# 1NC

## Off

### 1NC

#### Topical detention cases must deal with persons designated as enemy combatants---that’s how war powers authority is used in the area

CFC 4 – The Committee on Federal Courts, 2004, “THE INDEFINITE DETENTION OF "ENEMY COMBATANTS": BALANCING DUE PROCESS AND NATIONAL SECURITY IN THE CONTEXT OF THE WAR ON TERROR,” The Record of The Association of The Bar of the City of New York, 59 The Record 41

The President, assertedly acting under his "war power" in prosecuting the "war on terror," has claimed the authority to detain indefinitely, and without access to counsel, persons he designates as "enemy combatants," an as yet undefined term that embraces selected suspected terrorists or their accomplices.

Two cases, each addressing a habeas corpus petition brought by an American citizen, have reviewed the constitutionality of detaining "enemy combatants" pursuant to the President's determination:

- Hamdi v. Rumsfeld, 316 F.3d 450 (4th Cir. 2003), cert. granted, 124 S. Ct. 981 (Jan. 9, 2004) (No. 03-6696), concerns a citizen seized with Taliban military forces in a zone of armed combat in Afghanistan;

- Padilla ex. rel. Newman v. Bush, 233 F. Supp. 2d 564 (S.D.N.Y. 2002), rev'd sub nom., Padilla ex. rel. Newman v. Rumsfeld, 352 F.3d 695 (2d Cir. 2003), cert. granted, 124 S. Ct. 1353 (Feb. 20, [\*42] 2004) (No. 03-1027), concerns a citizen seized in Chicago, and suspected of planning a terrorist attack in league with al Qaeda.

Padilla and Hamdi have been held by the Department of Defense, without any access to legal counsel, for well over a year. No criminal charges have been filed against either one. Rather, the government asserts its right to detain them without charges to incapacitate them and to facilitate their interrogation. Specifically, the President claims the authority, in the exercise of his war power as "Commander in Chief" under the Constitution (Art. II, § 2), to detain persons he classifies as "enemy combatants":

- indefinitely, for the duration of the "war on terror";

- without any charges being filed, and thus not triggering any rights attaching to criminal prosecutions;

- incommunicado from the outside world;

- specifically, with no right of access to an attorney;

- with only limited access to the federal courts on habeas corpus, and with no right to rebut the government's showing that the detainee is an enemy combatant.

#### The Kiyemba petitioners are no longer being detained as enemy combatants---their status is based on exclusion from the U.S. founded in immigration authority

Samuel Chow 11, Juris Doctor, Benjamin N. Cardozo School of Law, Summer 2011, “NOTE: THE KIYEMBA PARADOX: CREATING A JUDICIAL FRAMEWORK TO ERADICATE INDEFINITE, UNLAWFUL EXECUTIVE DETENTIONS,” Cardozo Journal of International and Comparative Law, 19 Cardozo J. Int'l & Comp. L. 775

In addition to its immigration-based analysis, the government interpreted Boumediene narrowly and Munaf broadly to support the argument that the Kiyemba petitioners had been legally released, despite their continued detention. n182 According to the government, Munaf supported the argument that "the Government retains the sovereign authority, independent of the authority to detain enemy combatants, to hold petitions incident to barring them from the United States, and pending efforts to resettle them elsewhere." n183 This was a Mezei-type argument and an effort by the government to extend it to terrorist-based detentions, which it successfully did. As the government would have it, Boumediene's emphasis on the constitutional importance [\*801] of release had been met in Munaf and the D.C. Circuit Court's decision in Kiyemba. The government analogized the Kiyemba petitioners' request to be released into the United States to the Munaf petitioners' request for release as well as an injunction protecting them from the possibility of criminal prosecution. n184 Accordingly, the government argued that the Kiyemba petitioners had already been "released," and merely needed appropriate resettlement. n185 Alternatively, as the government distinguished in Mezei, the Kiyemba petitioners were no longer being "detained" but were simply being excluded from the United States. n186 It seems "release" becomes a mere status determination rather than functionally serving as relief from unlawful detention, since the detention, for all intents and purposes, is continuing. Munaf was, indeed, the first limitation of the writ's remedial application after Boumediene had so largely expanded its scope. n187

#### Vote neg:

#### 1) Limits---they explode the topic to include any class of petitioners whose detention is functionally indefinite but not justified as an expression of war powers---all immigration detention, disease quarantine, the domestic prison system all become viable aff areas.

#### 2) Precision---only our evidence speaks to the actual justification used to detain the Kiyemba petitioners---key to legal precision and topic education.

### 1NC

**Courts affs have to specify the grounds**

**Dragich 95** - Martha J. Dragich, Associate Professor of Law at Missouri-Columbia, 2-1995 44 Am. U.L. Rev. 757

Opinions also permit readers to view the law in historical context. Insofar as opinions identify the precedents on which the court relied, they allow readers to form an understanding of the law's maturity. 164 In addition, the highly specialized citators on which legal research depends allow readers to gauge the continuing vitality of a decision [\*784] based on the frequency and approval with which it is cited. 165 Often, the determination whether or not a particular opinion is lawmaking cannot be made until years later, when further developments in the law demonstrate what the authoring judge could not forecast. 166 Moreover, the lasting authority of a decision depends largely on the quality of its reasoning, which can be evaluated only by reading the opinion. At a minimum, the tasks of researching and applying the law require that the law be findable and knowable, that the precedential value of prior decisions be ascertainable with some degree of reliability, and that prior decisions provide guidance for future cases. These conditions, in turn, can be satisfied only by the publication of judicial opinions **stating** the facts of the case, the issues considered, **the court's reasoning**, and the result.

**Vote neg – all ground and education revolve around judicial reasoning**

### 1NC

#### The affirmative reduces the problem of executive authority to temporally distinct conjunctions of war and peace time---legal restrictions inevitably fail because they ignore the permanence of war in politics

Mary L. Dudziak 10, chaired prof of history and pol-sci and USC, Law, War, and the History of Time, 98 Cal. L. Rev. 1669

When President George W. Bush told the American people in September 2001 that the nation was at war, he drew upon an iconic American narrative. The onset of war, in American legal and political thought, is more than a cata- lytic moment. It is the opening of an era: a wartime. Wartime is thought to be an era of altered governance. It is not simply a time period when troops are sent into battle. It is also a time when presidential power expands, when individual rights are often compromised. An altered rule of law in wartime is thought to be tolerable because wartimes come to an end, and with them a government's emergency powers. That, at least, is the way law and wartime are understood.

War is thought to break time into pieces. War often marks the beginning of an era, the end of another, as in antebellum, postbellum, and simply "postwar" (meaning after World War II). War has its own time. During "wartime," regular, normal time is thought to be suspended. Wartime is when time is out of order.

Ideas about the temporality of war are embedded in American legal thought. A conception of time is assumed and not examined, as if time were a natural phenomenon with an essential nature, providing determined shape to human action and thought. This understanding of time is in tension with the experience of war in the twentieth century. The problem of time, in essence, clouds an understanding of the problem of war.

Much attention has been paid in recent years to wartime as a state of exception,' but not to wartime as a form of time. For philosopher Giorgio Agamben, a state of exception "is a suspension of the juridical order itself," marking law's boundaries.2 Viewing war as an exception to normal life, however, leads us to ignore the longstanding persistence of war. If wartime is actually normal time, as this Essay suggests, rather than a state of exception, then law during war can be seen as the form of law we in fact practice, rather than a suspension of an idealized understanding of law.

In scholarship on law and war, time is seen as linear and episodic. There are two different kinds of time: wartime and peacetime. Historical progression consists of moving from one kind of time to another (from wartime to peacetime to wartime, etc.). Law is thought to vary depending on what time it is. The relationship between citizen and state, the scope of rights, and the extent of government power depend on whether it is wartime or peacetime. A central metaphor is the swinging pendulum-swinging from strong protection of rights and weaker government power to weaker protection of rights and stronger government power.3 Moving from one kind of time to the next is thought to swing the pendulum in a new direction.

This conceptualization is embedded in scholarship in law and legal history,4 it is written into judicial opinions,5 it is part of popular culture.6 Even works that seek to be revisionist aim largely for a different way to configure the pendulum, leaving the basic conceptual structure in place.7 But the conception of time that has been embedded in thinking about law and war is in tension with the practice of war in the twentieth century. This understanding of time no longer fits experience, but it has continued to shape our thinking.8

There are three significant impacts of viewing wartime as exceptional, or viewing history as divided into different zones of time based on peace and war. First, there is a policy problem: war-related time zones cause us to think that war-related laws and policies are temporary. Second, there is a historiography problem: time zones can cause scholars to fail to look for war-related impacts on American law outside of the time zone of war. Finally, the model of the swinging pendulum does not lend itself to a broader analysis of the relationship between war and rights over time, or to the way rights are impacted by war- related state-building, which tends to endure.9

This Essay explores the role of wartime in legal thought. The starting point is an examination of time itself. Scholarship on time shows that "time" does not have an essential nature.' 0 Instead, as sociologist Emile Durkheim and others have argued, our understanding of time is a product of social life. This helps us to see that "wartime," like other kinds of time, does not have an essential character, but is historically contingent.

The Essay then turns to the way wartime is characterized in scholarship on law and war, arguing that a particular understanding of war and time is a feature of this literature. The idea of wartime found in twentieth-century legal thought is in tension with the American experience with war. To examine this dynamic, the Essay takes up an iconic twentieth-century war, World War II, finding that this war is harder to place in time than is generally assumed, in part because the different legal endings to the war span over a period of seven years.

Next, the Essay considers the way that scholarship on the history of rights during war attempts to periodize World War II, and finds that the fuzziness in the war's timing repeats itself in scholarship on law and war. Scholars who believe themselves to be writing about the same wartime are not always studying the same span of years.

The difficulty in confining World War II in time is an illustration of a broader feature of the twentieth century: wartimes bleed into each other, and it is hard to find peace on the twentieth-century American timeline. Meanwhile, although the Pearl Harbor attack was on the Territory of Hawaii, all twentieth- century military engagement occurred outside the borders of American states. Because of this, a feature of American military strategy has been to engage of the American people in a war at some times," and at other times to insulate them from war. Isolation from war in the late twentieth century, through the use of limited war and advanced technology, enabled the nation to participate in war without most citizens perceiving themselves to be in a wartime.12

The Essay closes with a discussion of the way the tension between war's seamlessness and our conception of temporally distinct wartimes surfaces in contemporary cases relating to Guantinamo detainees. In these cases, Supreme Court Justices first attempted to fit the post-September 11 era into the traditional and confined understanding of wartime. But ultimately, anxiety about war's temporality informed Justice Kennedy's argument for judicial review in Boumediene v. Bush.13

My aim in this Essay is to critique the way that the concept of wartime affects thinking about war and rights, but not to argue that war itself has no impact. One reason that wartime has so much power as a way of framing history is that the outbreak of war is often experienced as ushering in a new era, particularly when war follows a dramatic event like Pearl Harbor.14 After that attack, for example, Supreme Court Justice Felix Frankfurter said to his law clerk: "Everything has changed, and I am going to war."15 The onset of war is seen, however, not as a discrete event, but as the beginning of a particular era that has temporal boundaries on both sides. I do not wish to question the power of these catalytic moments, but rather to call attention to the way they bring into being a set of assumptions about their endings, because they are seen as the onset of a temporally confined war. Pearl Harbor, for example, was thought to launch the United States into an era-World War II-that would, by definition, come to an end. Unpacking war's temporality can be a path toward a more satisfactory understanding of the ongoing relationship between war and American law and politics.

#### Security renders lawfare a tool of violent biopolitical governance---the result is endless violence

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

Security, not liberty: the ‘permanent emergency’ of the security society

The US military’s evident disdain for international law, indifference to the pain of ‘Others’ and endless justifying of its actions via the language of ‘emergency’ have prompted various authors to reflect on Giorgio Agamben’s work, in particular, on bare life and the state of exception in accounting for the functioning of US sovereign power in the contemporary world.111 Claudio Minca, for example, has used Agamben to attempt to lay bare US military power in the spaces of exception of the global war on terror; for Minca, “it is precisely the absence of a theory of space able to inscribe the spatialisation of exception that allows, today, such an enormous, unthinkable range of action to sovereign decision”.112 This critique speaks especially to the excessive sovereign violence of our times, all perpetrated in the name of a global war on terror.113 Minca’s argument is that geography as a discipline has failed to geo-graph and theorise the spatialization of the ‘pure’ sovereign violence of legitimated geopolitical action overseas. He uses the notion of the camp to outline the spatial manifestation and endgame of a new global biopolitical ‘nomos’ that has unprecedented power to except bare life.114

In the ‘biopolitical nomos’ of camps and prisons in the Middle East and elsewhere, managing detainees is an important element of the US military project. As CENTCOM Commander General John Abizaid made clear to the Senate Armed Services Committee in 2006, “an essential part of our combat operations in both Iraq and Afghanistan entails the need to detain enemy combatants and terrorists”.115 However, it is a mistake to characterize as ‘exceptional’ the US military’s broader biopolitical project in the war on terror. Both Minca’s and Agamben’s emphasis on the notion of ‘exception’ is most convincing when elucidating how the US military has dealt with the ‘threat’ of enemy combatants, rather than how it has planned for, legally securitized and enacted, its ‘own’ aggression against them. It does not account for the proactive juridical warfare of the US military in its forward deployment throughout the globe, which rigorously secures classified SOFAs with host nations and protects its armed personnel from transfer to the International Criminal Court. Far from designating a ‘space of exception’, the US does this to establish normative parameters in its exercise of legally sanctioned military violence and to maximize its ‘operational capacities of securitization’.

