## \*\*\*2AC\*\*\*

**GSPEC: 2AC**

**Judicial restriction means to reduce the scope of**

**Newman 8** (Pauline, Judge @ UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT, 545 F.3d 943; 2008 U.S. App. LEXIS 22479; 88 U.S.P.Q.2D (BNA) 1385; 2008-2 U.S. Tax Cas. (CCH) P50,621, IN RE BERNARD L. BILSKI and RAND A. WARSAW, lexis)

Id. at 315 (quoting U.S. Const., art. I, §8). The Court referred to the use of "any" in Section 101 ("Whoever invents or discovers any new and useful process . . . or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title"), and reiterated that the statutory language shows that **Congress "plainly contemplated that the patent laws would be given wide scope**." Id. at 308. **The Court referred to the legislative intent to include within the scope of Section 101 "anything under the sun that is made by man**," id. at 309 (citing S. Rep. 82-1979, at 5; H.R. Rep. 82-1923, at 6 (1952)), **and stated that the unforeseeable future should not be inhibited by judicial restriction** **of the "broad general language" of Section 101**: A rule that unanticipated inventions are without protection would conflict with the core concept of the patent law that anticipation undermines patentability. Mr. Justice Douglas reminded that the [\*981] inventions most benefiting mankind are those that push back the frontiers of chemistry, physics, and the like. Congress employed broad general language in [\*\*103] drafting §101 precisely because such inventions are often unforeseeable.

**Military Court Martial PIC: 2AC**

**Military courts martial and military commissions are distinct**

**Benson and Lewis 10** (Daniel, Paul Whitfield Horn Professor of Law Emeritus, Texas Tech University School of Law, and Calvin, Associate Professor of Law, Associate Dean for Student Affairs and Diversity, Texas Tech University School of LawSpring 2010, "REPEAL OF THE MILITARY COMMISSIONS ACT" Southern California Review of Law and Social Justice, Lexis)

A. Courts-Martial and Military Commission Differ on Key Provisions **Unlike** some aspects of **trial by military commission, trial by court-martial is both lawful and constitutional.** In the almost sixty-year history of the court-martial system, **the Court of Military Appeals** (now the United States Court of Appeals for the Armed Services) **and the armed services' Courts of Criminal Appeals** n69 **have developed considerable expertise regarding military-court procedures and rules of evidence. Utilizing courts-martial under the UCMJ to try the Guantanamo cases would bring into play a well-established, well-understood, and well-respected system of military justice.** As previously noted, although the language of the Military Commissions Act of 2009 appears to track the UCMJ on many provisions, the two statutes and their resulting trial systems differ in several important aspects. In particular, **military commissions differ from courts-martial in which individuals have the authority to convene trials, the required pretrial procedures, the rules for admitting evidence, and the appellate** processes available to the accused. By comparing the two systems and noting their differences, this Part demonstrates that **courts-martial provide for swift trials without sacrificing defendants' due process rights, and therefore, courts-martial are the superior choice** for trying the remaining detainees at Guantanamo.

### K

**Extinction outweighs—there is no recovering from it**

Anders **Sandberg** et al., James Martin Research Fellow, Future of Humanity Institute, Oxford University, "How Can We Reduce the Risk of Human Extinction?" BULLETIN OF THE ATOMIC SCIENTISTS, 9-9-**08**, http://www.thebulletin.org/web-edition/features/how-can-we-reduce-the-risk-of-human-extinction, accessed 5-2-10.

**Such remote risks may seem academic in a world plagued by** immediate problems, such as global **poverty, HIV, and climate change. But as intimidating as these problems are, they do not threaten human existence**. In discussing the risk of nuclear winter, Carl Sagan emphasized the astronomical toll of human extinction: A nuclear war imperils all of our descendants, for as long as there will be humans. Even if the population remains static, with an average lifetime of the order of 100 years, over a typical time period for the biological evolution of a successful species (roughly ten million years), we are talking about some 500 trillion people yet to come. By this criterion, **the stakes are one million times greater for extinction** than for the more modest nuclear wars that kill "only" hundreds of millions of people.There are many other possible measures of the potential loss--including culture and science, **the evolutionary history of the planet, and the significance of the lives of all of our ancestors who contributed to the future of their descendants.** Extinction is the undoing of the human enterprise. **There is a discontinuity between risks that threaten 10 percent or even 99 percent of humanity and those that threaten 100 percent. For disasters killing less than all humanity, there is a good chance that the species could recover.** If we value future human generations, then reducing extinction risks should dominate our considerations**. Fortunately,** most measures to reduce these risks also improve global security against a range of lesser catastrophes, and thus deserve support regardless of how much one worries about extinction.

