upon us in a single day—and night fell on a different world’.[[40]](http://www.49thparallel.bham.ac.uk/back/issue15/jackson1.htm" \l "_edn40" \o ") Vice-President Dick Cheney made it even clearer:

Today, we are not just looking at a *new era in national security policy*, we are actually living through it. The exact nature of *the new dangers* revealed themselves on September 11, 2001 , with the murder of 3,000 innocent, unsuspecting men, women and children right here at home.[[41]](http://www.49thparallel.bham.ac.uk/back/issue15/jackson1.htm" \l "_edn41" \o ")

This construct was only possible by severing all links between this act of terrorism and countless others that had preceded it, and by de-contextualizing it from the history of al Qaeda’s previous attacks. In effect, the events of ‘9/11’ were constructed without a pre-history; they stand alone as a defining day of cruelty and evil (‘infamy’). This break with the past makes it possible to assign it future significance as the start of ‘super-terrorism’, ‘catastrophic terrorism’, or simply ‘the new terrorism’. Logically, if there’s a new super-terrorism, then a new super-war-on-terrorism seems reasonable.

A second feature of this discourse of danger is the hyperbolic language of threat. It is not just a threat of sudden violent death, it is actually a ‘threat to civilization’, a ‘threat to the very essence of what you do’,[[42]](http://www.49thparallel.bham.ac.uk/back/issue15/jackson1.htm" \l "_edn42" \o ") a ‘threat to our way of life’,[[43]](http://www.49thparallel.bham.ac.uk/back/issue15/jackson1.htm" \l "_edn43" \o ") and a threat to ‘the peace of the world’.[[44]](http://www.49thparallel.bham.ac.uk/back/issue15/jackson1.htm" \l "_edn44" \o ") The notion of a ‘threat to our way of life’ is a Cold War expression that vastly inflates the danger: instead of a tiny group of dissidents with resources that do not even begin to rival that of the smallest states, it implies that they are as powerful as the Soviet empire was once thought to be with its tens of thousands of missiles and its massive conventional army. Moreover, as Cheney reminds us, the threat of terrorism, like the threat of Soviet nuclear weapons, is supremely catastrophic:

The attack on our country forced us to come to grips with the possibility that the next time terrorists strike, they may well be armed with more than just plane tickets and box cutters. The next time they might direct chemical agents or diseases at our population, or attempt to detonate a nuclear weapon in one of our cities. […] *no rational person can doubt* that terrorists would use such weapons of mass murder the moment they are able to do so. […] we are dealing with terrorists […] who are willing to sacrifice their own lives in order to *kill millions* of others.[[45]](http://www.49thparallel.bham.ac.uk/back/issue15/jackson1.htm" \l "_edn45" \o ")

In other words, not only are we threatened by evil terrorists eager to kill millions (not to mention civilization itself, the peace of the world, and the American way of life), but this is a rational and reasonable fear to have. We should be afraid, very afraid: ‘If they had the capability to *kill millions* ofinnocent civilians, do any of us believe they would hesitate to do so?’.[[46]](http://www.49thparallel.bham.ac.uk/back/issue15/jackson1.htm" \l "_edn46" \o ")

As if this was not enough to spread panic throughout the community, officials then go to great lengths to explain how these same terrorists (who are eager to kill millions of us) are actually highly sophisticated, cunning, and extremely dangerous. As John Ashcroft put it: ‘The highly coordinated attacks of September 11 make it clear that terrorism is the activity of *expertly organized*, *highly* *coordinated* and *wellfinanced* organizations and networks’.[[47]](http://www.49thparallel.bham.ac.uk/back/issue15/jackson1.htm" \l "_edn47" \o ") Moreover, this is not a tiny and isolated group of dissidents, but ‘there are *thousands of these terrorists* in more than 60 countries’ and they ‘hide in countries around the world to plot evil and destruction’;[[48]](http://www.49thparallel.bham.ac.uk/back/issue15/jackson1.htm" \l "_edn48" \o ") or, like the plot of a popular novel: ‘Thousands of dangerous killers, schooled in the methods of murder, often supported by outlaw regimes, are now spread throughout the world *like ticking time bombs*, set to go off without warning’.[[49]](http://www.49thparallel.bham.ac.uk/back/issue15/jackson1.htm" \l "_edn49" \o ") In other speeches, officials inflate the numbers of the terrorists to ‘*tens* of thousands’ of killers spread throughout the world.

The next layer of fear is the notion that the threat resides within; that it is no longer confined outside the borders of the community, but that it is inside of us and all around us. As Ashcroft constructs it:

The attacks of September 11 were acts of terrorism against America orchestrated and carried out by individuals *living within our borders*. Today's terrorists enjoy the benefits of our free society even as they commit themselves to our destruction. *They live in our communities*—plotting, planning and waiting to kill Americans again […] a conspiracy of evil.[[50]](http://www.49thparallel.bham.ac.uk/back/issue15/jackson1.htm" \l "_edn50" \o ")

Like the ‘red scares’ of the past, the discourse of danger is deployed in this mode to enforce social discipline, mute dissent, and increase the powers of the national security state. It is designed to bring the war home, or, as Bush puts it: ‘And make no mistake about it, we’ve got a war *here* just like we’ve got a war abroad’.[[51]](http://www.49thparallel.bham.ac.uk/back/issue15/jackson1.htm" \l "_edn51" \o ")

In another genealogical link to previous American foreign policy, the threat of terrorism is from a very early stage reflexively conflated with the threat of ‘weapons of mass destruction’ and the ‘rogue states’ who might hand them on to terrorists. According to the discourse, rogue states are apparently eager to assist terrorists in killing millions of Americans. As Bush stated in his now infamous ‘axis of evil’ speech,

States like these, and their terrorist allies, constitute an axis of evil, arming to threaten the peace of the world. By seeking *weapons of mass destruction*, these regimes pose a grave and growing danger. *They could provide these arms to terrorists*, giving them the means to match their hatred.[[52]](http://www.49thparallel.bham.ac.uk/back/issue15/jackson1.htm" \l "_edn52" \o ")

This is actually an ingenious discursive sleight of hand which allows America to re-target its military from a war against a tiny group of individual dissidents scattered across the globe (surely an unwinnable war), to territorially defined states who also happen to be the target of American foreign policy. It transforms the ‘war against terrorism’ from a largely hidden and unspectacular intelligence gathering and criminal apprehension program, to a flag-waving public display of awesome military firepower that re-builds a rather dented American self-confidence. Dick Cheney explained it to his colleagues thus: ‘To the extent we define our task broadly, including those who support terrorism, then we get at states. And *it’s easier*to find themthat it is to find bin Laden.’[[53]](http://www.49thparallel.bham.ac.uk/back/issue15/jackson1.htm" \l "_edn53" \o ") Perhaps more importantly, it also allows for the simultaneous pursuit of geo-strategic objectives in crucial regions such as the Middle East under the banner of the ‘war on terrorism’.[[54]](http://www.49thparallel.bham.ac.uk/back/issue15/jackson1.htm" \l "_edn54" \o ")