A bigger question, of course, is what the US military practices of lawfare and juridical securitization say about our contemporary moment. Are they essentially ‘exceptional’ in character, prompted by the so-called exceptional character of global terrorism today? Are they therefore enacted in ‘spaces of exceptions’ or are they, in fact, simply contemporary examples of Foucault’s ‘spaces of security’ that are neither exceptional nor indeed a departure from, or perversion of, liberal democracy? As Mark Neocleous so aptly puts it, has the “liberal project of ‘liberty’” not always been, in fact, a “project of security”?116 This ‘project of security’ has long invoked a powerful political dispositif of ‘executive powers’, typically registered as ‘emergency powers’, but, as Neocleous makes clear, of the permanent kind.117 For Neocleous, the pursuit of ‘security’ – and more specifically ‘capitalist security’ – marked the very emergence of liberal democracies, and continues to frame our contemporary world. In the West at least, that world may be endlessly registered as a liberal democracy defined by the ‘rule of law’, but, as Neocleous reminds us, the assumption that the law, decoupled from politics, acts as the ultimate safeguard of democracy is simply false – a key point affirmed by considering the US military’s extensive waging of liberal lawfare. As David Kennedy observes, the military lawyer who “carries the briefcase of rules and restrictions” has long been replaced by the lawyer who “participate[s] in discussions of strategy and tactics”.118

The US military’s liberal lawfare reveals how the rule of law is simply another securitization tactic in liberalism’s ‘pursuit of security’; a pursuit that paradoxically eliminates fundamental rights and freedoms in the ‘name of security’.119 This is a ‘liberalism’ defined by what Michael Dillon and Julian Reid see as a commitment to waging ‘biopolitical war’ for the securitization of life – ‘killing to make live’.120 And for Mark Neocleous, (neo)liberalism’s fetishization of ‘security’ – as both a discourse and a technique of government – has resulted in a world defined by anti-democratic technologies of power.121 In the case of the US military’s forward deployment on the frontiers of the war on terror – and its juridical tactics to secure biopolitical power thereat – this has been made possible by constant reference to a neoliberal ‘project of security’ registered in a language of ‘endless emergency’ to ‘secure’ the geopolitical and geoeconomic goals of US foreign policy.122 The US military’s continuous and indeed growing military footprint in the Middle East and elsewhere can be read as a ‘permanent emergency’,123 the new ‘normal’ in which geopolitical military interventionism and its concomitant biopolitical technologies of power are necessitated by the perennial political economic ‘need’ to securitize volatility and threat.

Conclusion: enabling biopolitical power in the age of securitization

“Law and force flow into one another. We make war in the shadow of law, and law in the shadow of force” – David Kennedy, Of War and Law 124

Can a focus on lawfare and biopolitics help us to critique our contemporary moment’s proliferation of practices of securitization – practices that appear to be primarily concerned with coding, quantifying, governing and anticipating life itself? In the context of US military’s war on terror, I have argued above that it can. If, as David Kennedy points out, the “emergence of a global economic and commercial order has amplified the role of background legal regulations as the strategic terrain for transnational activities of all sorts”, this also includes, of course, ‘warfare’; and for some time, the US military has recognized the “opportunities for creative strategy” made possible by proactively waging lawfare beyond the battlefield.125 As Walter Benjamin observed nearly a century ago, at the very heart of military violence is a “lawmaking character”.126 And it is this ‘lawmaking character’ that is integral to the biopolitical technologies of power that secure US geopolitics in our contemporary moment. US lawfare focuses “the attention of the world on this or that excess” whilst simultaneously arming “the most heinous human suffering in legal privilege”, redefining horrific violence as “collateral damage, self-defense, proportionality, or necessity”.127 It involves a mobilization of the law that is precisely channelled towards “evasion”, securing 23 classified Status of Forces Agreements and “offering at once the experience of safe ethical distance and careful pragmatic assessment, while parcelling out responsibility, attributing it, denying it – even sometimes embracing it – as a tactic of statecraft and war”.128

Since the inception of the war on terror, the US military has waged incessant lawfare to legally securitize, regulate and empower its ‘operational capacities’ in its multiples ‘spaces of security’ across the globe – whether that be at a US base in the Kyrgyz Republic or in combat in Iraq. I have sought to highlight here these tactics by demonstrating how the execution of US geopolitics relies upon a proactive legal-biopolitical securitization of US troops at the frontiers of the American ‘leasehold empire’. For the US military, legal-biopolitical apparatuses of security enable its geopolitical and geoeconomic projects of security on the ground; they plan for and legally condition the ‘milieux’ of military commanders; and in so doing they render operational the pivotal spaces of overseas intervention of contemporary US national security conceived in terms of ‘global governmentality’.129 In the US global war on terror, it is lawfare that facilitates what Foucault calls the “biopolitics of security” – when life itself becomes the “object of security”.130 For the US military, this involves the eliminating of threats to ‘life’, the creating of operational capabilities to ‘make live’ and the anticipating and management of life’s uncertain ‘future’.

Some of the most key contributions across the social sciences and humanities in recent years have divulged how discourses of ‘security’, ‘precarity’ and ‘risk’ function centrally in the governing dispositifs of our contemporary world.131 In a society of (in)security, such discourses have a profound power to invoke danger as “requiring extraordinary action”.132 In the ongoing war on terror, registers of emergency play pivotal roles in the justification of military securitization strategies, where ‘risk’, it seems, has become permanently binded to ‘securitization’. As Claudia Aradau and Rens Van Munster point out, the “perspective of risk management” seductively effects practices of military securitization to be seen as necessary, legitimate and indeed therapeutic.133 US tactics of liberal lawfare in the long war – the conditioning of the battlefield, the sanctioning of the privilege of violence, the regulating of the conduct of troops, the interpreting, negating and utilizing 24 of international law, and the securing of SOFAs – are vital security dispositifs of a broader ‘risk- securitization’ strategy involving the deployment of liberal technologies of biopower to “manage dangerous irruptions in the future”.134 It may well be fought beyond the battlefield in “a war of the pentagon rather than a war of the spear”,135 but it is lawfare that ultimately enables the ‘toxic combination’ of US geopolitics and biopolitics defining the current age of securitization.

#### Sovereignty is a western-construct that ignores alternate forms of political organization---SQ legal regimes not only inevitably fail to contain the aff’s impacts, but also result in a violent extermination of alterity

Tayyab Mahmud 10, Professor of Law and Director, Center for Global Justice, Seattle University School of Law. ARTICLE: COLONIAL CARTOGRAPHIES, POSTCOLONIAL BORDERS, AND ENDURING FAILURES OF INTERNATIONAL LAW: THE UNENDING WARS ALONG THE AFGHANISTAN-PAKISTAN FRONTIER, 36 Brooklyn J. Int'l L.

During the phase of decolonization, borders became a crucial issue for postcolonial states. In most cases, the inherited borders were in large measure determined by geopolitical, economic, and administrative policies of colonial powers that had occupied these territories. Colonial claims were often carved up with little regard to the coherence of historic, cultural, and ethnic zones. As a result, historical and cultural units were split, and different cultures, religions, languages, identities, and affiliations were enclosed in demarcated territorial units. The connection between a people and their territory, assumed and prescribed by Eurocentric theories of the "nation-state," found no room in these configurations. These inherited colonial demarcations, reinforced by postcolonial states, often provoke challenge and resistance from below by assertions of identity and difference. Power-blocs of postcolonial formations, in an effort to legitimize their new-found hegemony, impose a firm control over the inherited borders to draw "sharper lines between citizens, invested with certain rights and duties, and 'aliens' or 'foreigners.'" n135 The [\*26] result is territorial disputes with adjacent polities and/or suppression of difference within, two intractable issues that quickly become the primary preoccupations of the postcolonial states. The career of the Durand Line is an evocative story of these intractable conflicts and the inability of existing legal regimes to resolve them.

III. IMPERIAL GREAT GAMES AND DRAWING OF LINES

What the map cuts up, the story cuts across. n136

A. Great Game I: The Genesis of the "Buffer to a Buffer"

The Durand Line emerged as an instrumentality in the so-called Great Game, n137 the contest between British colonial expansion in India and eastward colonial expansion of Czarist Russia, one that turned the intermediate region into "a cockpit of international rivalry." n138 During the nineteenth century, issues of frontiers, boundaries, and borders within the Persian Plateau as a geographical unit were contentious. n139 Imperial efforts to fix boundaries of control that conflicted with the practices and experience of native populations for whom frontiers were essentially mobile and porous, compounded these contentions. This mobility and porosity stemmed from the region's location at the junction of historic trade routes between China, India, Central Asia, Persia, and the Arab [\*27] world. n140 The Great Game was a contest, both overt and shadowy, over territory where different imperial orders came into volatile proximity. The conflicts turned on questions of territory, zones of influence, and spatial buffers.

The British were unequivocal about their empire's need to have "scientific frontiers" that had to be demarcated under "European pressure and by the intervention of European agents." n141 Lord Curzon, the arch-imperialist and Viceroy of India, proposed a specific recipe for colonial India--a "threefold Frontier." n142 British imperial strategists were mindful of the simultaneous expansion of British and Russian empires in the heartland of Asia. A "frontier of separation" rather than a "frontier of contact" was to be the solution which led to the creation of protectorates, neutral zones, and buffers in between. n143 This policy of a "three-fold frontier" was choreographed and implemented in the northwest of colonial India. The first frontier, at the edge of directly controlled territory, enabled the colonial regime to exercise full authority and impose its legal and political order. The second frontier, just beyond the first, was a zone of indirect rule where colonial domination proceeded through existing institutions of social control. The third frontier was a string of buffer states which, while maintaining formal political autonomy and trappings of statehood, aligned foreign relations with the interests of the British.

[\*28] Fig. 2: Contemplated Northwest Frontier of Colonial India n144

The story of the Durand Line shows that colonial map-making simultaneously exhibits "both delusions of grandeur and delusions of engulfment." n145 Historically, the river Indus was seen as the western boundary of India. n146 The region west of the Indus and south of the Oxus river, was home to the dominant ethnic group of the region, the Pashtun, who have a recorded history going well before 500 B.C. n147 Located at the southern [\*29] edge of Central Asia and flanking the Chinese, Persian, and Indian empires, the Pashtun saw different phases of unity and fragmentation, along with Hindu, Buddhist, and Muslim cultural influences. Regional geopolitical maneuverings shaped the formation of the modern state of Afghanistan out of shards of rival tribal fiefdoms, ethnic loyalties, and shifting alliances and allegiances. n148 In 1747, as the Mughal and Persian empires were imploding, Ahmad Khan Durrani, a Pashtun military commander, took control of the region and created an Afghan tribal confederacy dominated by the Pashtuns, as a distinct political entity in the region--giving birth to what came to be called Afghanistan. n149 Given the circumstances of its emergence, Lord Curzon was to call the state "purely accidental." n150 The Durrani dynasty came to an end only in 1974, when Afghanistan became a republic.

Just as Afghanistan was emerging as a unified political entity, the British East India Company established political control over the fertile delta [\*30] of Bengal in 1757, and began the process of colonizing India. n151 Over the next century, British colonial rule in India expanded westward. At the time, Russia's sense of its eastern border was "vague and protean, shaped by the constellation of power on its frontiers at any given moment." n152 Imperial Russia started to expand southwards and eastwards through the Caucasus, just when British colonial rule was expanding westward and northward in India. n153 Unavoidably, Central Asia, the zone of confluence of two expanding imperial empires, became the terrain of the Great Game. As the frontlines of two empires approached each other, the Great Game intensified. n154 To check Russia's growing presence in Central Asia in the early nineteenth century, the British aimed to turn Afghanistan into a "buffer state" governed by a compliant ruler. The "three fold frontier," that Curzon was later to articulate, n155 came into play.