**Death first—existence before essence**

Paul **Wapner**, Associate Professor and Director, Global Environmental Policy Program, American University, “Leftist Criticism of ‘Nature’: Environmental Protection in a Postmodern Age,” DISSENT, Winter 20**03**, [www.dissentmagazine.org/menutest/archives/2003/wi03/wapner.htm](http://www.dissentmagazine.org/menutest/archives/2003/wi03/wapner.htm)

All attempts to listen to nature are social constructions-except one. Even the most radical postmodernist must **acknowledge the distinction between** physical **existence and non-existence**. As I have said, postmodernists accept that **there is a physical substratum to the phenomenal world even if they argue about the** different **meanings we ascribe** to **it.** This acknowledgment of physical existence is crucial. **We can't ascribe meaning to that which doesn't appear.** What doesn't exist can manifest no character. Put differently, yes, the postmodernist should rightly worry about interpreting nature's expressions. And all of us should be wary of those who claim to speak on nature's behalf (including environmentalists who do that). But we need not doubt the simple idea that **a prerequisite of expression is existence.** This in turn suggests that preserving the nonhuman world-in all its diverse embodiments-must be seen by eco-critics as a fundamental good. Eco-critics must be supporters, in some fashion, of environmental preservation. Postmodernists reject the idea of a universal good. They rightly acknowledge the difficulty of identifying a common value given the multiple contexts of our value-producing activity. In fact, if there is one thing they vehemently scorn, it is the idea that there can be a value that stands above the individual contexts of human experience. Such a value would present itself as a metanarrative and, as Jean-François Lyotard has explained, postmodernism is characterized fundamentally by its "incredulity toward meta-narratives." Nonetheless, I can't see how postmodern critics can do otherwise than accept **the value of preserving the** nonhuman **world**. The nonhuman **is the extreme "other**"; it stands in contradistinction to humans as a species. In understanding **the** constructed **quality of human experience and** the dangers of reification, postmodernism inherently advances an ethic of **respecting the "other**." At the very least, respect **must involve ensuring** that **the "other**" actually **continues to exist**. In our day and age, **this requires us to take responsibility for protecting** the actuality of the nonhuman. Instead, however, we are running roughshod over **the earth**'s diversity of plants, animals, and ecosystems. Postmodern critics should find this particularly disturbing. If they don't, they deny their own intellectual insights and compromise their fundamental moral commitment.

**Fearing death is key to the value of life—we see its worth in its finitude**

Cara **Kalnow**, “Why Death Can Be Bad and Immortality Is Worse,” MP Thesis, University of St. Andrews, 20**09**,

<https://research-repository.st-andrews.ac.uk/bitstream/10023/724/3/Cara%20Kalnow%20MPhil%20thesis.PDF>

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

#### Existential fear is good—solves numbing and promotes a communal self that is vital to solving our problems

Joanna Macy, Adjunct Professor, California Institute for Integral Studies, ENVIRONMENTAL DISCOURSE AND PRACTICE: A READER, 2K, p. 243.

The move to a wider ecological sense of self is in large part a function of the dangers that are threatening to overwhelm us. We are confronted by social breakdown, wars, nuclear proliferation, and the progressive destruction of our biosphere. Polls show that people today are aware that the world, as they know it, may come to an end. This loss of certainty that there will be a future is the pivotal psychological reality of our time. Over the past twelve years my colleagues and I have worked with tens of thousands of people in North America, Europe, Asia, and Australia, helping them confront and explore what they know and feel about what is happening to their world. The purpose of this work, which was first known as “Despair and Empowerment Work,” is to overcome the numbing and powerlessness that result from suppression of painful responses to massively painful realities. As their grief and fear for the world is allowed to be expressed without apology or argument and validated as a wholesome, life-preserving response, people break through their avoidance mechanisms, break through their sense of futility and isolation. Generally what they break through into is a larger sense of identity. It is as if the pressure of their acknowledged awareness of the suffering of our world stretches or collapses the culturally defined boundaries of the self. It becomes clear, for example, that the grief and fear experienced for our world and our common future are categorically different from similar sentiments relating to one’s personal welfare. This pain cannot be equated with dread of one’s own individual demise. Its source lies less in concerns for personal survival than in apprehensions of collective suffering – of what looms for human life and other species and unborn generations to come. Its nature is akin to the original meaning of compassion – “suffering with.” It is the distress we feel on behalf of the larger whole of which we are a part. And, when it is so defined, it serves as a trigger or getaway to a more encompassing sense of identity, inseparable from the web of life in which we are as intricately connected as cells in a larger body. This shift in consciousness is an appropriate, adaptive response. For the crisis that threatens our planet, be it seen in its military, ecological, or social aspects, derives from a dysfunctional and pathogenic notion of the self. It is a mistake about our place in the order of things. It is the delusion that the self is so separate and fragile that we must delineate and defend its boundaries, that it is so small and needy that we must endlessly acquire and endlessly consume, that it is so aloof that we can – as individuals, corporations, nation-states, or as a species – be immune to what we do to other beings.