Instead of reassuring the nation that the attacks were an exceptional and a unique event in a long line of terrorist attacks against America (that have thus far failed to overthrow freedom), the Bush administration chose instead to construct them as the start of a whole new age of terror—the start of a deadly new form of violence directed at Americans, civilized people all over the world, freedom and democracy. The Bush administration could have chosen to publicize the conclusions of the Gilmore Commission in 1999, a Clinton-appointed advisory panel on the threat of WMD falling into the hands of terrorists. Its final report concluded that ‘rogue states would hesitate to entrust such weapons to terrorists because of the likelihood that such a group’s actions might be unpredictable even to the point of using the weapon against its sponsor’, and they would be reluctant to use such weapons themselves due to ‘the prospect of significant reprisals’.[[55]](http://www.49thparallel.bham.ac.uk/back/issue15/jackson1.htm" \l "_edn55" \o ") Condoleeza Rice herself wrote in 2000 that there was no need to panic about rogue states, because ‘if they do acquire WMD—their weapons will be unusable because any attempt to use them will bring national obliteration’.[[56]](http://www.49thparallel.bham.ac.uk/back/issue15/jackson1.htm" \l "_edn56" \o ") Instead, officials engaged in the deliberate construction of a world of unimaginable dangers and unspeakable threats; they encouraged social fear and moral panic. Within the suffocating confines of such an emergency, where Americans measure their daily safety by the color of a national terrorist alert scale (reflected in the glow of every traffic light), it seems perfectly reasonable that the entire resources of the state be mobilized in defense of the homeland, and that pre-emptive war should be pursued. It also seems reasonable that national unity be maintained and expressions of dissent curtailed.

The reality effect of scripting such a powerful danger moreover, can be seen in the two major wars fought in two years (followed by costly ongoing ‘security operations’ in each of those states to root out the terrorists), the arrest of thousands of suspects in America and around the world, and the vast sums spent unquestioningly (even by the Democrats) on domestic security, border control and the expansion of the military. Only the ‘reality’ of the threat of terrorism allows such extravagance; in fact, the manner in which the threat has been constructed -catastrophic, ubiquitous and ongoing- normalizes the entire effort. If an alternative interpretation of the threat emerged to challenge the dominant orthodoxy (that it was vastly over-blown, or misdirected, for example), support for the consumption of such massive amounts of resources might be questioned and the political order destabilized. A massive threat of terrorism then, is necessary for the continued viability of the ‘war on terrorism’; writing the threat of terrorism is co-constitutive of the practice of counter-terrorism.

#### Transportation and detonation are impossible

**Mueller 9** - John Mueller, Woody Hayes Chair of National Security Studies, Mershon Center  
Professor of Political Science30 April 2009 “THE ATOMIC TERRORIST?” http://www.icnnd.org/research/Mueller\_Terrorism.pdf

The finished product could weigh a ton or more.31 Encased in lead shielding to mask radioactive emissions, it would then have to be transported to, and smuggled into, the relevant target country. The conspirators could take one of two approaches. Under one of these, they would trust their precious and laboriously-fabricated product to the tender mercies of the commercial transportation system, supplying something of a return address in the process, and hoping that transportation and policing agencies, alerted to the dangers by news of the purloined uranium, would remain oblivious. Perhaps more plausibly, the atomic terrorists would hire an aircraft or try to use established smuggling routes, an approach that, again, would require the completely reliable complicity of a considerable number of criminals, none of whom develops cold feet or becomes attracted by bounteous reward money. And even if a sufficient number of reliable co-conspirators can be assembled and corrupted, there is still no guarantee their efforts will be successful. There is a key difference between smuggling drugs and smuggling an atomic weapon. Those in the drug trade assume that, although a fair portion of their material will be intercepted by authorities, the amount that does get through will be enough to supply them with a tidy profit. That may be tolerable for drug smugglers, but distinctly unsettling for terrorists seeking to smuggle in a single, large, and very expensively-obtained weapon.32 However transported, the enormous package would have to be received within the target country by a group of collaborators who are at once totally dedicated and technically proficient at handling, maintaining, detonating, and perhaps assembling the weapon after it arrives. The IND would then have to be moved over local roads by this crew to the target site in a manner that did not arouse suspicion. And, finally, at the target site, the crew, presumably suicidal, would have to set off its improvised and untested nuclear device, one that, to repeat Allison’s description, would be “large, cumbersome, unsafe,

#### No retaliation—definitely no escalation

**Mueller 5** (John, Professor of Political Science – Ohio State University, Reactions and Overreactions to Terrorism, http://polisci.osu.edu/faculty/jmueller/NB.PDF)

However, history clearly demonstrates that overreaction is not necessarily inevitable. Sometimes, in fact, leaders have been able to restrain their instinct to overreact. Even more important, **restrained reaction--or even capitulation to terrorist acts--has often proved to be entirely acceptable politically**. That is, there are many instances where leaders did nothing after a terrorist attack (or at least refrained from overreacting) and did not suffer politically or otherwise. Similarly, after an unacceptable loss of American lives in Somalia in 1993, Bill Clinton responded by withdrawing the troops without noticeable negative impact on his 1996 re-election bid. Although Clinton responded with (apparently counterproductive) military retaliations after the two U.S. embassies were bombed in Africa in 1998 as discussed earlier, his administration did not have a notable response to terrorist attacks on American targets in Saudi Arabia (Khobar Towers) in 1996 or to the bombing of the U.S.S. Cole in 2000, and these non-responses never caused it political pain. George W. Bush's response to the anthrax attacks of 2001 did include, as noted above, a costly and wasteful stocking-up of anthrax vaccine and enormous extra spending by the U.S. Post Office. However, beyond that, it was the same as Clinton's had been to the terrorist attacks against the World Trade Center in 1993 and in Oklahoma City in 1995 and the same as the one applied in Spain when terrorist bombed trains there in 2004 or in Britain after attacks in 2005: the dedicated application of police work to try to apprehend the perpetrators. This approach was politically acceptable even though the culprit in the anthrax case (unlike the other ones) has yet to be found. The demands for retaliation may be somewhat more problematic in the case of suicide terrorists since the direct perpetrators of the terrorist act are already dead, thus sometimes impelling a vengeful need to seek out other targets. Nonetheless, the attacks in Lebanon, Saudi Arabia, Great Britain, and against the Cole were all suicidal, yet no direct retaliatory action was taken. **Thus, despite short-term demands that some sort of action must be taken**, experience suggests politicians can often successfully ride out this demand after the obligatory (and inexpensive) expressions of outrage are prominently issued.