An internal struggle for the throne of Kabul in the 1830's gave the British their first opening to play kingmakers in Afghanistan. In June 1838, the British signed a secret agreement with Ranjit Singh, the Sikh ruler of Punjab, and Shah Shujah, a claimant to the Kabul throne. n156 In return for their help in putting him in power, Shujah renounced Afghan claims to Kashmir and substantial areas between the Indus river and the Khyber Pass in favor of Ranjit Singh and agreed to become an ally of the British in their struggle with Russia. This agreement triggered what mainstream history styles the First Afghan War, when a 21,000-strong British "Army of the Indus" invaded Afghanistan in 1839 and installed Shujah as the Amir. n157 The license to colonize and dominate granted by contemporaneous international law to the "Great Powers" of the day [\*31] proved useful. However, the initial British success proved short-lived--resistance against the occupation force and their puppet leader broke out, and in 1842 the deposed Amir, Dost Mohammad Kahn, was returned to power, and the British invasion force was decimated. n158

During the subsequent twenty years, the British started to bring the region west of the Indus river under colonial rule. Occupation of the Punjab in 1849, until then an independent state, brought under British control traditionally Afghan areas up to the eastern end of the legendary Khyber Pass that Punjab had annexed before the First Afghan War. n159 In 1857, India erupted in an anti-colonial revolt ignited by a mutiny of the Bengal Army. The revolt proved to be a watershed moment in the history of colonial rule, and led to a reordering of the Punjab as the "sword arm of the Raj." n160 British forces finally suppressed the revolt, and the governance of colonial India passed from the East India Company to the Crown, but "British fears of rebellion, conspiracies, holy wars, and possible foreign provocation" heightened. n161 Through innovative colonial legal regimes, a "military-fiscal state" was turned into a "military state," the Bengal Army was disbanded, and a reconstituted Punjab began to serve as "the military bulwark of the Raj." n162 The British deployed a racist recruiting doctrine known as the "martial race theory," to raise a new "Indian Army," with over half of it recruited from the Punjab, to serve as the "Empire's 'fire brigade.'" n163 This army was to be "the iron fist in the velvet glove of [\*32] Victorian expansionism . . . the major coercive force behind the internationalization of industrial capitalism." n164

As the pace of Russian eastward expansion picked up after the Crimean War (1854-56), the British "became obsessed with the Great Game," and the Punjab as "the garrison province of the Raj . . . [was] reoriented . . . to meet[] the challenge of an external danger." n165 The rapid transformation of the Punjab into a "garrison state" involved novel colonial legal orders of land tenure, revenue extraction, military recruitment, resettlement of indigenous communities, rural social control, and political governance. n166 Colonial social engineering included refashioning of religious affiliations, identities, and practices. n167 To orchestrate this enterprise, a suitable administrative system was fashioned for the Punjab that "in both form and spirit . . . had a strong military flavor." n168 A century later, this reconstruction of the Punjab became the grounds for "Punjabisation of the state" n169 of Pakistan, its praetorian tenor, and the source of its "post-independence propensity towards a military-dominated state." n170

[\*33] British occupation and reordering of the Punjab in the middle of the nineteenth century produced the northwest border problem in the territories to the west of the river Indus that remains a source of conflict to this day. The northwest edge of this region, a great belt of mountains stretching over 1200 miles from Pamir to Persia, was home of scores of Pashtun tribes that had a long history of effective armed resistance against encroachers and of retaining their autonomy from the political orders around them. n171 Fierce resistance by these tribes started as soon as colonial rule came to their vicinity. n172 It was then that the British policy of creating a frontier zone between Afghanistan and colonial directly-administered areas came into force. n173 This so-called "close border" policy, also known as "masterly inactivity," provided that no further westward expansion of direct colonial rule was possible or warranted, and therefore British sovereignty should not be extended to areas and tribes that could not be subdued and governed effectively. n174 First implemented in Baluchistan and later further north, n175 the close border policy created a peculiar frontier zone--a narrow stretch of territory inhabited by Pashtun tribes maintaining their modes of self-governance, dotted with colonial military outposts, absent direct colonial administration, but discouraged from maintaining their traditional political relations with Afghanistan. Foothills at the edge of directly-administered "settled" areas were fortified to keep out the tribes, who, in exchange for monetary subsidies, were to keep access to military outposts open, and, in contravention to their tribal code, were to deny sanctuary to fugitives from the settled areas. n176 The system did not work well. The Pashtun tribes of the frontier zone remained restive, resulting in twenty-three British military operations between 1857 and 1881 to subdue them. n177

A new British policy, initiated by the Disraeli government to build a new strategic line of defense against Russian pressure in Central Asia, led in 1876 to the abandonment of the "close border" policy in favor of the so-called "forward policy." n178 The new policy called for aggressive [\*34] expansion into and control over the frontier regions. Strong points in the tribal belt were to be captured, fortified, garrisoned, and connected with protected roads. This "forward policy," in its extreme, envisaged pushing the boundary as far west as the Hindu Kush mountain range in the middle of Afghanistan, with the Kabul-Ghazni-Kandahar arc forming the first line of defense for colonial India. n179 As the new policy unfolded, British meddling in Afghan and Persian affairs increased. n180 Decisions of a British Commission demarcating the disputed border between Afghanistan and Persia and permanent stationing of British garrisons nearby, heightened Afghan concerns about hostile encirclement. n181 The Afghans made overtures towards the Russians to counter-balance the growing British influence. n182 The result was the Second Afghan War, when, in November 1878, the British launched a three-pronged attack on Afghan territory. n183 The Amir abdicated in favor of his son. n184 The son then ceded control over the Khyber Pass and agreed to become a vassal of the British, who were to control the external relations of his country. n185 After some pacification campaigns around the country, the British troops withdrew from Afghanistan in 1880. n186 One result of the Second Afghan War was the institution of a joint Russo-British commission to determine the border between Russia and Afghanistan, with the latter to serve as a buffer between the two imperial empires. n187

[\*35] Confronted with increasing demands for more concessions by the colonial government of India, in 1892, the Afghan Amir sought to visit Britain to negotiate directly with the British government. n188 The algebra of differentiated sovereignties came into play--British authorities refused his request, forcing him to negotiate with British colonial authorities in India. n189 The Amir yielded to British pressure to delineate Afghanistan's eastern boundary. n190 The British proceeded to "dictate a boundary settlement," n191 signed by the Amir and Henry Mortimer Durand, foreign secretary of British India, on 12 November 1893. n192 This agreement adjusted the "the eastern and southern frontier of His Highness's [the Amir's] dominions, from Wakhan to the Persian border." n193 The result was the Durand Line, which pushed colonial India's border with Afghanistan from the eastern foot of the frontier hills to their crest. n194 Curzon's dream of "scientific frontiers" demarcated under "European pressure and by the intervention of European agents," appeared to be coming true. n195

The Durand Line proved more difficult to delineate on the ground than to draw on paper. n196 Initially surveyed in 1894-5, most of the demarcation was completed by 1896, though the section around the Khyber Pass was only demarcated after the Third Afghan War in 1921. n197 While some [\*36] inaccessible sections remained unmarked, the line created a strategic frontier that "did not correspond to any ethnic or historical boundary." n198 Slicing through tribes, villages, and clans, it "cut the Pukhtoon people in two." n199 The Pashtun tribes resisted attempts at demarcation, including, in some cases, burning down camps of the Boundary Commission. The British response was to station substantial permanent garrisons. n200 The Pashtuns remained restive, with religious leaders often playing leading roles in the insurgencies. n201

In tune with the colonial project of reordering colonized bodies and spaces, in 1901, British authorities severed the "settled areas" of the northwest region under British control from the Punjab to form an evocatively named North-West Frontier Province ("NWFP"), though with a status not on par with other provinces. n202 Control over the tribal belt between the "settled areas" of NWFP and the Durand Line remained with the central government. The belt, now designated Federally Administered Tribal Area ("FATA"), was to serve as a "buffer to a buffer." n203 The legal order of colonial India did not extend to this zone and the tribes on the grounds that "[r]igour is inseparable from the government of such a people. We cannot rein wild horses with silken braids." n204 Tribes were to conduct their internal affairs under their customary norms. However, to supervise matters that touched the security interests of the British, a unique set of rules and procedures, draconian even by colonial standards, were enforced under the Frontier Crimes Regulation. n205 This created yet another "anomalous legal zones" n206 like others that came into existence in many European colonies. In the case of FATA, Pashtun tribes, "though not [] fully-fledged British subject[s] in the legal sense of the [\*37] term, lived within the territorial boundaries of India." n207 To facilitate such territorial arrangements within British colonies, the Parliament had established a process for outlying districts intended "to remove those districts from beyond the pale of the law." n208 Tribes on both sides of the Durand Line continued to disregard it, and incessant tribal resistance prompted successive punitive expeditions. Even the semblance of order broke down with the Third Afghan War of 1919, when Afghanistan declared war, an effort joined by FATA tribes and Pashtun troops who deserted the colonial forces. n209 This short war resulted in Afghanistan regaining control over its foreign affairs. n210 However, the FATA tribes remained restive, and colonial efforts to quell incessant revolts included the first use of aerial bombardment in the history of India, laying waste to the country where local tribes had supported the invasion. n211 The tribes maintained their traditional connections with Afghanistan while negotiating the new FATA dispensation.

When the Indian struggle for decolonization gained momentum in the early 20th century, Pashtuns of "settled areas" quickly gravitated towards the movement. n212 The struggle forced the British to take initial steps towards allowing natives to participate in political governance in 1920 under the Montagu-Chelmsford "reforms," which envisaged an "advance towards self-government in stages." n213 The NWFP and FATA, however, were left out of the scheme on the grounds that, as the chief colonial administrator of the region put it, the Pashtuns "w[ere] not ready for ... 'responsible government." n214 In response, Pashtuns gave their anticolonial movement an organized form aimed at braiding "factors of history, geography, culture, and language to transform the relatively back-ward, [\*38] divided, and disorganized Pukhtuns into a national community." n215 This movement, which came to be known as Surkhposh (Red-shirts), expressly adopted non-violence as a foundational principle of social and political action and became politically allied with the Indian National Congress, the spearhead of India's independence movement. n216

When India's anti-colonial struggle escalated into a civil-disobedience movement in the early 1930s, it had "only a marginal effect on the Punjab" thanks to the entrenched administrative, political, and social order in that "garrison province." n217 NWFP, on the other hand, proved receptive to the call, and in 1930 colonial authorities declared martial law in order to quell the civil-disobedience movement and to prevent armed tribes of FATA from making common cause with residents of the settled areas. n218 In 1935, the British enacted the Government of India Act in response to the ascending independence movement in India. n219 This Act provided for increased political participation through an enlarged franchise to elect provincial legislative assemblies with broadened powers. n220 When the first-ever elections took place in NWFP in 1937, the Indian National Congress, the secular nationalist party, won handily and formed the provincial government. n221 Because the 1935 Act was applicable only to provinces, FATA, the "buffer to a buffer," remained outside the ambit of constitutional reforms and the right to vote and representation. n222 The result was a spike in armed resistance in FATA, triggering more campaigns of "'pacification' by British and Indian troops." n223

[\*39] In 1947, "the tectonic plates of South Asian politics shifted abruptly." n224 The British partitioned colonial India into two independent states--India and Pakistan--surgically dividing "Hindi majority" areas from "Muslim majority" ones, substantiating once again the wonderful artificiality of states, n225 and triggering "one of the great human convulsions of history." n226 That Pashtuns, while overwhelmingly Muslim, had consistently voted for the secular Indian National Congress and helped it form the provincial government in NWFP, struck the colonial Viceroy's office, which presided over the religion-based partition, as "a bastard situation." n227 To bring NWFP in line with the designed partition, the colonial authorities bypassed the generally prescribed process of allowing elected representatives of provinces in their respective legislative assemblies to determine the future of the province. A referendum to choose between India and Pakistan was offered instead. n228 Most Pashtuns, including both the "Red Shirts" and the governing political party of the province, boycotted the referendum in protest against NWFP having been made an exception to the prescribed process, and because the substitute process of referendum did not offer a third option, namely, separate independent statehood. n229 This demand for a separate state for the Pashtuns, styled Pashtunistan, emerged as the partition of India became [\*40] inevitable. n230 In the end, NWFP was awarded to Pakistan following a controversial referendum. n231 For FATA tribes, yet another mode to determine their fate was devised. In special tribal jirgas (tribal assemblies) orchestrated by the colonial administrators, hand-picked leaders of the FATA tribes were asked to signify their allegiance to Pakistan and received the assurance that monetary allowances and autonomous status of the tribes would continue undisturbed. n232

Decolonization and the partition of India drew into sharp relief the contested status of the Durand Line, which now became a disputed matter between Afghanistan and Pakistan. n233 As soon as India was partitioned, Afghanistan renewed claims to the area between the Durand Line and the Indus. n234 In 1947, Afghanistan joined the demand for Pashtunistan, opposed Pakistan's admission to the United Nations, and later conditioned its recognition upon granting the right of self determination to the people of NWFP and FATA, who were caught in between. n235 "In 1949, an Afghan loya jirga [(grand tribal assembly) formally] declared the Durand Line invalid." n236 Thus, Pakistan started its postcolonial career as successor to a territorial dispute and with an ambivalent relationship with a section of the population located within its designated territorial bounds.

B. Great Game II. The Cold War and the Frontline State

The partition of India and inclusion of NWFP and FATA in Pakistan was, in no small measure, connected with the next phase of the Great Game--the Cold War. The British colonial authorities saw the partition of colonial India as offering the possibility to remain in the northwest [\*41] region "for an indefinite period ... [with] British control of the vulnerable North-Western . . . frontiers." n237 The northwest region was envisaged as "the most suitable area from which to conduct the defense" of oil supplies of the Middle East, and "the keystone of the strategic arc of the wide and vulnerable waters of the Indian Ocean." n238 As the importance of oil from the Persian Gulf increased, Western powers called for a "close accord between the States which surround this Muslim lake, an accord underwritten by the Great powers whose interests are engaged." n239 The Western world "went east in search of oil--and found Islam." n240 Pakistan, the only state in the modem world created in the name of Islam, was to now be turned into a frontline state of the Cold War, with the Durand Line to serve as the frontline.