#### Liberalism is true and promotes peace

Recchia and Doyle 11

[Stefano (Assistant Professor in International Relations at the University of Cambridge) and Michael (Harold Brown Professor of International Affairs, Law and Political Science at Columbia University), “Liberalism in International Relations”, In: Bertrand Badie, Dirk Berg-Schlosser, and Leonardo Morlino, eds., International Encyclopedia of Political Science (Sage, 2011), pp. 1434-1439, RSR]

Relying on new insights from game theory, ¶ scholars during the 1980s and 1990s emphasized ¶ that so-called international regimes, consisting of ¶ agreed-on international norms, rules, and decision-making procedures, can help states effectively coordinate their policies and collaborate in ¶ the production of international public goods, such ¶ as free trade, arms control, and environmental ¶ protection. Especially, if embedded in formal multilateral institutions, such as the World Trade ¶ Organization (WTO) or North American Free ¶ Trade Agreement (NAFT A), regimes crucially ¶ improve the availability of information among ¶ states in a given issue area, thereby promoting ¶ reciprocity and enhancing the reputational costs ¶ of noncompliance. As noted by Robert Keohane, ¶ institutionalized multilateralism also reduces strategic competition over relative gains and thus ¶ further advances international cooperation. ¶ Most international regime theorists accepted ¶ Kenneth Waltz's (1979) neorealist assurription of ¶ states as black boxes-that is, unitary and rational ¶ actors with given interests. Little or no attention ¶ was paid to the impact on international cooperation of domestic political processes and dynamics. ¶ Likewise, regime scholarship largely disregarded ¶ the arguably crucial question of whether prolonged interaction in an institutionalized international setting can fundamentally change states' ¶ interests or preferences over outcomes (as opposed ¶ to preferences over strategies), thus engendering ¶ positive feedback loops of increased overall cooperation. For these reasons, international regime ¶ theory is not, properly speaking, liberal, and the ¶ term neoliberal institutionalism frequently used to ¶ identify it is somewhat misleading. ¶ It is only over the past decade or so that liberal ¶ international relations theorists have begun to systematically study the relationship between domestic politics and institutionalized international cooperation or global governance. This new scholarship ¶ seeks to explain in particular the close interna tional ¶ cooperation among liberal democracies as well as ¶ higher-than-average levels of delegation b)' democracies to complex multilateral bodies, such as the ¶ \ ¶ Liberalism in International Relations 1437 ¶ European Union (EU), North Atlantic Treaty ¶ Organization (NATO), NAFTA, and the WTO ¶ (see, e.g., John Ikenberry, 2001; Helen Milner & ¶ Andrew Moravcsik, 2009). The reasons that make ¶ liberal democracies particularly enthusiastic about ¶ international cooperation are manifold: First, ¶ transnational actors such as nongovernmental ¶ organizations and private corporations thrive in ¶ liberal democracies, and they frequently advocate ¶ increased international cooperation; second, ¶ elected democratic officials rely on delegation to ¶ multilateral bodies such as the WTO or the EU to ¶ commit to a stable policy line and to internationally lock in fragile domestic policies and constitutional arrangements; and finally, powerful liberal ¶ democracies, such as the United States and its ¶ allies, voluntarily bind themselves into complex ¶ global governance arrangements to demonstrate ¶ strategic restraint and create incentives for other ¶ states to cooperate, thereby reducing the costs for ¶ maintaining international order. ¶ Recent scholarship, such as that of Charles ¶ Boehmer and colleagues, has also confirmed the ¶ classical liberal intuition that formal international ¶ institutions, such as the United Nations (UN) or ¶ NATO, independently contribute to peace, especially when they are endowed with sophisticated ¶ administrative structures and information-gathering ¶ capacities. In short, research on global governance ¶ and especially on the relationship between democracy and international cooperation is thriving, and ¶ it usefully complements liberal scholarship on the democratic peace.