## 2nc

### 2nc groupthink

#### Empirically—Congress doesn’t improve decisionmaking—they intentionally defer because they know that they don’t have the capacity

**Posner and Vermeule, 7** – \*Kirkland and Ellis Professor of Law at the University of Chicago Law School AND \*\*professor at Harvard Law School (Eric and Adrian, Terror in the Balance: Security, Liberty, and the Courts p. 47-48)

The concern we have just articulated, that Congress will block or delay justified security measures, itself explains congressional practice. Legislators themselves know that Congress is not well suited for emergency action. Rather than trying to legislate for emergencies during emergencies, legislators act beforehand, authorizing the president and executive agencies to act if an emergency arises and generally granting them massive discretion.53 Legislative action during emergencies consists predominantly of ratifications of what the executive has done, authorizations of whatever it says needs to be done, and appropriations so that it may continue to do what it thinks is right. Aware of their many institutional disadvantages—lack of information about what is happening, lack of control over the police and military, inability to act quickly and with one voice—legislators confine themselves to expressions of support or concern.

The historical record of emergency-driven ratifications, authorizations, and appropriations does not show that the deliberative processes of Congress have been engaged. The more plausible explanation is that Congress, knowing itself helpless before the emergency, looks to the executive for leadership, gratefully defers to its judgment, and provides it with any legislation that it may desire. On this view, unauthorized executive action ought to be rare—and indeed it is, as we shall note below. When it does occur, one does not know whether to blame the executive for acting hastily or Congress for failing to overcome its institutional disabilities despite an emergency.

#### Congress lacks necessary information to challenge group-think – Iraq proves even when the executive makes errors, Congress will just certify the error

**Nzelibe and Yoo, 6** - \*Assistant Professor of Law, Northwestern University AND \*\*Professor of Law, University of California at Berkeley (Jide and John, “THE MOST DANGEROUS BRANCH? MAYORS, GOVERNORS, PRESIDENTS, AND THE RULE OF LAW: A SYMPOSIUM ON EXECUTIVE POWER: ESSAY: Rational War and Constitutional Design” 115 Yale L.J. 2512, lexis)

A second dimension that ought to guide our evaluation of the decision-making process for war is whether the Congress-first model or the President-first model yields more accurate decisions. In many circumstances, considering multiple perspectives can improve the quality of decision-making by elected officials. But it may be that Congress, with all of its peculiar institutional deficits and disabilities, is unlikely to improve decision-making accuracy.

As a preliminary matter, Congress does not seem to have access to better forms of information than the executive branch. It seems that Presidents have more incentive to invest in methods for obtaining better information. For instance, if there is any domestic backlash against erroneous intelligence, the President is more likely to be blamed than members of Congress. n28

If we again view the President's role as that of an agent acting on behalf of his principals (i.e., the American people), a successful warmaking system [\*2523] would encourage the national government to wage war only when it is in the nation's interest. We define the nation's interest as advanced when the United States engages in wars in which the expected benefits of the conflict exceed the expected costs. From the standpoint of institutional design, it seems that the executive branch has critical advantages over a multi-member legislature in reaching foreign policy and national security decisions that are more accurate. As Alexander Hamilton argued in The Federalist No. 70, the executive is structured for speed and decisiveness in its actions and is better able to maintain secrecy in its information gathering and its deliberations: "Decision, activity, secrecy, and dispatch will generally characterize the proceedings of one man in a much more eminent degree than the proceedings of any greater number; and in proportion as the number is increased, these qualities will be diminished." n29

The executive branch also has access to broader forms of information about foreign affairs than those available to Congress. It has access to foreign policy and national security information produced not only by diplomatic channels, but also by clandestine agents and electronic eavesdropping. In terms of receiving and processing that information, the executive branch is not restricted by the collective action problems that plague a multi-member body like Congress. n30 Since the bulk of the intelligence community works in the executive branch, that branch also devotes more resources to analyzing intelligence information than does the legislature. While Congress may have its own independent staff that analyzes intelligence and foreign information, this staff is dwarfed by the size of the executive branch's intelligence and foreign policy apparatus. n31

The events leading up to the Iraq War illustrate the difference in resources and capability in intelligence gathering and processing between the executive and legislative branches. As the commission headed by Judge Laurence Silberman and former Senator Charles Robb made clear, the intelligence community was "all wrong" about the existence of weapons of mass destruction (WMD) in pre-war Iraq. n32 This failure resulted from difficulties in [\*2524] collecting accurate and reliable information on Iraq's WMD programs and shortcomings in analysis by the intelligence agencies. n33 Congress brought no independent collection or analysis of information to bear. Instead, Congress based its decision to authorize the use of force against Iraq on the intelligence and analysis presented by the Bush Administration. Congress does not have the institutional resources to seek alternate sources of information. As a result, the inclusion of Congress, ex ante, in the decision to use force did not lead to any greater accuracy in decision-making.

#### Security threats are too variable

Posner 12 ERIC A. POSNER ( Kirkland and Ellis Professor of Law at the University of Chicago Law School. An editor of The Journal of Legal Studies, he has also published numerous articles and books on issues in international law) “DEFERENCE TO THE EXECUTIVE IN THE UNITED STATES AFTER SEPTEMBER 11: CONGRESS, THE COURTS, AND THE OFFICE OF LEGAL COUNSEL” Harvard Journal of Law & Public Policy. 2012. <http://ericposner.com/DEFERENCE%20TO%20THE%20EXECUTIVE.pdf>

Let us consider the stages in reverse order. We already have addressed some of the problems with Professor Holmes's argument from protocols. Rules are seldom as bright-line as they first appear. They often turn out to be presumptions which are themselves subject to standards (drive under the speed limit unless there is an emergency). It is true that security threats, like medical emergencies, often fall into patterns and can be addressed in partially rule-governed fashion. Thus, when a gunman takes a hostage, the police follow certain rules: first clearing the area, then making contact with the gunman, and so on. Some officers will be given very simple rule-governed tasks ("don't let anyone cross this line"). But the rules quickly give out. Every hostage-taker is different, and the most highly trained police officers will be given a great deal of discretion to deal with him and to make the crucial decision to use force. But even these types of threats are simple compared with the scenario that opened up on September 11. The government knew virtually nothing about the nature of the threat. It did not know how many more members of al Qaeda were in the United States, what their plans were, what resources were at their disposal, what their motives were, or how much support they had among American Muslims.^\* Protocols were worthless because nothing like the attack had ever happened before. (The closest analogy seemed to be the absurdly irrelevant example of Pearl Harbor.) The government could not follow rules; it had to improvise subject to a vague standard—protect the public while maintaining civil liberties to the extent possible. Improvise it did—instituting detentions, sweeps, profiling, surveillance, and many other policies on an unprecedented (in peacetime, if that was what it was) scale.^«

For the rule-application stage, the deference thesis counsels Congress and the judiciary to (presumptively) defer. Congress simply cannot set about holding hearings, debating policy, and voting on laws in the midst of emergency. Either the problem will not be addressed, or Congress will end up voting on a bill that it has not written, debated, or even read.3° For courts, too, the alternatives are unrealistic. If courts enforce rules developed for normal times, then they will interfere with the proper response to the terrorist threat, just as they would if they required the U.S. military to comply with the Fourth Amendment on the battlefield. Alternatively, the courts could insist on applying a standard and halt executive actions that, in the courts' view, violated the standard described above—protect the nation while maintaining civil liberties to the extent possible. But here the courts are at a significant disadvantage. They do not have information about the nature of the threat.^\* Courts can demand this information from the government, but the government will not give it to them because the government fears leaks (to say nothing of recalcitrance caused by rivalries among intelligence agencies). Moreover, judges are inexperienced in national security unlike the specialists in the executive branch.