After cultivating close military ties with Britain and the U.S., Pakistan formally entered a Mutual Defense Agreement with the US and joined the Central Treaty Organization ("CENTO") in 1954 and the Southeast Asia Treaty Organization ("SEATO") a year later. n241 It is important to note that British military officers retained control of Pakistan's military, now seen as "the kingpin of U.S. interests," n242 for many years after decolonization. n243 Pakistan provided the U.S. with military bases in the NWFP. n244 All this helped Pakistan secure recognition by Britain n245 and [\*42] the U.S. n246 of the Durand Line as a legitimate international border. As Pakistan consolidated its role in the anti-Communist military alliances of the Cold War, Afghanistan drew closer to the Soviet Union, hardened its position about the Durand Line, and again raised the issues of self-determination for the Pashtuns in Pakistan and the formation of Pashtunistan. n247 In December, 1955, the Soviet Union declared support for the Afghan position regarding the Durand Line and Pashtunistan. n248

Pakistan's assumption of the role as a frontline state in the Cold War had a profound impact on the political order within the country. This included ascendency of the military as a political force, derailment of constitutional governance, and centralization of political power in defiance of the federal architecture of the state. This turn to praetorianism had a direct impact on the NWFP and FATA. In 1954, the same year that Pakistan formalized its partisan role in the Cold War, a "gang of four" n249 representing the military-bureaucracy combine overturned the constitutional order in Pakistan, a step validated by a docile judiciary under the doctrine of state necessity. n250 The new order then moved to erase the separate existence of NWFP in 1955, when the bureaucratic-military combine ruling Pakistan amalgamated all four provinces of the western wing of the country into the so-called "One Unit." n251 FATA, however, retained its status as a distinct federally administered zone. Afghanistan reacted sharply to the dissolution of NWFP and accelerated its demand for Pashtunistan, leading to a break in diplomatic relations. n252 Trade blockades and border skirmishes followed. Relations remained seriously strained [\*43] until 1963, when the King of Afghanistan removed his prime minister, Sardar Daud, a Pastun and an ardent advocate of Pashtunistan. n253 In the meantime, strengthened and emboldened by its Cold War alliances, Pakistan's military formally usurped political power by declaring martial law in 1958, a move validated by the courts through a misapplication of Kelsen's theory of revolutionary legality. n254 In 1969, a mass-protest movement forced the removal of Pakistan's military dictator. The new government dissolved the "One Unit" and restored NWFP as a separate province. n255 FATA, however, retained its distinct dispensation.

A serious downturn in relations between Afghanistan and Pakistan came in 1973, when Afghanistan declared itself a republic, and Sardar Daud, now its new president, revived the issue of Pashtunistan. n256 Pakistan immediately responded by giving sanctuary to Afghan dissidents and began training and arming disaffected Afghans to destabilize the new Afghan regime. n257 From 1973-77, Pakistan trained an estimated 5,000 Afghan militants and channeled material support to groups inside Afghanistan. n258 This was the beginning of Pakistan's prolonged engagement in training and arming Afghan militants professing the establishment of an "Islamic order." n259 This also ushered in an era when the FATA, the "buffer to a buffer," became the staging ground for Pakistani military's involvement in Afghan militants' operation across the Durand Line with its intelligence agency Inter Services Intelligence ("ISI") taking the lead. n260 It is important to note that this engagement was choreographed by Pakistan's Prime Minister Z. A. Bhutto, a self-professed master of [\*44] geopolitics, who held that "geography continues to remain the most important single factor in the formation of a country's foreign policy . . . . Territorial disputes . . . are the most important of all disputes." n261 This was by no means the first instance of the use of FATA by Pakistan in its military strategies. As early as 1948, Pakistan had used sections of the FATA tribes in its campaigns in Kashmir. n262

The Soviet invasion of Afghanistan in 1979 dramatically accelerated the decline of Afghan-Pakistan relations. During the 1979-84 Afghan "jihad," FATA served as a "launching pad for the mujahidin" and as a "base for their covert operation[s]." n263 The U.S. and Saudi Arabia poured in $ 7.2 billion in covert aid for the jihad, channeled through the ISI, and given primarily to the most radical religious groupings, thus bypassing the moderate Afghan nationalists. n264 The Afghan jihad furnished a justification for the tacit support by Western powers for the consolidation of military dictatorship in Pakistan under General Zia ul-Haq, a development that initiated and entrenched the process of "Islamization" of Pakistan. n265 After the Geneva Accord of 1984 to end the Afghan conflict, and subsequent withdrawal of Soviet forces, Afghanistan plunged into a civil war, with Pakistan and other regional powers supporting different factions. n266 The relative disengagement of the U.S. during this period is now seen by the American policy makers as a "strategic mistake." n267

FATA continued to be used by the ISI and Afghan Islamist groups for their engagements in the Afghan civil war. By now, Pakistan's military had developed the so-called doctrine of "strategic depth" with regards to Afghanistan, because it regarded India to the east as the primary military [\*45] threat to Pakistan's interests. n268 In order to counter India, Pakistan, given its significantly smaller territorial size, sought a compliant Afghanistan on its western border. It was against this backdrop that Pakistan in effect created the Taliban in the early 1990s, a development that dramatically affected the Afghan civil war and, later on, the whole region. n269 Pakistan's military saw continued support for the Taliban as a strategic imperative. n270 Pakistan's desire to open trade routes to former Soviet Central Asian republics contributed to its patronage of the Taliban in Afghanistan. n271 Having helped the Taliban capture power in Afghanistan in 1996, Pakistan was among the handful of states that quickly recognized the new regime, and for some time even paid the salaries of the Taliban administration in Kabul. n272 Pakistan's search for "strategic depth," however, remained elusive. While Afghanistan is a multi-ethnic country, the Taliban were exclusively Pashtuns, who make up over 50% of the country's population. n273 Consequently, Pakistan's patronage notwithstanding, the radical Islamic regime of the Taliban refused to accept the Durand Line as a legitimate international border or to drop Afghan claims over FATA and areas of NWFP east of the Line. n274

[\*46] Taliban's brutal political and social order n275 did not derail global geopolitics of energy supplies, when all neighboring states and many others, including the U.S., started "romancing the Taliban" during a "battle for pipelines" in the late 1990s. n276 By the late twentieth century, global capital and its attendant state machinations had moved well beyond territorial colonialism to neo-imperial modes of exploitation and accumulation. n277 The spatial dimension to the cycle of accumulation, however, remained indispensable. n278 This is particularly true of the geopolitical imperatives of the global energy markets. n279 The break-up of the Soviet Union triggered an intense competition between global oil companies and their sponsoring states, including the U.S. and Pakistan, to extract and transport oil and gas from Central Asia via Afghanistan. n280 In immediate contention were two plans for alternative gas pipelines from Turkmenistan to run through Afghanistan: one would go to Pakistan, and the other would go to Iran and Turkey with a possible link to Europe. Alternatives to transport oil from Kazakhstan via the Caspian Sea further complicated the picture. n281

The events of September 11, 2001, dramatically transformed the geopolitical profile of the region. The very next day the U.S. demanded that Pakistan stop terrorist operatives in its border areas or "be prepared to be bombed back to the Stone Age." n282 Pakistan made its decision "swiftly . . . [\*47] [and] agreed to all . . . demands," n283 also making available airbases and transit facilities for supplies for U.S. forces in Afghanistan. n284 However, Pakistan's military continued its special relations with the Taliban across the Durand Line in Afghanistan. When the U.S. launched its attack on Afghanistan, the Taliban "escaped in droves into Pakistan, where they melted into their fellow tribesmen in the FATA." n285 After the now infamous "battle of Tora Bora," n286 Pakistani authorities "looked the other way as foreign fighters crossed over to the Pakistani side and many in the ISI arranged safe passage[s]." n287 In collaboration with ISI, the borderlands became a "safe haven for the Taliban and other insurgent and terrorist elements." n288 FATA, long a sanctuary for fugitives from state law, n289 now became a sanctuary and staging ground for Afghan militants resisting the U.S.-led war effort in Afghanistan. n290

As Pakistan's active support of U.S. war efforts increased, Afghan militants made common cause with religious militants among the Pashtun tribes of FATA. n291 Pakistan's military, designed for conventional warfare on its eastern border with India, was "ill-prepared to tackle this new kind of . . . conflict that slipped across its western border." n292 As a result, Pakistan vacillated between military operations against the militants and peace deals with them. n293 In the meantime, militants started to extend their area of influence beyond FATA, the "buffer to a buffer," into [\*48] NWFP and beyond. n294 In the midst of all this, Pakistan stood firm that the Durand Line be recognized and respected as an international border, while its military considered Afghanistan "within Pakistan's security perimeter." n295 On the other hand, Afghanistan continued to reject the Durand Line because "it has raised a wall between the two brothers." n296

This story of the Durand Line is a more than century-long saga of predatory colonialism, postcolonial insecurities, and incessant conflict. This is a tale of colonial cartography bequeathed to a postcolonial formation, bringing in its wake bitter fruits of oppression, violence, and war. This leads to the broader questions of the challenges colonial borders present to postcolonial states and the role of international law.

IV. COLONIAL BORDERS AND POSTCOLONIAL INSECURITIES

Every established order tends to produce . . . the naturalization of its own arbitrariness. n297

A. Inherited Borders and Postcolonial State-nations

Forged on the anvil of modern European history and enshrined in modern international law, modern statehood and sovereignty are deemed the preserve of differentiated "nations" existing within exclusive and defined territories. While "the struggle to produce citizens out of recalcitrant people accounts for much of what passes for history in modern times," n298 the prototype of the "nation-state" combines a singular national [\*49] identity with state sovereignty, understood as the territorial organization of unshared political authority. "The territoriality of the nation-state" seeks to "impose supreme epistemic control in creating the citizen-subject out of the individual." n299 "Inventing boundaries" n300 and "imagining communities" n301 work together "to naturalize the fiction of citizenship." n302 Modem international law underscores this schema. It extends recognition only to the national form, with acceptance attached to the ability to hold territory in tune with "Western patterns of political organization." n303 As a result, the "nation-state" is the dominant model of organized sovereignty today. This spatially bounded construct, one that frames both the geography of actualizing self-determination and the order of the resulting political unit, put in circulation a "territorialist epistemology." n304 Postcolonial formations had to subscribe to this Eurocentric grammar of state-formation to secure eligibility in the inter-state legal order. n305 This statist frame precludes imaginative flowerings of self-determination in tune with the interests and aspirations of diverse communities both within and beyond received colonial boundaries.

Across the global South, colonial demarcations of zones of control and influence left in their wake political units lacking correspondence between [\*50] their territorial frame and the cohesion of culture and political identity. n306 The colonial demarcations, with little regard for the history, culture, or geography of the region, often split cultural units or placed divergent cultural identities within a common boundary. n307 As a consequence, the crisis of the postcolonial state stems from its artificial boundaries and the specter of the colonial still haunt the postcolonial nation. n308 The "retrospective illusion" n309 of nationalism remains "suspended forever in the space between the ex-colony and not-yet-nation." n310 Decolonization movements and postcolonial states adopted and retained the construct [\*51] of a territorially bound "nation-state" even as they attempted to imagine the "nation" at variance from its European iterations. n311 Imprisoned in inherited colonial territorial cartographies, postcolonial formations inverted this grammar to produce state-nations. While conventional understanding assumes a preexisting nation that subsequently forms a state, post-colonial formations start with a territorial state that aims to constitute a homogenized nation.

Building state-nations generates conflicts about minorities, ethnicities, ethno-nationalism, separatism, and sub-state nationalism. "[T]he nation dreads dissent" n312 and "the nation-state's limits implicate its geographic peripheries as central to its self-fashioning." n313 In the process, a co-constitutive role of "nation and ethnicity" develops as a "productive and dialectical dyad." n314 It is by the construction of ethnicity as a "problem" that the "nation" becomes the resolution and the state incarnates itself as the authoritative problem solver. In this way often "the very micropolitics of producing the nation are responsible for its unmaking or unraveling." n315 Incessant rhetoric of endangerment and discursive production of threats to the nation render "nation-building" a coercive enterprise and facilitate the overdevelopment of the coercive apparatuses of the state. n316 While inherited boundaries represent the postcolonial state-nation's "geo-body," n317 cultural and ethnic heterogeneity within induces "geopiety." n318 It is no surprise, then, that most postcolonial states have as their raison d'etre the production, maintenance, and reproduction of the discourses and apparatuses of national security. n319 The career of Pakistan as [\*52] a postcolonial state circumscribed within an inherited territorial frame substantiates this political grammar.