**US pursuit of hegemony is inevitable**

**Kagan**, 1/24/20**11**, (Robert Kagan, [American](http://en.wikipedia.org/wiki/United_States)historian, author and foreign policy commentator at the[Brookings Institution](http://en.wikipedia.org/wiki/Brookings_Institution)) ‘The Price of Power: The benefits of U.S. defense spending far outweigh the costs’, VOL. 16, NO. 18, <http://www.weeklystandard.com/articles/price-power_533696.html?page=3>

In theory, the United States could refrain from intervening abroad. But, in practice, will it? Many assume today that the American public has had it with interventions, and Alice Rivlin certainly reflects a strong current of opinion when she says that “much of the public does not believe that we need to go in and take over other people’s countries.” That sentiment has often been heard after interventions, especially those with mixed or dubious results. It was heard after the four-year-long war in the Philippines, which cost 4,000 American lives and untold Filipino casualties. It was heard after Korea and after Vietnam. It was heard after Somalia. Yet **the reality has been that after each intervention, the sentiment against foreign involvement has faded, and the United States has intervened again. Depending on how one chooses to count, the United States has undertaken roughly 25 overseas interventions since 1898**:Cuba, 1898The Philippines, 1898-1902China, 1900Cuba, 1906Nicaragua, 1910 & 1912Mexico, 1914Haiti, 1915Dominican Republic, 1916Mexico, 1917World War I, 1917-1918Nicaragua, 1927World War II, 1941-1945Korea, 1950-1953Lebanon, 1958Vietnam, 1963-1973Dominican Republic, 1965Grenada, 1983Panama, 1989First Persian Gulf war, 1991Somalia, 1992Haiti, 1994Bosnia, 1995Kosovo, 1999Afghanistan, 2001-presentIraq, 2003-presentThat is one intervention every 4.5 years on average. Overall, **the United States has intervened or been engaged in combat somewhere in 52 out of the last 112 years, or roughly 47 percent of the time. Since the end of the Cold War**, it is true, **the rate of U.S. interventions has increased, with an intervention roughly once every 2.5 years and American troops intervening or engaged in combat in 16 out of 22 years, or over 70 percent of the time**, since the fall of the Berlin Wall.The argument for returning to “normal” begs the question: What is normal for the United States? The historical record of the last century suggests that it is not a policy of nonintervention. This record ought to raise doubts about the theory that American behavior these past two decades is the product of certain unique ideological or doctrinal movements, whether “liberal imperialism” or “neoconservatism.” **Allegedly “realist” presidents in this era have been just as likely to order interventions as their more idealistic colleagues**. George H.W. Bush was as profligate an intervener as Bill Clinton. He invaded Panama in 1989, intervened in Somalia in 1992—both on primarily idealistic and humanitarian grounds—which along with the first Persian Gulf war in 1991 made for three interventions in a single four-year term. Since 1898 the list of presidents who ordered armed interventions abroad has included William McKinley, Theodore Roose-velt, William Howard Taft, Woodrow Wilson, Franklin Roosevelt, Harry Truman, Dwight Eisenhower, John F. Kennedy, Ronald Reagan, George H.W. Bush, Bill Clinton, and George W. Bush. **One would be hard-pressed to find a common ideological or doctrinal thread among them—unless it is the doctrine and ideology of a mainstream American foreign policy that leans more toward intervention than many imagine or would care to admit**.Many don’t want to admit it, and **the only thing as consistent as this pattern of American behavior has been the claim by contemporary critics that it is abnormal and a departure from American traditions.** The anti-imperialists of the late 1890s, the isolationists of the 1920s and 1930s, the critics of Korea and Vietnam, and the critics of the first Persian Gulf war, the interventions in the Balkans, and the more recent wars of the Bush years have all insisted that the nation had in those instances behaved unusually or irrationally. And yet the behavior has continued.To note this consistency is not the same as justifying it. The United States may have been wrong for much of the past 112 years. Some critics would endorse the sentiment expressed by the historian Howard K. Beale in the 1950s, that “the men of 1900” had steered the United States onto a disastrous course of world power which for the subsequent half-century had done the United States and the world no end of harm. But **whether one lauds or condemns this past century of American foreign policy—and one can find reasons to do both—the fact of this consistency remains.It would require not just a modest reshaping of American foreign policy priorities but a sharp departure from this tradition to bring about the kinds of changes that would allow the United States to make do with a substantially smaller force structure.