### 2nc circumvention

#### Court politics – judges recognize political constraints to unpopular decisions in wartime – so the aff might fiat the plan, but they can’t fiat adherence to precedent by subsequent courts – who have strong reasons not to conform – the history of court crisis politics proves

**Posner and Vermeule, 7** – \*Kirkland and Ellis Professor of Law at the University of Chicago Law School AND \*\*professor at Harvard Law School (Eric and Adrian,Terror in the Balance: Security, Liberty, and the Courts p. 56)

Finally, to the extent that the critics of executive power envision judicial review as the solution, they are whistling in the wind, especially during times of emergency. The critics envision an imperial executive, who is either backed by a sustained national majority or else has slipped the political leash, and who enjoys so much agency slack as to be heedless of the public’s preferences. In either case, it is not obvious what the critics suppose the judges will or can do about it. As we will recount in more detail in later chapters, the judges proved largely powerless to stem the tide of the New Deal, in conditions of economic emergency, or to stop Japanese internment during World War II, or to block aggressive punishment and harassment of communists during the cold war. What is more, many of the judges had no desire to block these programs. Judges are people too and share in national political sentiments; they are also part of the political elite and will rally ’round the flag in times of emergency just as much as others do.83

#### Vagueness of legal rulings and multiple conflicting statutes mean consistent precedent is impossible

**Posner and Vermeule, 10** - \*professor of law at the University of Chicago AND \*\*professor of law at Harvard (Eric and Adrian, The Executive Unbound, p. 109-110)

A final implication involves constitutional law; although our focus in this chapter is on statutory law, there is an important idea, relevant to our thesis, that sits right on the boundary line between the two areas. The idea, which is widely popular among American legal theorists and elsewhere, is that judges should cabin the powers of the executive by requiring statutory authorization for the exercise of those powers, even in emergencies. The idea is associated with Justice Jackson’s famous concurrence in the Youngstown case, which set out a three-part framework for evaluating executive power. If Congress has authorized the president’s action, expressly or impliedly, the president’s power is at its acme, while the nadir of presidential power occurs when Congress has expressly or impliedly prohibited the action. In between is a “zone of twilight” in which Congress has taken no position about the claimed executive power.89

Some theorists have expanded Youngstown into an “institutional process” view.90 They hold that placing substantive constitutional restrictions on executive powers, through civil-libertarian judicial rulings, demands too much of the judges, especially in times of war or emergency. But what courts can successfully do, the argument runs, is to require congressional authorization for executive powers, and to enforce statutory restrictions against the executive. And in fact, the process theorists add, courts have done both of these things, even in emergencies. Requiring statutory authorization (and enforcing statutory prohibitions) ensures a legislative check on the executive and makes policies more deliberative and democratically legitimate, or so the claim runs.

The suggestion that this is what courts have in fact done is dubious. The process theorists overlook that a judicial finding of statutory authorization, or for that matter statutory prohibition, is often a conclusion rather than a premise: the judges find authorization because they wish to uphold the executive action, rather than upholding the action because they have found authorization. In a world of multiple and very vague statutory delegations bearing on national security, foreign relations, and emergency powers, judges have a great deal of freedom—not infinite freedom, of course—to assign Youngstown categories to support the decisions they want to reach, rather than reaching decisions based on the Youngstown categories.91 The institutional process framework is only as strong as the prevailing methods of statutory interpretation, and in most of the hard cases that tend to reach the federal appellate courts, the prevailing methods will enable judges to write a straight-faced opinion putting the case in more than one of the Youngstown categories, and sometimes in any of them.

The problem is not or not solely that the interpretive methods available to judges are only partially determinate, and are least determinate in the skewed subset of cases that reach appellate courts. The (other) precondition for the problem to arise is that the statutory landscape of the administrative state—especially that part of the landscape bearing on war, foreign relations, national security, and economic emergencies—is itself full of highly general and vague statutory delegations, many of which contain escape-hatches or emergency exceptions. The institutional process approach implicitly imagines a highly determinate set of statutory authorizations and prohibitions covering most or all future contingencies—an un-Schmittian code of executive powers; but this is a fantasy.

As elsewhere in the administrative state, the diversity and sheer scale of the problems that Congress confronts, the highly constricted legislative agenda, the executive’s proclivity to argue that it possesses unique expertise and capacity for action and so should be given a free hand (whether such arguments are right or wrong in particular cases), all cause legislators to delegate broadly and to leave the executive and the judges and themselves ample wiggle-room for unforeseen circumstances. And legislators can foresee that the unforeseen will necessarily occur, although they cannot guess what shape it will take. This is inevitably so, and its inevitable consequence is that appellate judges will have great freedom to categorize statutes, under Youngstown, as necessary to justify decision reached on other grounds. A central question, for both administrative law and the constitutional law of executive powers, is statutory authorization. In both domains, the work-product of de facto Schmittian lawmakers ensures that statutory authorization is at best a loose requirement.

In any case, as we emphasized earlier, the “presidential power of unilateral action” implies that in some cases, legislative action before the fact— even in the form of a prohibition—will be neither here nor there. The president may take action in the real world, if necessary in violation of restrictive framework statutes like the War Powers Resolution, and the sole question will be what Congress or the judges are able or willing to do about it after the fact. The latter question is essentially one of politics, not law, and the overall pattern is that Congress and the courts will tend to fight back only when presidents lack popularity or credibility—the key constraints on executive power that we discuss in the following chapters. The Youngstown framework is thus of very dubious relevance to actual political outcomes, in the dual sense that it is excessively plastic and thus follows rather than dictates results, and that even where it would yield clear results, there is a separate and serious question whether any actors will have the motivation to enforce it.

### 2nc terror

#### It’s threat inflation—cooperation and practical barriers outweigh

**Mearsheimer 10** (John J. Mearsheimer, professor of political science at the University of Chicago, “Imperial by Design,” 12/16/10)

This assessment of America’s terrorism problem was flawed on every count. It was **threat inflation** of the highest order. It made no sense to declare war against groups that were not trying to harm the United States. They were not our enemies; and going after all terrorist organizations would greatly complicate the daunting task of eliminating those groups that did have us in their crosshairs. In addition, there was no alliance between the so-called rogue states and al-Qaeda. In fact, Iran and Syria cooperated with Washington after 9/11 to help quash Osama bin Laden and his cohorts. Although the Bush administration and the neoconservatives repeatedly asserted that there was a genuine connection between Saddam Hussein and al-Qaeda, they never produced evidence to back up their claim for the simple reason that it did not exist.