Fig 3. Major Ethno-Linguistic Groups of Pakistan in relation to international boundaries of the region n320

Pakistan, hailed as "the triumph of ideology over geography," n321 is literally caught and exists between lines drawn by colonial powers--the Durand Line (1893) in the northwest, the Goldsmid Line (1872) to the west, the Radcliffe Line (1947) in the east, and the MacMahon Line (1904) to the north. n322 For good measure, in the northeast, a Line of Control, [\*53] "a sequence of ellipses" "[d]rawn and redrawn by battles and treaties . . . identifiable by traces of blood, bullets, watchtowers, and ghost settlements left from recurring wars," n323 provisionally divides Kashmir into areas held by India and Pakistan. n324 The "state-building" and "nation-building" saga that unfolded between these lines since 1947 has produced what is variously characterized as the "viceregal system," n325 the "overdeveloped state," n326 the "hyper-extended state," n327 and the "praetorian" state. n328 In efforts to constitute a state-nation, coercion always outweighed persuasion in claims of domination, in tune with a political grammar set in place by colonial rule. n329 The project of "conjuring Pakistan," n330 that would envelop ethnic, linguistic, and cultural differences within inherited borders, necessitated deployment of "security as hegemony." n331 Festering territorial disputes with neighboring states furnished the primary justification for the military to consume a disproportionate [\*54] share of resources and to play a leading ideological and political role. n332 Denial of representation, suppression of federalism, and destruction of alterity are the hallmarks of the state since its inception. As successor to the colonial "garrison state" in the Punjab, a Punjab-centered military-bureaucracy oligarchy retains a dominant position in the ruling bloc. n333 Denial of equal citizenship to the people of the provinces of Balochistan, East Bengal, NWFP, and Sind--even when they constituted the majority of the population--remains a defining feature of the state. Dissent and resistance were squelched by unbridled state violence, including repeated military actions--the most infamous being the one in 1971 that prompted the eastern wing of Pakistan to break off and establish a separate state of Bangladesh. n334 Phases of coups d'etat, martial laws, abrogation of constitutions, and declarations of emergency rule constitute the "constitutional" history of the country. A docile judiciary serially deployed doctrines of "state necessity," "revolutionary legality," "constitutional deviation," and de facto power to furnish legitimacy to repressive orders. n335

In building a postcolonial state-nation, the FATA, the colonial "buffer to a buffer," retained its special status--approximating spaces of exception as invoked by Giorgio Agamben. n336 Today, FATA is "a Massachusetts-sized [\*55] wedge between Afghanistan and NWFP of Pakistan," with a population of about 4 million, "virtually all of whom are Pashtuns." n337 Since 1901, this zone has been governed by a unique colonial-era administrative and judicial order--an indirect rule that combines modern technologies of power with instrumental use of customary norms and traditional power structures. n338 The colonial design aimed to govern through selected tribal notables who would be loyal to the British in exchange for fixed monetary allowances. No taxes would be levied on the tribes, who would be left alone to manage their internal affairs through the customary Pakhtunwali code in their tribal jirgas, which has been characterized as "probably the closest thing to Athenian democracy that has existed since the original." n339 However, any matter that implicated the security [\*56] interests of colonial authorities was to be handled by a parallel system--a hybrid construct that retains the name jirga, but empties it of any semblance to "Athenian democracy" to make room for a process and a set of sanctions designed for harsh control and violent discipline to facilitate external domination. n340 This system took the shape of the Frontier Crimes Regulation ("FCR"), originally formulated in 1858, and amended in 1872 and 1901, turning FATA into a constitutional and legal anomaly. n341 Decolonization did not bring any change. Since 1947, FATA is formally a part of Pakistan. n342 However FCR remains entrenched, and sets the FATA tribes apart from and unequal to other citizens of the country. n343

To enable this state and space of exception, Pakistan's constitution reposes all executive and legislative authority for FATA in the President of Pakistan, who is given the authority to exercise his powers regarding FATA "as he may deem necessary." n344 Parliamentary enactments do not apply to FATA, unless the President so directs. n345 FATA is placed outside the jurisdiction of the Supreme Court and High Courts that otherwise have extensive powers to guarantee fundamental rights. n346 The Supreme [\*57] Court has recognized these "special provisions" for the area "so that their inhabitants are governed by laws and customs with which they are familiar and which suit their genius." n347

The FATA itself stands divided into 7 administrative units styled "agencies." An evocatively titled "Political Agent" ("PA"), appointed in each agency by the federal government and backed by a para-military militia, is the locus of Pakistan's authority. Besides exercising extensive executive, judicial, and revenue powers, the PA is also each agency's development administrator. n348 He is assisted by maliks, paid intermediaries from among tribal elders, who are appointed and removed at his discretion. n349 Maintenance of order and suppression of crime are deemed the PA's primary responsibilities. n350 The PA is authorized to dispose of any civil or criminal matter at his discretion. n351 The PA may decide the matter himself, or refer it to a tribal jirga, consisting of tribal maliks chosen by the PA. The PA initiates cases, appoints the jirga, presides over trials, and the final decision is subject to his discretion. n352 The jirga is supposed to decide the matter under FCR, supplemented by customary tribal norms. n353 The PA retains the discretion to sentence the accused as determined by the jirga, refer the matter back to the jirga, or appoint a new jirga. n354 The determinations of the PA are not subject to review by any court of law. n355 The process is that of an inquiry rather than presentation [\*58] of evidence and cross examination. Assistance of counsel is prohibited. n356

Draconian sanctions under the FCR, executed at the discretion of the PA, include: detention and imprisonment to prevent crime or sedition; requiring "a person to execute a bond for good behavior or for keeping the peace;" expulsion from the agency of "dangerous fanatics" and those involved in blood feuds; removal or prevention of settlements close to the border; demolition of buildings used for "criminal purposes;" collective punishment of fines and blockade; and the "right to cause the death of a person" on suspicion of intent to use arms to evade arrest. n357 The federal agency charged with overseeing FATA considers FCR an "effective 'iron-hand'" whose withdrawal would create an "administrative vacuum." n358

In 1962, under a design of limited franchise, an electoral college of 35,000 tribal maliks, appointed by the PA, selected representatives to the national parliament. n359 In 1996, direct election of representatives was introduced, though "politics and political parties are curse words in official circles." n360 Because the law prohibits political parties from extending their activities in FATA, only "non-party/independent" representatives can be elected. This makes for a unique political anomaly: FATA residents elect representatives to a legislature whose legislation does not extend to FATA. FATA also suffers from abysmal levels of poverty, illiteracy, and lack of health care. n361 Analysts find FATA "a virtual prison for public-spirited and reform-minded individuals. Dissenting voices are quickly dubbed anti-state and silenced by imprisonment." n362 State functionaries, however, claim that the system in place for over a hundred years "suits the genius of the people and has stood the test of time." n363 It is more appropriate to characterize FATA as a zone where bodies and [\*59] spaces are placed on the other side of universality, a "moral and legal no man's land, where universality finds its spatial limits." n364

FATA, admittedly an extreme case, is symptomatic of the problem of reconciling territorial straitjackets with the principle of self-determination. n365 For the territorial state, self-determination has always been a concept "loaded with dynamite." n366 In postcolonial formations, its explosive potential increases. The primary problem is not how to determine identities and desires of a people eligible for self-determination; n367 the problem, rather, is how to reconcile realization of this right with existing territorial configurations. The unresolved questions surrounding the Durand Line, FATA, and Pashtun political identity persist because their resolution is sought within a territorial "nation-state." Nesiah terms the imprisonment of postcolonial polities within modern territorial constructs of statehood "failures of the imagination." n368 A major hurdle in breaking free of this imprisonment is international law itself.

B. International Law and the Territorial Straitjacket

For many a postcolonial "contrived state" n369 the crisis of identity and security "lies in its 'artificiality."' n370 International law enforces the territorially-bound grammar of the "nation-state" upon postcolonial formations plagued by cartographicc anxiety inscribed into [their] very genetic code," n371 through the doctrine of uti possidetis. Based on a maxim of Roman law, the doctrine of uti possidetis ita possidetis (as you possess, so you possess), treats the acquisition and possession of a state's territory as given, with no territorial adjustments allowable without the consent of the currently occupying parties. n372 Applied to international [\*60] borders, it favors actual possession irrespective of how it was achieved, assumes that valid title belongs to current possessor, and does not seek to differentiate between the de facto and de jure possession. n373 By recognizing legitimate title to de facto territorial holdings, it becomes an instrument to maintain the status quo and impedes imaginative resolutions of territorial conflicts.

The doctrine of uti possidetis was formulated in connection with colonialism in Latin America in the early nineteenth century when Spanish colonies agreed to apply the principle both in their frontier disputes with each other and in those with Brazil. n374 During the decolonization era of the twentieth century, this norm was extended to the withdrawal of colonial powers from Asia and Africa. n375 The principle mandated that "new States . . . come to independence with the same borders that they had when they were administrative units within the territory or territories of one colonial power." n376 This froze colonial boundaries and presented a challenge to postcolonial formations to imagine and manage a "nation" and "national identity" in the heterogeneity contained within inherited boundaries. n377 In some instances, particularly in Africa, this attempt failed completely and ended in genocide and/or fracturing of the state. n378

[\*61] The ICJ n379 and international tribunals n380 were quick to put their imprimatur on the doctrine of uti possidetis and its application to postcolonial states. The ICJ has designated it "a general principle, which is logically connected with the phenomenon of [] obtaining [] independence, wherever it occurs." n381 The ICJ went on to state that "[i]ts obvious purpose is to prevent the independence and stability of new States being endangered by fratricidal struggles provoked by the challenging of frontiers following the withdrawal of the administering power." n382 The bottom line is that through "application of the principle of uti possidetis," colonial "administrative boundaries" are "upgraded" and "transformed into international frontiers in the full sense of the term." n383

The ICJ acknowledged that by giving fixity and legitimacy to colonial boundaries, the principle uti possidetis "at first sight . . . conflicts outright with another one, the right of peoples to self-determination." n384 In [\*62] the face of this dilemma, the ICJ fell back on pragmatism to claim that "maintenance of the territorial status quo" is essential to "preserve what has been achieved by peoples who have struggled for their independence." n385 The Court sought support for this claim with a gesture toward the practice of post-colonial states:

[t]he essential requirement of stability in order to survive, to develop and gradually to consolidate their independence in all fields, has induced African States judiciously to consent to the respecting of colonial frontiers, and to take account of it in the interpretation of the principle of self-determination. n386

Here Nesiah rightly sees a "double bind" infecting the Court as it is committed to decolonization but "[t]erritorial integrity emerges here as a statist spatial representation intelligible to international law, and posited as indispensable to the self-determination of the postcolony." n387

As the saga of the Durand Line shows, colonial frontiers, boundaries, and borders fluctuated over time. This raises the question of the exact territorial bounds of postcolonial states. The ICJ injected an unequivocal temporal cut-off in this historically ambivalent temporal and spatial issue, by holding that:

[U]ti possidetis--applies to the new State (as a State) not with retroactive effect, but immediately and from that moment onwards. It applies to the State as it is, i.e., to the photograph of the territorial situation then existing. The principle of uti posidetis freezes the territorial title; it stops the clock but does not put back the hands. n388

As fashioned by the ICJ:

[\*63] the critical date as a legal concept posits that there is a certain moment at which the rights of the parties crystallize, so that acts after that date cannot alter the legal position. It is a moment which is more decisive than any other for the purpose of the formulation of the rights of the parties in question. n389

This freeze-framing of boundaries on the date of decolonization by one definitive gesture renders the issue of the history of these boundaries moot. The rationale appears to be that "freezing the carved-up territory in the format it exhibited at the moment of independence" n390 will deter territorial disputes among post-colonial states. Pervasive postcolonial territorial and self-determination conflicts, however, reveal that such a mandated spatial fixity and temporal clarity of boundaries does not keep these conflicts in check. n391 Uti posidetis combined with critical date as a legal concept trumps conflicting post-colonial assertion and exercise of effective authority as grounds for sovereign title under the doctrine of effectivites. n392 Post-colonial effectivities has significance only if colonial practice fails to furnish definitive demarcation and thus trigger application of uti posseditis. n393

The concern with order has been central to modern international law. n394 Decolonization, coming on the heels of two World Wars, raised the specter [\*64] of disorder. As a result, the norm of self-determination gave way to the caveat of order. n395 Order trumped self-determination, deemed a concept "loaded with dynamite," n396 and the transition from colonialism to postcoloniality proceeded with the basic requirement that external boundaries remain in place. Managers of postcolonial formations were equally quick to subscribe to the doctrine, and international bodies like the United Nations were quick to give their imprimatur. The same 1960 UN resolution that affirmed that "[a]ll peoples have the right of self-determination," also declared that "[a]ny attempt aimed at the partial or total disruption of the national unity and territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations." n397 As a way out of this contradiction, the United Nations contemplates the possibility of non-state modes of actualizing self-determination, by holding that "[t]he establishment of a sovereign and independent State, the free association or integration with an independent State or the emergence into any other political status freely determined by a people constitutes modes of implementing the right of self-determination." n398 This contradiction points to the Janus-faced nature of the right of self-determination in a system of states with fixed and inviolable territorial bounds. The right has a "justifying, stabilizing, conserving effect and it has a criticizing, subversive, revolutionizing one." n399 International law and the practice of states have been content with the justifying, stabilizing, and conserving effect. n400

This bias in favor of existing states is augmented by a doctrinal lacuna, with profound political implications, that remains at the heart of the uti possidetis doctrine as reformulated by modem international law and endorsed by the ICJ. In jus civil, rightful title via de facto possession could only be acquired by a prescriptive claim of usucapio established in good [\*65] faith. n401 Furthermore, in Roman law, uti possidetis is deemed an interim measure in contested vindication proceedings to determine title. n402 A critical restrictive qualifier, nec vi, nec clam, nec precario (without force, without secrecy, without permission), limits the scope of the doctrine. Possession would ripen into good title only if possession did not run afoul of the limitations. Modern international law conveniently elides this critical limitation, perhaps because given the colonial modes of acquisition of territory, colonial boundaries run afoul of it. n403 This gloss over the spatial history of colonialism, now bequeathed to post-colonial formations, by treating de facto control as rightful title is a foundational reworking of the original construct. n404