**Is such a sharp departure in the offing? It is no doubt true that many Americans are unhappy with the on-going warfare in Afghanistan and to a lesser extent in Iraq, and that, if asked, a majority would say the United States should intervene less frequently in foreign nations, or perhaps not at **all. It may also be true that the effect of long military involvements in Iraq and Afghanistan may cause Americans and their leaders to shun further interventions at least for a few years—as they did for nine years after World War I, five years after World War II, and a decade after Vietnam. This may be further reinforced by the difficult economic times in which Americans are currently suffering. The longest period of nonintervention in the past century was during the 1930s, when unhappy memories of World War I combined with the economic catastrophe of the Great Depression to constrain American interventionism to an unusual degree and produce the first and perhaps only genuinely isolationist period in American history**.So are we back to the mentality of the 1930s? It wouldn’t appear so. There is no great wave of isolationism sweeping the country. There is not even the equivalent of a Patrick Buchanan, who received 3 million votes in the 1992 Republican primaries. Any isolationist tendencies that might exist are severely tempered by continuing fears of terrorist attacks that might be launched from overseas. Nor are the vast majority of Americans suffering from economic calamity to nearly the degree that they did in the Great Depression.Even if we were to repeat the policies of the 1930s, however, **it is worth recalling that the unusual restraint of those years was not sufficient to keep the United States out of war. On the contrary, the United States took actions which ultimately led to the greatest and most costly foreign intervention in its history. Even the most determined and in those years powerful isolationists could not prevent it**.Today there are a number of obvious possible contingencies that might lead the United States to substantial interventions overseas, notwithstanding the preference of the public and its political leaders to avoid them. **Few Americans want a war with Iran, for instance. But it is not implausible that a president—indeed, this president—might find himself in a situation where military conflict at some level is hard to avoid.** The continued success of the international sanctions regime that the Obama administration has so skillfully put into place, for instance, might eventually cause the Iranian government to lash out in some way—perhaps by attempting to close the Strait of Hormuz. Recall that Japan launched its attack on Pearl Harbor in no small part as a response to oil sanctions imposed by a Roosevelt administration that had not the slightest interest or intention of fighting a war against Japan but was merely expressing moral outrage at Japanese behavior on the Chinese mainland. Perhaps in an Iranian contingency, the military actions would stay limited. But perhaps, too, they would escalate. One could well imagine an American public, now so eager to avoid intervention, suddenly demanding that their president retaliate. Then there is the possibility that a military exchange between Israel and Iran, initiated by Israel, could drag the United States into conflict with Iran. Are such scenarios so farfetched that they can be ruled out by Pentagon planners?Other possible contingencies include a war on the Korean Peninsula, where the United States is bound by treaty to come to the aid of its South Korean ally; and possible interventions in Yemen or Somalia, should those states fail even more than they already have and become even more fertile ground for al Qaeda and other terrorist groups. And what about those “humanitarian” interventions that are first on everyone’s list to be avoided? Should another earthquake or some other natural or man-made catastrophe strike, say, Haiti and present the looming prospect of mass starvation and disease and political anarchy just a few hundred miles off U.S. shores, with the possibility of thousands if not hundreds of thousands of refugees, can anyone be confident that an American president will not feel compelled to send an intervention force to help?Some may hope that a smaller U.S. military, compelled by the necessity of budget constraints, would prevent a president from intervening. More likely, however, it would simply prevent a president from intervening effectively. This, after all, was the experience of the Bush administration in Iraq and Afghanistan. Both because of constraints and as a conscious strategic choice, the Bush administration sent too few troops to both countries. The results were lengthy, unsuccessful conflicts, burgeoning counterinsurgencies, and loss of confidence in American will and capacity, as well as large annual expenditures. Would it not have been better, and also cheaper, to have sent larger numbers of forces initially to both places and brought about a more rapid conclusion to the fighting? The point is, it may prove cheaper in the long run to have larger forces that can fight wars quickly and conclusively, as Colin Powell long ago suggested, than to have smaller forces that can’t. Would a defense planner trying to anticipate future American actions be wise to base planned force structure on the assumption that the United States is out of the intervention business? Or would that be the kind of penny-wise, pound-foolish calculation that, in matters of national security, can prove so unfortunate?The debates over whether and how the United States should respond to the world’s strategic challenges will and should continue. Armed interventions overseas should be weighed carefully, as always, with an eye to whether the risk of inaction is greater than the risks of action. And as always, these judgments will be merely that: judgments, made with inadequate information and intelligence and no certainty about the outcomes. No foreign policy doctrine can avoid errors of omission and commission. But **history has provided some lessons, and for the United States the lesson has been fairly clear: The world is better off, and the United States is better off, in the kind of international system that American power has built and defended.**