The fact is that states have strong incentives to distrust terrorist groups, in part because they might turn on them someday, but also because countries cannot control what terrorist organizations do, and they may do something that gets their patrons into serious trouble. This is why there is hardly any chance that a rogue state will give a nuclear weapon to terrorists. That regime’s leaders could never be sure that they would not be blamed and punished for a terrorist group’s actions. Nor could they be certain that the United States or Israel would not incinerate them if either country merely suspected that they had provided terrorists with the ability to carry out a WMD attack. A nuclear handoff, therefore, is not a serious threat.

When you get down to it, there is only a remote possibility that terrorists will get hold of an atomic bomb. The most likely way it would happen is if there were political chaos in a nuclear-armed state, and terrorists or their friends were able to take advantage of the ensuing confusion to snatch a loose nuclear weapon. But even then, there are **additional obstacles** to overcome: some countries keep their weapons disassembled, detonating one is not easy and it would be difficult to transport the device without being detected. Moreover, other countries would have powerful incentives to work with Washington to find the weapon before it could be used. The obvious implication is that we should work with other states to improve nuclear security, so as to make this slim possibility even more unlikely.

Finally, the ability of terrorists to strike the American homeland has been blown out of all proportion. In the nine years since 9/11, government officials and terrorist experts have issued countless warnings that another major attack on American soil is probable—even imminent. But this is simply not the case.3 The only attempts we have seen are a few failed solo attacks by individuals with links to al-Qaeda like the “shoe bomber,” who attempted to blow up an American Airlines flight from Paris to Miami in December 2001, and the “underwear bomber,” who tried to blow up a Northwest Airlines flight from Amsterdam to Detroit in December 2009. So, we do have a terrorism problem, but it is hardly an existential threat. In fact, it is a minor threat. Perhaps the scope of the challenge is best captured by Ohio State political scientist John Mueller’s telling comment that “the number of Americans killed by international terrorism since the late 1960s . . . is about the same as the number killed over the same period by lightning, or by accident-causing deer, or by severe allergic reactions to peanuts.”

#### “Only a risk” logic makes us stupider

**Mueller and Stewart 11** – \*Professor and Woody Hayes Chair of National Security Studies at the Mershon Center for International Security Studies and Department of Political Science at Ohio State University \*\*Professor of Civil Engineering Director, Centre for Infrastructure Performance and Reliability at The University of Newcastle [\*John Mueller, \*\*Mark Stewart, “Terror, Security, and Money: Balancing the Risks, Benefits, and Costs of Homeland Security”, http://polisci.osu.edu/faculty/jmueller/MID11TSM.PDF]

Playing to this demand, government officials are inclined to focus on worst case scenarios, presumably in the knowledge, following Sunstein’s insight, that this can emotionally justify just about any expenditure no matter how unlikely the prospect the dire event will actually take place. Accordingly, there is a preoccupation with “low probability/high consequence” events such as the detonation of a sizeable nuclear device in midtown Manhattan even though the vast bulk of homeland security expenditures is focused on comparatively low consequence events like explosions set off by individual amateur jihadists. It is sometimes argued that conventional risk analysis breaks down under extreme conditions because the risk is now a very large number (losses) multiplied by a very small number (attack probability). However, it is not the risk analysis methodology that is at fault here, but our ability to use the information obtained from the analysis for decision-making. Analyst Bruce Schneier has written penetratingly of worst case thinking. He points out that it involves imagining the worst possible outcome and then acting as if it were a certainty. It substitutes imagination for thinking, speculation for risk analysis, and fear for reason. It fosters powerlessness and vulnerability and magnifies social paralysis. And it makes us more vulnerable to the effects of terrorism. It leads to bad decision making because it's only half of the cost-benefit equation. Every decision has costs and benefits, risks and rewards. By speculating about what can possibly go wrong, and then acting as if that is likely to happen, worst-case thinking focuses only on the extreme but improbable risks and does a poor job at assessing outcomes. It also assumes “that a proponent of an action must prove that the nightmare scenario is impossible,” and it “can be used to support any position or its opposite. If we build a nuclear power plant, it could melt down. If we don't build it, we will run short of power and society will collapse into anarchy.” And worst, it “validates ignorance” because, “instead of focusing on what we know, it focuses on what we don't know—and what we can imagine.” In the process “risk assessment is devalued” and “probabilistic thinking is repudiated in favor of "possibilistic thinking."17

#### Fear of failure subsumes ideology—obstacles are perceived

**Levi 7** (Michael, CFR Fellow for Science and Technology, “How Likely is a Nuclear Terrorist Attack on the United States?,” http://www.cfr.org/publication/13097/how\_likely\_is\_a\_nuclear\_terrorist\_attack\_on\_the\_united\_states.html?breadcrumb=%2Fissue%2F135%2Fterrorism)

So let me flag another dimension of motivation that gets too little attention. Even groups that want to and possibly can execute nuclear attacks may decide against them. Why? Because many of the most dangerous terrorist groups hate to fail. Brian Jenkins wrote recently that for jihadists, “failure signals God’s disapproval.” That’s a lot of pressure to succeed. This inevitably pushes the odds of nuclear terrorism down. When we look at our defenses against nuclear terrorism, we prudently notice the holes. When terrorists look at those same defenses, they may be fixating on whatever barriers, however limited, exist. If that’s what’s happening, nuclear terrorism may be much less likely than many expect.

#### They want influence, not extinction

**Moodie 2** – president of the Chemical and Biological Arms Control Institute (Brad Roberts and Michael Moodie, Biological Weapons: Toward a Threat Reduction Strategy, http://www.ndu.edu/inss/DefHor/DH15/DH15.htm)

The argument about terrorist motivation is also important. Terrorists generally have not killed as many as they have been capable of killing. This restraint seems to derive from an **understanding of mass casualty attacks as** both unnecessary and **counterproductive**. They are unnecessary because terrorists, by and large, have succeeded by conventional means. Also, they are counterproductive because they might alienate key constituencies, whether among the public, state sponsors, or the terrorist leadership group. In Brian Jenkins’ famous words, **terrorists want a lot of people watching, not a lot of people dead**. Others have argued that the lack of mass casualty terrorism and effective exploitation of BW has been more a matter of accident and good fortune than capability or intent. Adherents of this view, including former Secretary of Defense William Cohen, argue that “it’s not a matter of if but when.”

The attacks of September 11 would seem to settle the debate about whether terrorists have both the motivation and sophistication to exploit weapons of mass destruction for their full lethal effect. After all, those were terrorist attacks of unprecedented sophistication that seemed clearly aimed at achieving mass casualties— had the World Trade Center towers collapsed as the 1993 bombers had intended, perhaps as many as 150,000 would have died. Moreover, Osama bin Laden’s constituency would appear to be not the “Arab street” or some other political entity but his god. And terrorists answerable only to their deity have proven historically to be among the most lethal.

But this debate cannot be considered settled. Bin Laden and his followers could have killed many more on September 11 if killing as many as possible had been their primary objective. They now face the core dilemma of asymmetric warfare: how to escalate without creating new interests for the stronger power and thus the incentive to exploit its power potential more fully. Asymmetric adversaries want their stronger enemies fearful, not fully engaged—militarily or otherwise. They seek to win by preventing the stronger partner from exploiting its full potential. To kill millions in America with biological or other weapons would only commit the United States—and much of the rest of the international community—to the annihilation of the perpetrators.