#### The impact is massive structural violence as a majority of the globe is reduced to bare life---the war on terror represents an extension of necropolitical impulse of colonialism---investigating the historical constitution of war via asymmetrical power relations is necessary to solve endless violence

Heike Harting 6, prof at University of Montreal, Global Civil War and Post-colonial Studies, globalautonomy.ca/global1/servlet/Xml2pdf?fn=RA\_Harting\_GlobalCivilWar

¶ The Necropolitics of Global Civil War¶ As with other civil wars, global civil war affects society as a whole. It "tends," as Hardt and Negri argue, "towards the absolute" (2004, 18) in that it polices civil society through elaborate security and surveillance systems, negates the rule of law, militarizes quotidian space, diminishes civil rights to the degree in which it increases torture, illegal incarceration, disappearances, and emergency regulations, and fosters a culture of fear, intolerance, and violent discrimination. Hardt and Negri, therefore, rightly argue that war itself has become "a permanent social relation" and thereby the "primary organizing principle of society, and politics merely one of its means or guises" (ibid., 12). What Hardt and Negri suggest is new about today's global civil war is its biopolitical agenda. "War," they write, "has become a regime of biopower, that is, a form of rule aimed not only at controlling the population but producing and reproducing all aspects of social life" (ibid., 13). For example, the biopolitics of war entails the production of particular economic and cultural subjectivities, "creating new hearts and minds through the construction of new circuits of communication, new forms of social collaboration, and new modes of interaction" (ibid., 81). The ambiguity of Hardt and Negri's notion of biopower subtly resides in their adaptation of the language of social and political revolution, for it seems to be the regime of biopower, rather than the multitude, that absorbs and transvalues the revolutionary, that is, anti-colonial, spirit inscribed in the rhetoric of "new hearts and minds." At the same time, they argue, that a biopolitical definition of war "changes war's entire legal framework" (ibid., 21-22), for "whereas war previously was regulated through legal structures, war has become regulating by constructing and imposing its own legal framework" (ibid. 22). If none of this, at least in my mind, is marked by a particular originality of thought, then this may have to do with Hardt and Negri's reluctance to address the historical continuities between earlier wars of decolonization and contemporary global wars, the legacies of imperialism, and the imperative of race in orchestrating imperial, neo-colonial, and today's global civil wars. ¶ In fact, while biopolitical global warfare might be a new phenomenon on the sovereign territory of the United States of America, specifically after 11 September 2001, it is hardly news to "people in the former colonies, who," as Crystal Bartolovich points out, "have long lived ???at the 'crossroads' of global forces" (2000, 136), violence, and wars. For example, in Sri Lanka global civil war has been a permanent, everyday reality since the country's Sinhala Only Movement in 1956, and become manifest in the normalization of racialized violence as a means of politics since President Jayawardene's election campaign for a referendum in 1982, which led to the state-endorsed anti-Tamil pogrom in 1983. Similarly, according to Achille Mbembe, biopolitical warfare was intrinsic to the European imperial project in "Africa," where "war machines emerged" as early as "the last quarter of the twentieth century" (2003, 33). In other words, although Hardt and Negri argue convincingly that it is the ubiquity of global war that restructures social relationships on the global and local level, their concept tends to dehistoricize different genealogies and effects of global civil war. Indeed, not only do Hardt and Negri refrain from reading wars of decolonization as central to the construction of what David Harvey sees as the uneven "spatial exchange relations" (2003, 31) necessary for the expansion of capital accumulation and of which global war is an intrinsic feature, but they also dissociate global civil wars from the nation-state's still thriving ability to implement and exercise rigorous regimes of violence and surveillance. As for the term's epistemological formation, global civil war has been sanitized and no longer evokes the conventional association of civil war with "insurrection and resistance" (Agamben 2005, 2). Instead, it has become the effect of a diffuse new sovereignty (i.e., Hardt and Negri's Empire), a sovereignty that no longer decides over but has itself become a disembodied, that is, denationalized and normalized, state of exception. Yet, to talk about the disembodiment of global war not only reinforces media-supported ideologies of high-tech precision wars without casualties, but it also represses narratives about the ways in which the modi operandi of global war come to be embodied differently in different sites of war.¶ In her short story "Man Without a Mask" (1995), the Sri Lankan writer Jean Arasanayagam describes the global dimensions of a war that is usually considered an ethnic civil war restricted to internally competing claims to territorial, cultural, and national sovereignty between the country's Sinhalese and Tamil population. Told by an elite mercenary who clandestinely works for the ruling members of the government and leads a group of highly trained assassins, the story follows the thoughts of its narrator and contemplates the politicization of violence and death. As a mercenary and possibly an ex-SAS (British Special Air Service) veteran the Sri Lankan Government hired after the failure of the Indo-Lankan Accord, the narrator signifies the "privatization of [Sri Lanka's] war" (Tambiah 1996, 6) and, thus, the reign of a global free market economy through which the state hands over its institutions and services to private corporations, including its army, and profits from the unrestricted global and illegal trade in war technologies. Like a craftsman, the mercenary finds satisfaction in the precision and methodical cleanliness of his work, in being, as he says, "a hunter. Not a predator" in his ability to leave "morality" out of "this business" (Arasanayagam 1995, 98). He is an extreme and perverted version of what Martin Shaw describes as the " 'soldier-scholar,'???the archetype of the new [global] officer" (1999, 60). As a self-proclaimed "scholar or scribe" (ibid., 100), the mercenary plots maps of death. Shortly before he reaches his victim, a politician who underestimated the political ambition of his enemy, he comments that bullet holes in a human body comprise a new kind of language: "The machine gun splutters. The body is pitted, pricked out with an indecipherable message. They are the braille marks of the new fictions. People are still so slow to comprehend their meaning" (ibid., 100). These new maps or fictions of global war, I suggest, describe what Etienne Balibar calls ultra-objective and ultra-subjective violence and characterize how global civil war both generates bare life and manages and instrumentalizes death.¶ According to Balibar, ultra-objective violence suggests the systematic "naturalization of asymmetrical relations of power" (2001, 27) brought about, for instance, by the Sri Lankan government's prolonged abuse of the Prevention of Terrorism Act, which, in the past plunged the country into a permanent state of emergency, facilitated the random arrest of and almost absolute rule over citizens, and thus created a culture of fear and a reversal of moral and social values. As the story clarifies, under conditions of systematic or ultra-objective violence, "corruption" becomes "virtue" and "the most vile" man wears the mask of the sage and "innocent householder" (Arasanayagam 1995, 102). In this milieu, the mercenary has no need for a mask, because he bears a face of ordinary violence that is "perfectly safe" (ibid., 102) in a society structured by habitual and systemic violence. But the logic of the "new fictions" of political violence is also ultra-subjective because it is "intentional" and has a "determinate goal" (Balibar 2001, 25), namely the making and elimination of what Balibar calls "disposable people" in order to generate and maintain a profitable global economy of violence. The logic of ultra-subjective violence presents itself through the fictions of ethnicity and identity as they are advanced and instrumentalized in the name of national sovereignty. The mercenary perfectly symbolizes what Balibar means when he writes that "we have entered a world of the banality of objective cruelty" (ibid.). For if the fictions of global violence are scratched into the tortured bodies of war victims, the mercenary's detached behavior dramatizes a "will to 'de-corporation'," that is, to force disaffiliation from the other and from oneself ??? not just from belonging to the community and the political unity, but from the human condition" (ibid.). In other words, while global civil war becomes embodied in those whom it negates as social beings and thereby reduces to mere "flesh," it remains a disembodied enterprise for those who manage and orchestrate the politics of death of global war. It is through the dialectics of the embodiment and disembodiment of global violence that the dehumanization of the majority of the globe's population takes on a normative and naturalized state of existence.¶ Arasanayagam's short story also casts light on the limitations of Hardt and Negri's understanding of the biopolitics of global civil war, for the latter can account neither for the new fictions of violence in former colonial spaces nor for what Mbembe calls the "necropolitics" (2003, 11) of late modernity. Mbembe's term refers to his analysis of global warfare as the continuation of earlier and the development of new "forms of subjugation of life to the power of death" and its attendant reconfiguration of the "the relationship between resistance, sacrifice, and terror" (2003, 39). 4 Despite the many theoretical intersections of Hardt and Negri's and Mbembe's work, Mbembe's notion of necropolitics sees contemporary warfare as a species of such earlier "topographies of cruelty" (2003, 40) as the plantation system and the colony. Thus, in contrast to Hardt and Negri, Mbembe argues that the ways in which global violence and warfare produce subjectivities cannot be dissociated from the ways in which race serves as a means of both deciding over life and death and of legitimizing and making killing without impunity a customary practice of imperial population control. If global civil war is a continuation of imperial forms of warfare, it must rely on strategies of embodiment, that is, of politicizing and racializing the colonized or now "disposable" body for purposes of self-legitimization, specifically when taking decisions over the value of human life. After all, on a global level, race propels the ideological dynamics of ethnic and global civil war, while, on the local plane, it serves to orchestrate the brutalization and polarization of the domestic population, reinforcing and enacting patterns of racist exclusion and violence on the non-white body. In contrast to Hardt and Negri, then, Mbembe invites us to articulate imperial genealogies for the necropolitics of today's global civil wars.¶ In other words, if imperialism was a form of perpetual low-intensity global war, the biopolitics of imperialism aimed at creating different forms of subjectivization. For example, while in India, the imperial administration sought to create a functional class of native informants, in Africa and the Caribbean, the British Empire created the figure of homo sacer. The latter, as Agamben argues, refers to the one who can be killed but not sacrificed. Homo sacer, Agamben clarifies, constitutes "the originary exception in which human life is included in the political order in being exposed to an unconditional capacity to be killed" (1998, 85). Thus, the native is included in the imperial order only through her exclusion, while, simultaneously her humanity is stripped of social life and transformed into bare life, ready to be commodified on slavery's auction blocs and foreclosed from the dominant imperial psyche. Agamben's understanding of bare life derives from his reading of the Nazi death camps as the paradigmatic space of modernity in which the distinction between "fact and law" (ibid., 171), "outside and inside, exception and rule, licit and illicit" (ibid., 170) dissolves and in which biopolitics takes the place of politics and "homo sacer" replaces the "citizen" (ibid., 171). While the notion of bare life is instrumental for theorizing biopolitics and the normalization and legalization of state violence under the pretense of, for example, protective arrests and preemptive strikes, it also suggests that the human body can be read as pure matter or in empirical terms. What goes unnoticed is to what extent the production of bare life depends on ideologies of race, that is, on the racialization of bodies, citizenship, and the concept of the human. For instance, under imperial rule, bare life is subjected to death and its politics in ways slightly different from those suggested by Agamben. More specifically, the killing of natives or slaves as bare life ??? then and today, as Rwanda's race-based genocide clarifies ??? not only configures human life in terms of its "capacity to be killed" (Agamben 1998, 114), that is as homicide and genocide outside of law and accountability, but also measures the value of human life on grounds of race. The making of bare life is a racialized and racializing process rooted within the necropolitics of colonialism. For, killing the native or slave presupposes the remaking of the human into bare life both through ideologies of pseudo-scientific racism and by subjecting them to what Orlando Patterson calls the "social death" (1982, 38) of the slave, that is, to a symbolic death of the human as a communal and social being that precedes physical death. 5 Thus, imperialism's necropolitics involves the making of disposable lives through practices of zombification and the "redefinition of death" itself (Agamben 1998, 161). In this sense, imperialism not only facilitated the extreme forms of racialized violence characteristic of global civil war, but it also helped create the conditions for making bare life the acceptable state of being for the present majority of the globe's population.¶ Not unlike Jean Arasanayagam's short story, Mbembe's account of the Rwandan genocide and the Palestinian intifada suggests that the new global subjectivities are not so much the networked multitude Hardt and Negri imagine. Rather, emerging from the "new fictions" of global war, they are the suicide bomber, the mercenary, the martyr, the child soldier, the victim of mass rape, the refugee, the woman dispossessed of her family and livelihood, the mutilated civilian, and the skeleton of the disappeared and murdered victims of global civil war. What these subjectivities witness is that, on one hand, living under conditions of global civil war means to live in "permanent???pain" (Mbembe 2003, 39) and, on the other hand, they refer back to the dialectical mechanisms of colonial violence. For under the Manichaean pressures of colonialism, colonial violence always inaugurates a double process of subjection and subject formation. Frantz Fanon famously argues that anti-colonial violence operates historically on both collective and individual subject formation. For, on the one hand, "the native discovers reality [colonial alienation] and transforms it into the pattern of this customs, into the practice of violence and into his plan for freedom" (1963, 58), and on the other, a violent "war of liberation" instills in the individual a sense of "a collective history" (ibid., 93). Thus, as Robert Young suggests, anti-colonial violence "functions as a kind of psychotherapy of the oppressed" (2001, 295). Yet, it seems that read through the necropolitics of imperialism, global civil warfare no longer aims at the "pacification" of the colonial subject or the "degradation" of the "postcolonial subject" (ibid., 293) but, as I suggested earlier, at the complete abolishment of the human per se. We may therefore say that if global civil war produces new subjectivities, it does so through, what I have referred to as a process of zombification. Understood as sustained acts of negation, zombification ??? a term that harks back to Fanon ??? refers to a dialectical process of the embodiment and disembodiment of global war. The former refers to the exercise of ultra-objective violence ??? that is, the systematic "naturalization of asymmetrical relations of power" (Balibar 2001, 27) ??? in order to regulate, racialize, and extinguish human life at will, while the latter suggests the production of narratives of "de-corporation" (ibid., 25) and detachment by those who manage and administrate global civil war. The notion of zombification, however, connotes not only the exercise of, but also the exorcism of, the ways in which global war is scripted on and through the racialized body. Thus, a post-colonial understanding of global war needs to think through the necropolitics of war, including the uneven value historically and presently assigned to human life and the politicization of death. The latter issue will be addressed in the last section of this paper. The next section examines the cultural production and perpetuation of normative narratives of global warfare.¶ The Rhetoric of the Archaic and Michael Ondaatje's "Anil's Ghost"¶ Published shortly after Sri Lanka's civil war became entangled with the global politics of the South and the rise of the Sri Lankan nation-state to one of the war's principal and most corrupt actors, Ondaatje's novel Anil's Ghost dramatizes both the transformation of the country's civil war into a permanent state of exception and the failure of global non-governmental organizations (NGOs) to intervene in the war's rising human rights abuses and violent excesses. While the novel presents an extraordinary search for social justice through narrative and seeks to understand the operative modes of violence beyond their historical and social configurations, it also tends to sublimate and aestheticize violence by treating it as a normative element of human and, indeed, planetary life. My purpose here is to indicate that the novel's own project of dramatizing the complicity between religious and secular, anti-colonial and nationalist agents of war, and civilians and global actors (i.e., NGOs) remains compromised by the novel's aesthetic investment in a particular rhetoric of the archaic. The latter, I argue, unwittingly coincides with normative narratives of global war and facilitates the reader's detachment from the ways in which the Global North has reconstructed global life as a permanent state of exception.¶ Ondaatje's novel (2000) opens with an Author's Note that locates the narrative at a time when "the antigovernment insurgents in the south and the separatist guerrillas in the north???had declared war on the government" and "legal and illegal government squads were???sent out to hunt down" both groups. In this instance, the Hobbesian rhetoric of a "war of all against all" is more than a clich??. In fact, it is symptomatic of the novel's ambiguous critique of the role of the Sri Lankan nation-state and its elaborate, modernist discourse of violence. The Note foreshadows what the narrator later repeats on several occasions, namely that Sri Lanka's war is a war fought "for the purpose of war" (ibid., 98) and for which "[t]here is no hope of affixing blame" (ibid., 17). In short, the "reason for war was war" (ibid., 43). At first glance, the narrative's emphasis on the war's self-perpetuating dynamics implies a Hobbesian understanding of violence as the natural state of human existence. At the same time, it translates the actual politics of Sri Lanka's war into the Deleuzean idiom of the "war machine." For, according to Deleuze and Guattari, armed conflict functions outside the control and accountability of the "state apparatus???prior to its laws" (1987, 352), and beyond its initial causes. Although such an interpretation of Sri Lanka's war reflects what the political scientist Jayadeva Uyangoda calls the "intractability of the Sri Lankan crisis" (1999, 158), its political and ethical stakes outweigh its gains. 