**We control uniqueness—violence is decreasing due to the unipolar system**

**Drezner 05** (Daniel, 5-25-05, "GREGG EASTERBROOK, WAR, AND THE DANGERS OF EXTRAPOLATION" www.danieldrezner.com/archives/002087.html

Via Oxblog's Patrick Belton, I see that Gregg Easterbrook has a cover story in The New Republic entitled "The End of War?" It has a killer opening: Daily explosions in Iraq, massacres in Sudan, the Koreas staring at each other through artillery barrels, a Hobbesian war of all against all in eastern Congo--combat plagues human society as it has, perhaps, since our distant forebears realized that a tree limb could be used as a club. But here is something you would never guess from watching the news: **War has entered a cycle of decline. Combat in Iraq** and in a few other places **is an exception to a significant global trend** that has gone nearly unnoticed--namely that, **for about 15 years, there have been steadily fewer armed conflicts worldwide**. In fact, it is possible that **a person's chance of dying because of war has**, in the last decade or more, **become the lowest in human history.** Is Easterbrook right? He has a few more paragraphs on the numbers: The University of Maryland studies find the number of wars and armed conflicts worldwide peaked in 1991 at 51, which may represent the most wars happening simultaneously at any point in history. Since 1991, the number has fallen steadily. There were 26 armed conflicts in 2000 and 25 in 2002, even after the Al Qaeda attack on the United States and the U.S. counterattack against Afghanistan. By 2004, Marshall and Gurr's latest study shows, the number of armed conflicts in the world had declined to 20, even after the invasion of Iraq. All told, there were less than half as many wars in 2004 as there were in 1991. Marshall and Gurr also have a second ranking, gauging the magnitude of fighting. This section of the report is more subjective. Everyone agrees that the worst moment for human conflict was World War II; but how to rank, say, the current separatist fighting in Indonesia versus, say, the Algerian war of independence is more speculative. Nevertheless, the Peace and Conflict studies name 1991 as the peak post-World War II year for totality of global fighting, giving that year a ranking of 179 on a scale that rates the extent and destructiveness of combat. By 2000, in spite of war in the Balkans and genocide in Rwanda, the number had fallen to 97; by 2002 to 81; and, at the end of 2004, it stood at 65. This suggests the extent and intensity of global combat is now less than half what it was 15 years ago. Easterbrook spends the rest of the essay postulating the causes of this -- the decline in great power war, the spread of democracies, the growth of economic interdependence, and even the peacekeeping capabilities of the United Nations. Easterbrook makes a lot of good points -- most people are genuinely shocked when they are told that **even in a post-9/11 climate, there has been a steady and persistent decline in wars and deaths from wars.** That said, what bothers me in the piece is what Easterbrook leaves out. First, he neglects to mention **the biggest reason for why war is on the decline -- there's a global hegemon called the U**nited **S**tates right now. Easterbrook acknowledges that "the most powerful factor must be the end of the cold war" but he doesn't understand why it's the most powerful factor. Elsewhere in the piece he talks about the growing comity among the great powers, without discussing the elephant in the room: **the reason the "great powers" get along is that the U**nited **S**tates **is much, much more powerful than anyone else.** If you quantify power only by relative military capabilities, the U.S. is a great power, there are maybe ten or so middle powers, and then there are a lot of mosquitoes. [If the U.S. is so powerful, why can't it subdue the Iraqi insurgency?--ed. Power is a relative measure -- the U.S. might be having difficulties, but no other country in the world would have fewer problems.] Joshua Goldstein, who knows a thing or two about this phenomenon, made this clear in a Christian Science Monitor op-ed three years ago: We probably owe this lull to the end of the cold war, and to a unipolar world order with a single superpower to impose its will in places like Kuwait, Serbia, and Afghanistan**. The emerging world order is not exactly benign – Sept. 11 comes to mind** – and Pax Americana delivers neither justice nor harmony to the corners of the earth. **But a unipolar world is inherently more peaceful than the bipolar one where two superpowers fueled rival armies around the world.** The long-delayed "peace dividend" has arrived, like a tax refund check long lost in the mail. The difference in language between Goldstein and Easterbrook highlights my second problem with "The End of War?" Goldstein rightly refers to the past fifteen years as a "lull" -- a temporary reduction in war and war-related death. **The flip side of U.S. hegemony being responsible for the reduction of armed conflict is what would happen if U.S. hegemony were to ever fade away.** Easterbrook focuses on the trends that suggest an ever-decreasing amount of armed conflict -- and I hope he's right. But I'm enough of a realist to know that **if the U.S. should find its primacy challenged** by, say, a really populous non-democratic country on the other side of the Pacific Ocean, all best about the utility of **economic interdependence, U.N. peacekeeping, and** the spread of **democracy are right out the window.**