#### It would have happened by now

**Sigger 10**—defense policy analyst (Justin, 1/26, “Terrorism Experts Can Be Alarmists, Too”, http://armchairgeneralist.typepad.com/my\_weblog/2010/01/terrorism-experts-can-be-alarmists-too-1.html, Aly M)

You find the famous bin Laden 1998 quote about WMDs, references from George "slam dunk" Tenet's book on al Qaeda intentions and actions in the desert, meetings between Muslim scientists and suppliers, statements by terrorists that were obtained under "interrogations," and yes, even Jose Padilla's "dirty bomb" - a charge which people may remember the US government dropped because it had no evidence on this point. And no discussion about AQ would be complete without the "mobtaker" device that never really emerged in any plot against the West. That is to say, we have a collection of weak evidence of intent without any feasible capability and zero WMD incidents - over a period of fifteen years, when AQ was at the top of their game, they could not develop even a crude CBRN hazard, let alone a WMD capability. Mowatt-Larsen doesn't attempt to answer the obvious question - why didn't AQ develop this capability by now? He points to a June 2003 article where the Bush administration reported to the UN Security Council that there was a "high probability" that al Qaeda would attack with a WMD within two years. The point that the Bush administration could have been creating a facade for its invasion into Iraq must have occurred to Mowatt-Larsen, but he dodges the issue. This is an important report to read, but not for the purposes that the author intended. It demonstrates the extremely thin thread that so many terrorist experts and scientists hang on when they claim that terrorists are coming straight at the United States with WMD capabilities.

### 2nc retal

#### Obama’s nuclear doctrine goes neg

**Sanger and Baker 10** (David E. and Peter, April, New York Times “Obama Limits When U.S. Would Use Nuclear Arms”. http://www.nytimes.com/2010/04/06/world/06arms.html)

WASHINGTON — [President Obama](http://topics.nytimes.com/top/reference/timestopics/people/o/barack_obama/index.html?inline=nyt-per) said Monday that he was revamping American nuclear strategy to substantially narrow the conditions under which the United States would use nuclear weapons, even in self defense. But the president said in an interview that he was carving out an exception for “outliers like Iran and North Korea” that have violated or renounced the main treaty to halt nuclear proliferation. Discussing his approach to nuclear security the day before formally releasing his new strategy, Mr. Obama described his policy as part of a broader effort to edge the world toward making nuclear weapons obsolete, and to create incentives for countries to give up any nuclear ambitions. To set an example, the new strategy renounces the development of any new nuclear weapons, overruling the initial position of his own defense secretary. Mr. Obama’s strategy is a sharp shift from those adopted by his predecessors and seeks to revamp the nation’s nuclear posture for a new age in which rogue states and terrorist organizations are greater threats than traditional powers like Russia and China. It eliminates much of the ambiguity that has deliberately existed in American nuclear policy since the opening days of the Cold War. For the first time, the United States is explicitly committing not to use nuclear weapons against non-nuclear states that are in compliance with the Nuclear Non-Proliferation Treaty, even if they attacked the United States with biological or chemical weapons, or launched a crippling cyberattack.

#### We have quantitative studies

**Jenkins-Smith 4** – professor of government at Texas A&M (Hank, “U.S. Public Response to Terrorism: Fault Lines or Bedrock,” http://www.spp.gatech.edu/current-students/exams/Fall-2004\_reviewmanuscript.pdf)

Our final contrasting set of expectations relate to the degree to which the public will support or demand retribution against terrorists and supporting states. Here our data show that support for using conventional U.S. military force to retaliate against terrorists initially averaged above midscale, but **did not reach a high level of emotional demand for military action**. Initial support declined significantly across all demographic and belief categories by the time of our survey in 2002. Furthermore, panelists both in 2001 and 2002 preferred that high levels of certainty about culpability (above 8.5 on a scale from zero to ten) be established before taking military action. Again, we find the weight of evidence supporting revisionist expectations of public opinion.

Overall, these results are inconsistent with the contention that highly charged events will result in volatile and unstructured responses among mass publics that prove problematic for policy processes. The initial response to the terrorist strikes, in the immediate aftermath of the event, demonstrated a broad and consistent shift in public assessments toward a greater perceived threat from terrorism, and greater willingness to support policies to reduce that threat. But even in the highly charged context of such a serious attack on the American homeland, the overall public response was quite measured. On average, the public showed very little propensity to undermine speech protections, and initial willing-ness to engage in military retaliation moderated significantly over the following year.

#### Public anxiety prevents retaliation—peer review study trumps 9/11 hysteria

**Huddy et al 2005** – associate professor of political science, Stony Brook University (Leonie, Stanley Feldman, Charles Taber, and Gallya Lahav, American Journal of Political Science, Volume 49 No. 3, “Threat, Anxiety, and Support of Antiterrorism Policies”, pages 605-6, EBSCO, WEA)

The findings from this study lend further insight into the future trajectory of support for antiterrorism measures in the United States when we consider the potential effects of anxiety. Security threats in this and other studies increase support for military action (Jentleson 1992; Jentleson and Britton 1998;Herrmann,Tetlock, and Visser 1999). But anxious respondents were less supportive of belligerent military action against terrorists, suggesting an important source of opposition to military intervention. In the aftermath of 9/11, several factors were consistently related to heightened levels of anxiety and related psychological reactions, including living close to the attack sites (Galea et al. 2002; Piotrkowski and Brannen 2002; Silver et al. 2002), and knowing someone who was hurt or killed in the attacks (in this study). It is difficult to say what might happen if the United States were attacked again in the near future. Based onour results, it is plausible that a future threat or actual attack directed at a different geographic region would broaden the number of individuals directly affected by terrorism and concomitantly raise levels of anxiety. This could, in turn, lower support for overseas military action. In contrast, in the absence of any additional attacks levels of anxiety are likely to decline slowly over time (we observed a slow decline in this study), weakening opposition to future overseas military action.

Since our conclusions are based on analysis of reactions to a single event in a country that has rarely felt the effects of foreign terrorism, we should consider whether they can be generalized to reactions to other terrorist incidents or to reactions under conditions of sustained terrorist action. Our answer is a tentative yes, although there is no conclusive evidence on this point as yet. Some of our findings corroborate evidence from Israel, a country that has prolonged experience with terrorism. For example, Israeli researchers find that perceived risk leads to increased vilification of a threatening group and support for belligerent action (Arian 1989; Bar-Tal and Labin 2001). There is also evidence that Israelis experienced fear during the Gulf War, especially in Tel Aviv where scud missiles were aimed (Arian and Gordon 1993). What is missing, however, is any evidence that anxiety tends to undercut support for belligerent antiterrorism measures under conditions of sustained threat. For the most part, Israeli research has not examined the distinct political effects of anxiety.