6¶ To begin with, the novel's leitmotif of "perpetual war" situates Sri Lanka's conflict within a general context of global war, because, as the narrator reports, it is fought with "modern weaponry," supported by "backers on the sidelines in safe countries," and "sponsored by gun-and drug-runners" (Ondaajte 2000, 43). In this scenario, the rule of law has deteriorated into "a belief in???revenge" (ibid., 56), and the state is either absent or part of the country's all-consuming anarchy of violence. This absence suggests that the state no longer functions, in Max Weber's famous words, as "a human community that (successfully) claims the monopoly of the legitimate use of physical force within a given territory" (2002, 13). It is of course possible to argue that the novel's critique of the Sri Lankan nation-state lies in its absence. It seems to me, however, that the narrative's tendency to locate the dynamics of Sri Lanka's war outside the state and within a post-national vision of a new global order generates a normative narrative of global war. On the one hand, it resonates with the popular ??? though misleading ??? notion that the "appearance of 'failed states'," as Samuel Huntington argues in his controversial study The Clash of Civilizations, intensifies "tribal, ethnic, and religious conflict" and thus "contributes to [the] image of a world in anarchy" (1996, 35). On the other, situating Sri Lanka's war outside the institutions of the state re-inscribes a Hobbesian notion of violence that helps legitimize and cultivate structural violence as a permissive way of conducting politics. Such a reading of violence, however, overlooks that in a global context violence has become "profoundly anti-Hobbesian" (Balibar 2001, xi). Balibar usefully suggests that the twentieth century history of extreme violence has made it impossible to regard violence as "a structural condition that precedes institutions." Instead, he maintains, "we have had to accept???that extreme violence is not post-historical but actually post-institutional." It "arises from institutions as much as it arises against them" (ibid., xi). Thus, in such popular post-colonial narratives of war as Anil's Ghost, the normalization of violence figures as a forgetting of the institutional entrenchment and historical use of violence as a state-sanctioned political practice.¶ If Ondaatje's novel presents Sri Lanka's war as an "inherently violent" event (Das 1998), it is also an event narrated through the symbolism and logic of archaic primitivism. For example, in the novel's central passage on the nature of human violence, the narrator observes, "The most precisely recorded moments of history lay adjacent to the extreme actions of nature or civilisation ???Tectonic slips and brutal human violence provided random time-capsules of unhistorical lives???A dog in Pompeii. A gardener in Hiroshima" (Ondaatje 2002, 55). The symbolic leveling of the arbitrariness of primordial chaos and the apparently ahistorical anarchism of violence create a rhetoric of the archaic that is characteristic, as Nancy argues, of "anything that is properly to be called war" (2000, 128). He convincingly argues that archaic symbolism "indicates that [war] escapes from being part of 'history' understood as the progress of a linear/or cumulative time" and can be rearticulated as no more than a "regrettable" remnant of an earlier age (ibid., 128). In that, Nancy's observation coincides with Hardt and Negri's that the "war on terror" employs a medievalist rhetoric of just and unjust wars that moralizes rather than legitimizes the use of global violence by putting it outside the realm of reason and critique. In Nancy's observation, however, two things are at stake. First, what initially appears to be a postmodern critique of the grand narratives of history in fact demonstrates that a non-linear account of history may lend itself to the transformation of extreme violence into exceptional events. In this way violence is normalized as a transhistorical category that fails to address the unequal political and economic relations of power, which lie at the heart of global wars.¶ Second, Nancy rightly warns us against treating war as an archaic relic that is "tendentiously effaced in the progress and project of a global humanity" (2000, 128). For not only does war return in the process of negotiating sovereignty on a global and local plane, but the representation of war in terms of archaic images also repeats a primordialist explanation of what are structurally new wars. As theorists such as Appadurai and Kaldor have argued, the primordialist hypothesis of global wars merely reinforces those mass mediated images of global violence that dramatize ethnic wars as pre-modern, tribalist forms of strife. Huntington's notion of civilization or "fault-line" wars as communal conflicts born out of the break-up of earlier political formations, demographic changes, and the collision of mutually exclusive religions and civilizations presents the most prominent and politically influential version of a primordialist and bipolar conceptualization of global war. In contrast to Huntington's approach, however, the narrative of Anil's Ghost contends that all forms of violence "have come into their comparison" (Ondaatje 2000, 203). Notwithstanding its universalizing impetus, the novel thus insists on the impossibility to think the nation and a new global order outside the technologies of violence and modernity. Indeed, in the novel's narrative it is the suffering of all war victims that "has come into their comparison" and suggests that the new wars breed a culture of violence that shapes everyone's life yet for which no one appears to be accountable. On the one hand, then, the novel's self-critical humanitarian project seeks to initiate a communal and individual process of mourning by naming, and therefore accounting for, in Anil's words, "the unhistorical dead" (ibid, 56). On the other hand, read as its critical investment in the war's politics of complicity, the novel's humanitarian endeavor is countered by the narrator's tendency to articulate violence in archaic and anarchistic terms. For, to revert to the symbolic language of "primitivism and anarchy" and "to treat [the new wars] as natural disasters," as Kaldor observes (2001, 113), designates a common way of dealing with them. Thus the rhetoric of the archaic not merely dehistoricizes violence but contributes to the making of a normative and popular imaginary through which to make global wars thinkable and comprehensible. Thus, their violent excesses appear to be rooted in primordialist constructions of the failed post-colonial nation-state rather than a phenomenon with deep-seated roots in the global histories of the present. Such a normative imaginary of global war is produced for the Global North so as to dehistoricize its own position in the various colonial processes of nation formation and global economic restructuring of the Global South. In this way, as Ondaatje's novel equally demonstrates, the Global North can detach itself from the Global South and create the kind of historical and cultural distance needed to accept ultra-objective violence as a normative state of existence.¶ Conceptualizing war as a phenomenon of criminal and anarchistic violence, however, may do more than merely conform to the popular imagination about the chaotic and untamable nature of contemporary warfare. Indeed, anarchistic notions of violence tend to compress the grand narratives and petite recits of history into a total, singular present of perpetual uncertainty, fear, and political confusion and generate what the post-colonial anthropologist David Scott sees as Sri Lanka's "dehistoricized" history. Given the important role the claiming of ancient Sinhalese and Hindu history played in the violent identity politics that drive Sri Lanka's war, Scott suggests that devaluing or dehistoricizing history as a founding category of Sri Lanka's narrative of the nation breaks the presumably "natural???link between past identities and the legitimacy of present political claims" (1999, 103). This strategy seems useful because it uncouples Sri Lanka's colonially shaped and glorified Sinhalese past from its present claims to political power. We need to note, however, that, according to Scott, dehistoricizing the past does not suggest writing from a historical vacuum. Rather, it refers to a process of denaturalizing and, thus, de-legitimizing the normative narratives of ethnicized and racialized narratives of national identity.¶ Anil's Ghost engages in this process of "dehistoricizing" by foregrounding the fictitious and fragmented, the elusive and ephemeral character of history. Indeed, as the historian Antoinette Burton suggests, the novel offers "a reflection on the continued possibility of History itself as an exclusively western epistemological form" (2003, 40). The latter clearly finds expression in what Sarath's brother, Gamini, condemns as "the last two hundred years of Western political writing" (Ondaatje 2000, 285). Steeped in the imperial project of the West, such writing is facilitated by and serves to erase the figure of the non-European cultural Other in order to produce and maintain what Jacques Derrida famously called the "white mythology" (1982, 207) of Western metaphysics. The novel usefully extends its reading of violence into a related critique of knowledge production, so that the latter becomes legible as being complicit in the production of perpetual violence and war. This critique is perhaps most articulated through the character of Palipana, Sarath's teacher and Sri Lanka's formerly renowned but now fallen anthropologist. Once an agent of Sri Lanka's anti-colonial liberation movement, Palipana represents the generation of cultural nationalist who sought history and national identity in an essentially Sinhalese culture and natural environment. Rather than employing empirical and colonial methods of knowledge production and historiography, Palipana had left the path of scientific objectivity, tinkered with translations of historical texts, and "approached runes???with the pragmatic awareness of locally inherited skills" (Ondaatje 2000, 82) until "the unprovable truth emerged" (ibid., 83). Now, years after his fall from scientific grace, Palipana lives the life of an ascetic, following the "strict principles of" a "sixth-century sect of monks" (ibid., 84). To him, history and nature have become one, for "all history was filled with sunlight, every hollow was filled with rain" (ibid., 84). Yet, Ondaatje's construction of Palipana and his account of the eye-painting ritual of a Buddha statue ??? a ritual that assumes a central place in the novel's cosmopolitan vision of artisanship as a practice of cultural and religious syncretism in the service of post-conflict community building ??? are themselves built on a number of historical texts listed in the novel's "Acknowledgment" section. As Antoinette Burton astutely observes, "the orientalism of some of the texts on Ondaatje's list is astonishing, a phenomenon which suggests the ongoing suppleness of 'history' as an instrument of political critique and ideological intervention" (2003, 50). Rather than effectively "dehistorizing" the character of Palipana, then, Ondaatje bases this character and the eye-painting ceremony on a central Sri Lankan modernist text, Ananada K. Coomaraswamy's Mediaeval Sinhalese Art (1908/1956).¶ Cont ¶ For Hardt and Negri, then, the state of exception functions as the universal condition and legitimization of global civil war, while positioning the United States as a global power, which transforms war "into the primary organizing principle of society" (2004, 12). They rightly observe that the state of exception blurs the boundaries between peace and war, violence and mediation. Yet, curiously enough, Hardt and Negri's understanding of the state of exception largely emphasizes the concept's regulatory and pragmatic politics, so that the United States emerges as a sovereign power on grounds of its ability to decide on the state of exception. By exempting itself from international law and courts of law, protecting its military from being subjected to international control, allowing preemptive strikes, and engaging in torture and illegal detention (ibid., 8), the United States instrumentalizes and maintains war as a state of exception in the name of global security and thus seeks to consolidate its hegemonic role within Empire. Although Hardt and Negri openly disagree with Agamben's reading of the state of exception as defining "power itself as a 'monopoly of violence' " (2004, 364), it seems to me that Agamben's theory of the state of exception, as put forward in Homo Sacer rather than in States of Exception, might be usefully read alongside Hardt and Negri's crucial claim that global civil war as well as resistance movements depend on the "production of subjectivity" through immaterial labour (2000, 66). What this argument overlooks is that, according to Agamben, the state of exception constitutes an abject space or "a zone of indistinction between outside and inside, exclusion and inclusion" (1998, 181), where subjectivity enters a political and legal order solely on grounds of its exclusion. Moreover, the sovereign ??? albeit a nation, sovereign power, or global network of power ??? can only transform the rule of law into the force of law by suspending the legal system from a position that is simultaneously inside and outside the law. Through these mechanisms of exclusion and contradiction, subjectivity is not so much created as it is deprived of its social and political relationships. Thus the "originary activity" of global civil war is the violent conflation of political and social relationship and thereby the "production of bare life" (ibid., 83), of life that need not be accounted for, as is the case with the civilian casualties of the US-led war against Iraq. The state of exception, however, also figures as a prominent concept in post-colonial theory, for it raises questions not only about the ways in which we configure the human but also how we understand imperial or global war. ¶ In 1940, Benjamin famously wrote, "the tradition of the oppressed teaches us that the 'state of emergency' in which we live is not the exception but the rule. We must attain to a conception of history that is in keeping with this insight" (1968, 257). Benjamin's statement, as Homi Bhabha reminds us half a century later in his essay "Interrogating Identity," can be usefully advanced for a critical analysis of the dialectical ??? if not revolutionary ??? relationship between oppression, violence, and anti-colonial historiography. Indeed, "the state of emergency," as Bhabha says, "is also always a state of emergence" (1994, 41). Read in the context of today's global state of exception, namely the recurrence and intensification of ethnic civil wars across the globe and the coincidence of democratic and totalitarian forms of political rule, Bhabha's statement entails a number of risks and suggestions for a post-colonial historiography of global civil war.¶ First, Bhabha's notion of emergency/emergence reflects his critical reading of Fanon's vision of national identity and thus reconsiders the state of emergency as a possible site of "the occult instability where the people dwell" (Fanon 1963, 227) and give birth to popular movements of national liberation. In this context, the state of exception might be understood as both constitutive to the alienation that is intrinsic to liberation movements and instrumental for a radical euphoria and excessive hope that create and spectralize the post-colonial nation-state as a deferred promise of decolonization. It is through this perspective that we can critically evaluate Hardt and Negri's endorsement of what they call "democratic violence" (2004, 344). This kind of violence, they argue, belongs to the multitude. It is neither creative nor revolutionary but used on political rather than moral grounds. When organized horizontally, according to democratic principles of decision making, democratic violence serves as a means of defending "the accomplishments" of "political and social transformation" (ibid., 344). Notwithstanding the concept's romantic and utopian inflections, democratic violence also derives from Hardt and Negri's earlier argument that "the great wars of liberation are (or should be) oriented ultimately toward a 'war against war,' that is, an active effort to destroy the regime of violence that perpetuates our state of war and supports the systems of inequality and oppression." This, they conclude, is "a condition necessary for realizing the democracy of the multitude" (ibid., 67). In one quick stroke, Hardt and Negri move anti-colonial liberation wars into their post-national paradigm of Empire and divest them of their cultural and historical particularities. Moreover, translating explicitly national liberation movements into a universalizing narrative of global pacifism precludes a critique of violence within its particular historical and philosophical formation. In contrast, a post-colonial analysis of global war must tease out the intersections between the ways in which racialized violence constitutes colonial and post-colonial processes of nation formation and helps construct an absolute enemy through which to legitimize global war and to abdicate responsibility for the dehumanizing effects of global economic restructuring.¶ Second, while Bhabha's pun is symptomatic of the resisting properties that he sees as operative in the various practices of colonial ambiguity, it also, despite Benjamin's opinion, draws attention to the possibility that oppression alters the linear flow of Western history and challenges "the transparency of social reality, as a pre-given image of human knowledge" (Bhabha 1994, 41). Here, Bhabha rightfully asks to what extent do states of emergency or acts of extreme violence constitute a historical rupture and, more importantly, call into question the nature of the human subject. It is at this point that a post-colonial reading of the state of exception fruitfully coincides with Agamben's notion of exception. For in both cases, the focus of inquiry is the construction of disposable life through the logic of necropower and the collapse of social and political relationships that enable the exercise of particularly racialized forms of violence, including torture and disappearances.¶ Third, Bhabha's notion of the double movement of emergency and emergence envisions an anti-colonialist historiography in terms of a dialectical process of perpetual transformation. It is at this point, however, that the coupling of emergency or exception and emergence becomes problematic for at least two reasons. First, combining both terms prematurely translates the violence of the political event into that of metaphor and risks erasing the micro- or quotidian narratives of violence ??? such as Arasanayagam's account of war ??? that both legitimate and are perpetuated by political and social states of emergency. In order to examine the relationship between global and communal forms of violence, a critical practice of post-colonial studies, I suggest, must reassess the term "transformation" and, concurrently, the assumption that acts of extreme global violence can be advanced in the service of "making history" (Balibar 2001, 26). In other words, if, as Hannah Arendt argues, there has been a historical "reluctance to deal with violence as a separate phenomenon in its own right" (2002, 25), it is time to examine the possibility of employing post-colonial studies in the service of a non-dialectical critique of global war. This kind of critique must ask to what extent those on whose bodies extreme violence was exercised are a priori excluded from articulating any transformative theory of violence. How, in other words, does bare life ??? if at all possible ??? attain the status of subjectivity within the dehumanizing logic of exception or global civil war?¶ Fourth, like Bhabha, we need to take seriously Benjamin's insight into the intrinsic relationship between violence and the conceptualization of history. Notwithstanding Bhabha's pivotal argument that the violence of a "unitary notion of history" generates a "unitary," and therefore extremely violent, "concept of man" (1994, 42), I wish to caution, alongside Benjamin's analysis of fascism, that what enables today's global civil war is that even "its opponents treat it as a historical norm" (Benjamin 1968, 257). What is at stake, then, in dominant as well as critical narratives of global civil war is their representation as natural rather than political phenomena, and the acceptance of globalization as a political fait accompli. Both of these aspects, I believe, contribute to the proliferation of dehistoricized concepts of the global increase of racialized violence and war. It seems to me, however, that the enormous rise of violence inflicted by global civil wars requires a post-colonial historiography and critique of global war that questions notions of history based on cultural fragmentation, rupture, and totalization. Instead, such a historiography must seek out patterns of connection and connectivity. But more importantly, as I have argued in this paper, it must trace the post-colonial moment of global civil war and begin to read contemporary war through the interconnected necropolitics of global and imperial warfare. Thus, to understand the logic and practice of global war we need to develop a greater understanding precisely of those civil wars and national liberation wars that do not appear to threaten the new global order. Furthermore, a post-colonial critique of global civil war should facilitate the decoding and rescripting of both the normalizing narratives and racialized embodiment of global civil warfare.¶