**Even if we can’t 100% prove our knowledge claims, we should act based on the best possible information**

Friedrich **Kratochwil**, 200**7**, Political Sciences @ European University Inst., “Of False Promises and Good Bets: a Plea for a Pragmatic Approach to Theory Building”, Journal of International Relations and Development

Here **pragmatism seems to hold some promise for several reasons. First, as its most basic level it does not begin with ‘things’ or with ‘reason’ or thought, but with ‘acting’** (prattein), **thereby preventing some false starts. Even if the most rigorous and secure system of thought turns out not to be contradiction free, this revolutionary realization does not prevent mathematicians from going on to solve problems and most of us have to act most of the time without having the privilege of basing our decisions on secure universally valid knowledge.** Thus, **the cure of the anxiety induced by radical doubt consists not of the discovery of absolute certainty, which is a phantasmagorical undertaking that is engendered by its equally fantastic starting point, since nobody begins with universal doubt** (e.g. Pierce 1868/1997)! **Rather, the remedy for this anxiety consists of the recognition of the unproductive nature of universal doubt. Letting go of unrealizable plans and notions that lead us down the road to delusional projects and acquiring instead the ability to ‘go on’ in spite of uncertainties and the unknown is probably the most valuable lesson to learn. Second, by giving up on the idea that warranted knowledge is generated through either logical demonstration or the representation of the world ‘out there’, a pragmatic starting point not only takes the always preliminary character of scientific knowledge seriously but it also accounts for cumulative knowledge in a more coherent fashion. If the world ‘out there’ were ready made only to be discovered, then scientific knowledge would have to be a simple accumulation of more and more true facts, leading us virtually automatically closer and closer to ‘the Truth’ conceived as the totality of all true statements.** Here Popper’s (1972) ‘Third World’ comes to mind and his first interpretation of scientific progress as the self-correcting process of conjectures and refutations. But as the history of science has suggested, scientific progress was characterized by conceptual revolutions and not only ‘normal’ science, quite aside from the embarrassing problem of what to do with all those parts of the ‘third world’ that turned out to be false after all, such as the indivisibility of atoms, ether, phlogiston, or what have you. Similarly misleading is the imagery of scientific progress as an ever closer approximation to ‘the Truth’ without, however, ever reaching it, thereby foxing the problem of revision. Obviously the image of approximation in Popper’s (1963: Chapter 10) verisimilitude argument draws its persuasiveness from the successive approximation of polygons in approaching the perimeter of a circle, when determining the enclosed area. But **if we have learned anything from the studies of various disciplines, then it is the fact that progress consists of being able to formulate new questions that could not even be asked previously**. Thus, whatever we think of Kuhn’s argument about ‘paradigms’, we have to recognize that in times of revolutionary change the bounds of sense are being revolutionized and we donot simply now know some more of the encircled area!9 **Third, pragmatism recognizes that science as a process of knowledge production is a social practice determined by rules in which scientists are not only constitutive for the definitions of problems (rather than simply lifting a veil over nature), they also debate questions that seem ‘undecidable’ and they have to ‘weigh’ the evidence, instead of being able to rely on the bi-valence principle of logic as an automatic truth finder** (Kratochwil 2007). To that extent, the critical element of the epistemological project is retained, only that the ‘court’ which Kant believed to be reason itself, consists of the practitioners themselves. Instead of applying the standards as suggested by the epistemological project and the unity of science position, each science provides its own court and judges the appropriateness of its own methods and practices

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**A court-martial also would offer the Administration the distinct advantage of protecting any sensitive and classified material during the proceedings**.