In conclusion, the findings from this study provide significant new evidence on the political effects of terrorism and psychological reactions to external threat more generally. Many terrorism researchers have speculated that acts of terrorist violence can arouse fear and anxiety in a targeted population, which lead to alienation and social and political dislocation.8 We have clear evidence that the September 11 attacks did induce anxiety in a sizeable minority of Americans. And these emotions were strongly associated with symptoms of depression, appeared to inhibit learning about world events, **and weakened support for overseas military action**. This contrasted, however, with Americans’ dominant reaction, which was a heightened concern about future terrorist attacks in the United States that galvanized support for government antiterrorist policy. In this sense, the 9/11 terrorists failed to arouse sufficient levels of anxiety to counteract Americans’ basic desire to strike back in order to increase future national security, even if such action increased the shortterm risk of terrorism at home. Possible future acts of terrorism, or a different enemy, however, could change the fine balance between a public attuned to future risks and one dominated by anxiety.

## 1nr nuclear agamben

### 1nr turns case

#### The 1ac’s normalization of exceptional weapons destroys democratic deliberation, turns the case, and effects nothing—rhetoric challenges are all that matter—the role of the ballot must be to conceptualize nuclear weapons as a system of social relations

**Taylor 7**—University of Colorado-Boulder

(Bryan, “‘The Means to Match Their Hatred’: Nuclear Weapons, Rhetorical Democracy, and Presidential Discourse”, Presidential Studies Quarterly, Vol. 37, No. 4, Shadows of Democracy in Presidential Rhetoric (Dec., 2007), pp. 667-692, dml)

Liberal scholars and other commentators who assess the relationship between nuclear weapons and democracy balance cynicism and optimism (see, for example, Falk 1982; Mitchell 2000; Peterson 2007). Their tone frequently evokes the morbid genres of diagnosis, autopsy, and obituary, but their grieving, condemnation, and pleading also seek a healing—if not outright resurrection—of the nuclear-democratic body. This activity typically grows more active during periods of nuclear instability, in which possibilities for reconfiguring the relationship between nuclear officials and citizens are at least temporarily opened. During the late Cold War and post-Cold War periods, then, several speakers addressed this relationship in the context of extraordinary changes in international politics (Deudney 1995; Falk 1982; Rosen 1989; Rosow 1989; Stegenga 1988). Collectively, these speakers considered how institutions sediment around the artifact of nuclear weapons and how that process yields rhetoric that undermines the possibility of robust democratic speech.

To varying degrees, these critiques all assert a fundamental incompatibility between nuclear weapons and the ideals of the democratic state. They argue that oppres sive conditions surrounding the development of nuclear weapons subvert the capabilities of citizens to acquire, deliberate, and act on information concerning nuclear policy. As a result, the nuclear public is characterized as fragmented, alienated, uninformed, and unable to participate in deliberation with forceful and reasoned discourse. Commonly listed elements in this indictment include: an official regime of secrecy which suppresses and distorts nuclear information; official cultivation of a climate of permanent emergency that promotes public inertia and acquiescence to authoritarian rule; undue deference by nominal agents of congressional oversight to the interests of military elites and corporate defense contractors; a timid and amnesiac news media; and official demonization of anti-nuclear dissent as extreme, irrelevant, and unpatriotic (Rosen 1989). "This long train of official lies," argues James Stegenga (1988, 89), "has made truly informed consent an impossibility" (emphasis in original).

These critiques grow more valuable as they conceptualize the relationships between rhetoric, democracy, and nuclear weapons. One provocative claim here addresses how, under conditions of MAD, all aspects of postwar American society were enrolled in the semiotic project of signifying to the Communist enemy both capability and willingness to use nuclear weapons in the national defense. Rhetorical scholars have largely failed to appreciate how, under these conditions, the demos itself was conscripted and disciplined as an element in this apparatus:

The continuous task of the president and his subordinates is to make their essentially incredible threats seem credible. So leaders have wanted to present themselves as speaking forcefully on behalf of a monolithically supportive American population. Naysayers needed to be discouraged, the democratic debate on these matters minimized, in the interest of promoting the credibility of the threats. The people are meant or supposed to avoid thinking about or speaking out on these matters. (Stegenga 1988, 89, emphasis in original; see also Bok 1989)

Clarifying this condition helps us to conceptualize nuclear weapons as an ontological tangle of discursive and material phenomena. It also establishes that—far from being a mere adornment of policy language—rhetoric is an inherent, inevitable, and reflexive challenge for the nuclear nation-state. Official rhetoric, in other words, must be developed and deployed in tandem with nuclear weapons to ensure that the whispers, conversation, and shouts of the people do not subvert the principal—and, according to Jacques Derrida's (1984) famous critique, sole—function of those weapons as rhetoric.

This interdependency between security and rhetoric is further clarified in argu ments conceptualizing nuclear weapons as a legitimation crisis for the liberal-democratic nation-state (Deudney 1995, 209). Rosow (1989) argues that traditional conceptualization of nuclear deterrence as a strategic issue obscures its status as "a system of social relations**"** (564). In adopting this alternate perspective, Rosow argues, we may reclaim nuclear weapons from official discourses that have sheared off from their necessary grounding in—and authorization by—the discourses of the nuclear life world: "[Strate gic] debate scarcely touches on the experience of nuclear deterrence as a cultural and political-economic production. . . . The result is a serious discontinuity between the claims on which the validity of nuclear policy rests . . . and the actual effects of nuclear deterrence on the material well-being and consciousness in the advanced capitalist West" (564). Rosow's argument establishes the democratic status of nuclear weapons as a rhetorical problem: he conceptualizes nuclear deterrence as a discourse composed of "interpretive claims" and imperative expressions and theorizes its mediation of both institutional structures and forms of identity. Viewed in this light, we can recognize how, as artifacts, nuclear weapons clarify a fundamental contradiction between their destructive potential and their legitimating cultural discourses: "The same forces that are to produce peace and prosperity, i.e., science, knowledge, rationality, also produce the tools for destroying the very civilization they are designed to protect and whose values and future they embody." Richard Falk (1982, 9) has suggested the implications of this condition for a nuclear-rhetorical democracy: "Normative opposition to nuclear weapons or doctrines inevitably draws into question the legitimacy of state power and is, therefore, more threatening to governmental process than a mere debate about the property of nuclear weapons as instruments of statecraft." As a result, Rosow concludes, changes in nuclear policy may exacerbate inherent conflict between "the [cultural] consciousness of democratic citizenship" and the legitimacy of the state (1989, 581). As the state increas ingly rests its security on weapons systems requiring centralized control and automated decision making, it becomes increasingly difficult to assert that the legitimacy of those weapons arises from authentic popular consent. Fault lines in this hegemony are opened when public rhetoric informs Americans about the international consequences of nuclear imperialism and encourages their identification with negatively affected groups. In the post-Cold War era, Rosow predicted, it will become increasingly difficult for the state to normalize nuclear weapons as a familiar and legitimate icon.