**Court proceedings lead to compromising intelligence AND freeze future coop**

Richard **Friedman** et al., President and Chair, National Strategy Forum, “Trying Terrorists in Article II Courts: Challenges and Lessons Learned,” Prawfs Blawg, 20**09**, <http://prawfsblawg.blogs.com/files/trying-terrorists-art-iii-report-final.pdf>

There was substantial agreement among the workshop participants that **the government faces unique foreign relations and intelligence issues when using classified and sensitive evidence obtained through foreign liaison relations for terrorism trials in a public Article III court.** Some discussants agreed that these issues were partly legal and partly political, and that **all of these issues have the potential to threaten either successful prosecution or important intelligence relations.** The following is a brief account of many discussants’ concerns with the foreign relations and intelligence challenges of trying terrorists in Article III courts. **First, the disclosure of evidence in some terrorism trials may force a decision about whether to expose important intelligence gathering priorities, methods, and sources. This exposure may lead to conflicting interests between U.S. intelligence and law enforcement agencies; the** risk of conflict is no less substantial when using sensitive evidence as opposed to classified evidence.17 In **addition, it is not always clear at the outset which intelligence information will be valuable in the future**, **meaning that intelligence agencies are resistant to disclosing** **any intelligence information** unless its secrecy can be adequately safeguarded and its use will result in meaningful benefits to the government. **Second, the use of classified and sensitive evidence obtained from the intelligence arm of a foreign government can pose an obstacle to future cooperation between the United States and the foreign government**. **Intelligence information is often shared between governments with the express understanding that such cooperation will remain secret.** In terrorism trials, **the prosecution may face the dilemma of either (i) turning over the evidence of foreign cooperation and thereby undermining the trust of the foreign government, (ii) proceeding with litigation on a more restricted set of evidence, or, in some rare cases, (iii) withdrawing some charges against the defendant. Third, where a secret informant only cooperates with U.S. intelligence under assurances that she will never be identified or have to testify in an American courtroom, prosecutors and intelligence officials may be faced with losing a valuable intelligence source** for the purpose of prosecuting a single (or a small group of) terrorist suspect(s). The higher value the informant, the less likely the intelligence service will agree to such disclosure, meaning that the prosecution may be forced to proceed on significantly less evidence. **This problem also arises where the source is a foreign intelligence agent barred from testifying in an American courtroom by her own government.** A few discussants argued, however, that these were merely practical barriers for the prosecution that can be, and in past cases have been, overcome, for example, by renegotiating with an intelligence source or engaging in diplomacy with a foreign government on a case-bycase basis. Some discussants urged that criminal prosecutors often handle issues pertaining to reluctant and secret witnesses, meaning that prosecutors can continue to do so in terrorism trials. However, other discussants disagreed, asserting that the national security, intelligence, and foreign relations implications of handling secret witnesses in terrorism trials are different and more complex than secrecy considerations typically at issue in traditional criminal trials.

**Even a tiny risk triggers collaborator shut down**

Stuart F. **Delery**, Principle Deputy Assistant Attorney General, Civil Division, Departmenof Justice, Defendants' Motion to Dismiss, United States' Statement of Interest, Case 1:12-cv-01192-RMC Document 18, UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA, 12—14—**12**.

Third. **Plaintiffs' claims raise the specter of disclosing classified intelligence information in open court**. The D.C. Circuit has recognized that "the difficulties associated with subjecting allegations involving CIA operations and covert operatives to judicial and public scrutiny" are pertinent to the special factors analysis. Wilson, 535 F.3d at 710. In such suits, "**'even a small chance that some court will order disclosure of a source's identity could well impair intelligence gathering and cause sources to close up like a clam**."'1 Id. (quoting Tenet v. Doe, 544 U.S. 1,11 (2005)). And where **litigation** of a plaintiffs allegations "**would** inevitably require an inquiry into "classified information that may **undermine ongoing covert operations**,"\* special factors apply. Wilson, 535 F.3d at 710 (quoting Tenet, 544 U.S. at 11). See also Vance, 2012 WL 5416500 at "8 ("**When** the **state-secrets privilege did not block the claim**, **a court would find it challenging to prevent the disclosure of secret information**.11); Lebron, 670 F.3d at 554 (noting that **the "chilling effects on intelligence sources** of possible disclosures during civil litigation and the **impact** of such disclosures on military and diplomatic **initiatives at the heart of counterterrorism policy**1' are special factors); Arar, 585 F.3d at 576 (holding that the risk of disclosure of classified information is a special factor in the "extraordinary rendition" context).