### 2nc framework

#### The role of the ballot is the choice of Edward Snowden—will your ballot imply complacency or using your situated position to build a network of popular insurrection?

Connolly 13. William Connolly, Krieger-Eisenhower professor of political science at Johns Hopkins, “‘The East’ and Corporate Terrorism,” The Contemporary Condition, July 7, 2013 <http://contemporarycondition.blogspot.com/2013/07/the-east-and-corporate-terrorism.html>, accessed September 4, 2013

Eventually Sarah develops a strategy of public expose and activism that draws some sustenance from her two identities and resists the traps each sets for her. I will let that part unfold when you watch the film. Is it enough?  Probably not. Could more of us participate in such acts to augment the potential they hold? Yes, we could. Many of us are what Michel Foucault called “specific intellectuals”, people with special knowledges and skills because of the work we do in law firms, medical practices, college teaching, blog writing, pharmaceutical companies, intelligence agencies, the media, school boards, churches, geological research, corporate regulatory agencies, and so on, endlessly. Each of us has specific modes of strategic information and critical skill linked to our role assignments. We can expose horrendous practices, as Snowden has done recently. We can also support others who do so as we seek to build a critical assemblage of public insurrection together.

#### Focus on top down executive regulation solutions reinforces a notion of sovereignty that is unitary that marginalizes alternative political formations—choose the model of Edward Snowden rather than the congressional representative

Buell 13. John Buell, columnist for The Progressive Populist, adjunct professor at Cochise College, “Nationalism, Tech Giants, and Spy States,” The Contemporary Condition August 10, 2013 <http://contemporarycondition.blogspot.com/2013/08/nationalism-tech-giants-and-spy-states.html> accessed September 4, 2013

That's is one reason it is hard today to remain aloof from politics. But for those who seek to do so the message is just as clear. If the Internet has progressive possibilities, their realization will not be automatic. Today a countersubversive culture nurtures and is nurtured by an evolving alliance of high tech giants, government bureaucrats (whom Smith calls securecrats), the older more established military industrial complex and powerful private corporations that benefit from close ties to the state, including especially the oil  and investment banking community.

If the most repressive outcomes are to be avoided, the best course might be an evolving counter-coalition that would emerge from moral and historical critiques of and alternative to the countersubversive tradition. In Emergency Politics, Honig argues that the very focus on the question of the rules that should govern declarations of emergency and the protections that can be revoked in emergencies reinforce a notion of sovereignty as unitary and top down. Thus they "marginalize forms of popular sovereignty in which action in concert rather than institutional governance is the mark of democratic power and legitimacy." Unitary and decisive sovereignty committed to its own invulnerability is "most likely to perceive crisis where there may only be political conflict and to respond...with antipolitical measures."

The best answer lies not merely in challenging the constitutional status of this surveillance state but in building a political coalition that embodies the forms of popular sovereignty of which Honig speaks. This would include labor, consumer and environmentalist critiques of and alternatives to the role of the state and markets in fostering inequality. It would be attentive to the possibilities and risks of the social media and the limits of its own interventions in these.  The coalition might advance more democratic forms of enterprise and media as well as decentralized and more sustainable forms of energy production and transportation.  And in an era where hyper nationalism erodes so many democratic impulses, cross border initiatives in the interest of widespread access to an open Internet with robust privacy protections would be paramount. (Let's hope that) Edward Snowden's travels (in a world dominated by the state passport and surveillance system) helps to highlight the stake citizens of many lands have in a democratic Internet but a more exploratory and democratic polity.

#### Critique from the radical extremes rather than the norm is key to de-invest in the system of American security culture—anything else makes serial policy failure and preemptive lash outs that start wars inevitable—role of the judge is a nuclear intellectual

Masco 12. Joseph Masco,  Professor of Anthropology and of the Social Sciences at the University of Chicago, “The Ends of Ends,” Anthropological Quarterly [Volume 85, Number 4, Fall 2012](http://muse.jhu.edu/journals/anthropological_quarterly/toc/anq.85.4.html), pg. 1113

An anthropology of extremes requires a non-normative reading of cul- ture and history, an effort to push past consensus logics to interrogate what alternative visions, projects, and futures are left unexplored at a given historical moment. the rapidly evolving historical archive provides one op- portunity for this kind of critique: our understanding of the 20th century American security state is changing with each newly declassified program and document, dramatically reshaping what we know about US policy, mil- itary science, and threat assessments since World War II. the corona pho- tographs are a compelling illustration of the power of the evolving national security archive. As the enormous military state apparatus that constitutes the core of the American political and economic machine is grudgingly opened to new kinds of conceptual interrogation, Americans should seize the opportunity to learn about their own commitments, political processes, and security imaginaries. Indeed, the national security archive is one place where we can formally consider how the 20th century “balance of terror” has been remade in the 21st century as a “war on terror”—following the affective politics, technological fetishisms, and geopolitical ambitions that have come to structure US security culture. The declassified cold War ar- chive allows us to pursue an extreme reading of US security culture, one committed to pushing past official policy logics at moments of heightened emergency to consider how threat, historical contingency, technological revolution, propaganda, and geopolitical ambition combine in a specific moment of extreme risk. the first corona images, for example, consti- tute a moment when administrators of the national security state had their own logics and fears negated in the form of direct photographic evidence, opening a potential conceptual space for radical reassessment of their own ambitions, perceptions, and drives, powerfully revealed in black and white photos as fantasy. We might well ask why the corona imagery (and any number of similar moments when existential threat has objectively dis- solved into mere projection—most recently, the missing weapons of mass destruction used to justify the Us invasion of Iraq in 2003)—did not pro- duce a radical self-critique in the US.

### at: permutation

#### The permutation is a red herring—detracts from a systemic critique which is the best way to understand the status quo

Saas 12. William O. Saas, PhD in communications from Penn State University, “Critique of Charismatic Violence,” symploke, Volume 20, Numbers 1-2, 2012, pg. 65

Hidden in plain sight: a sprawling bureaucracy designed to justify and deliver military violence—clothed in the new war lexicon—to the world. How might one critique this massive network of violence that has become so enmeshed in our contemporary geo-socio-political reality? Is there any hope for reversing the expansion of executive violence in the current politi- cal climate, in which the President enjoys minimal resistance to his most egregious uses of violence? How does exceptional violence become routine? Answers to these broad and difficult questions, derived as they are from the disorientingly vast and hyper-accelerated retrenchment of our current politi- cal situation, are best won through the broad strokes of what Slavoj Žižek calls “systemic” critique. For Žižek, looking squarely at interpersonal or subjec- tive violences (e.g., torture, drone strikes), drawn as we may be by their grue- some and immediate appeal, distorts the critic’s broader field of vision. For a fuller picture, one must pull one’s critical focus back several steps to reveal the deep, objective structures that undergird the spectacular manifestations of everyday, subjective violence (Žižek 2008, 1-2). Immediately, however, one confronts the limit question of Žižek’s mandate: how does one productively draw the boundaries of a system without too severely dampening the force of objective critique?