#### The discourse of legitimacy masks the violence of hegemony---the affirmative’s commitment to US leadership recreates gendered national identity that codes the US as a the masculine shepherd of the global-liberal architecture---turns the case because gendered security binaries are the root of executive overreach

John Landreau 11, associate professor of womenâs and gender studies at The College of New Jersey., Obamas My Dad: Mixed Race Suspects, Political Anxiety and the New Imperialism, www.thirdspace.ca/journal/article/viewArticle/landreau/408

Both during his campaign, and in his presidential inauguration speech, Barack Obama promised a "new beginning" in American foreign and national security policy (especially in relation to the Middle East) that would both keep us safe from enemies and "restore our moral standing" (Obama, Acceptance). In particular, this new beginning promised to distance U.S. foreign policy from the grim (and largely illegal) features of the Bush administration's "war on terror" such as the executive sanctioning of the torture of prisoners, the maintenance of a gulag of foreign detention centres where prisoners could be treated outside the guidelines of U.S. and international law, and illegal secret initiatives such as the program to assassinate Al-Qaeda operatives directed by Vice President Cheney (Mazzetti and Shane). In his first day in the White House, on January 22, 2009, Obama issued three executive orders that followed through on this promise.[2] In addition to these early executive orders, in the days and months following his election Obama showed great rhetorical sensitivity to the wide-spread negative perception in the Middle East of U.S. imperial behavior and designs, its uncritical support of Israel, and its disregard for civilian casualties and for the civil rights of prisoners. In an effort to reverse the tide of anti-American feeling, Obama's first post-inaugural interview was given to Hisham Melhem of Al Arabiya TV news (Interview). This was followed in April and May by major addresses in Ankara and Cairo whose primary intended audience was Middle Eastern and, more broadly, Islamic. Both of these speeches articulate a new rhetoric of hope for U.S.-Middle Eastern relations. In the speech to the Turkish parliament, for example, Obama declares:¶ I [...] want to be clear that America's relationship with the Muslim community, the Muslim world, cannot, and will not, just be based upon opposition to terrorism. We seek broader engagement based on mutual interest and mutual respect. We will listen carefully, we will bridge misunderstandings, and we will seek common ground. We will be respectful, even when we do not agree [...]. (para. 38)¶ Hope for a new era of U.S Middle East relations is here embodied by an attitude of respect, by a willingness to negotiate differences and find areas of mutual interest, and by an explicit criticism of the unilateral and monologic focus of the Bush administration on the 'war on terror'.¶ This apparent change in direction in national security and foreign policy seems to be characterized by an alternate version of presidential masculinity and by an alternate telling of the myth of American exceptionalism. Many have commented on the muscular character of George W. Bush's rhetoric of war and national security. Indeed, his policies in what he called the 'war on terror' depended almost exclusively on what Joseph Nye famously called "hard power", and were justified rhetorically by a conspicuously militarist and masculinist narrative about America's role in world history and politics.[3] In contrast to the "[...] stern projection of a tough national persona" (Ivie and Giner 288) in Bush's rhetoric and policies, Obama seems to articulate a gentler, more reasoned approach to national security and terrorism that includes the use of 'hard' military power but also depends importantly on 'soft' power in the form of diplomacy, international cooperation, and an emphasis on human rights, economic stability and political freedom. Ivie and Giner argue that the success of Obama's rhetorical appeal to 'soft' power during the 2008 presidential campaign was due to his ability to harness and resignify the deeply-resonant myth of American exceptionalism for a more democratic and community-minded projection of America's role in world affairs. In Obama's version of national security, they write:¶ A less tragic sense of order mandated a reduced sense of guilt and thereby decreased the need for redemption via the cult of killing. This expression of national mission in more democratic and practical terms indicated, at least "logologically," the possibility of aligning public culture with a more global and constructive perspective on matters of national security. It revealed the possibility of a founding myth reformed to relax the lethal grip of the Evil One on the conscience of a nation that might do more good in the world if it were burdened less by tragic guilt.[4] (296)¶ This conclusion requires a retrospective reassessment in the light of Obama's decision to escalate the war in Afghanistan. How do we reconcile Obama's seemingly dramatic shift from progressive presidential candidate who was proud to have opposed the war in Iraq from the beginning, and who abolished the use of torture and illegal detention in his first day in office, to the president who in December 2009 made the decision to pursue and significantly escalate military violence in Afghanistan? How do we reconcile Obama's seemingly contradictory use of both the soft rhetoric of hope and diplomacy and the hard rhetoric of fear and military violence in his national security statements and speeches?¶ In the analysis that follows I argue that while Obama at times articulates a softer version of foreign policy, and seems to perform a softer, more inclusive presidential masculinity in the area of global politics and terrorism, this does not fundamentally signify a different orientation to national security as some have argued. I emphasize how Obama's rhetoric and policies fall within the standard rhetorical oscillations that constitute the myth of American exceptionalism and presidential masculinity, and that those oscillations are principally and most significantly oriented by the more militarist and conventionally masculinist versions of the myth.¶ Presidential Masculinity in the Democratic Nomination Speech¶ Obama's speech at the Democratic National Convention in August 2008 marks the formal shift of his campaign focus from Democratic Party voters towards a national audience, and from his rivalry with Hillary Clinton to a campaign against John McCain. In terms of Obama's national security rhetoric, this is a fascinating moment because, in this new broader context, he makes an attitudinal shift to a more militarized and masculinized mode of speech. In fact, Obama's performance of soft masculinity on issues of national security during the primary campaign was an opportune product of the moment that did not reflect the principal orientation of his thinking.[5] This is quite clear in the nomination speech as he shifts his campaign towards a more conservative national audience, and directs his attention from a female rival to a male rival with military credentials.¶ Obama's first sentence about foreign policy in the nomination speech concerns his own stature and ability to lead American troops into battle, and to battle John McCain for the position of commander in chief. "If John McCain wants to have a debate about who has the temperament and judgment to serve as the next commander-in-chief, that's a debate I'm ready to have." (para. 79) What is most interesting about this lead-in to the topic of national security, terrorism, and foreign policy is that its main rhetorical function is to emphasize Obama's masculine capability. It does this by declaring his presidential mettle, but also through the performance of an 'I dare you' challenge to his political adversary. It seems to say, 'if you want to fight, then let's fight. Bring it on!'¶ Why does Obama begin this section of the speech with a flexing of muscle? In part, it has to do with the histrionics of presidential campaigns, and in this particular campaign with the anticipated challenge to Obama's military masculinity from John McCain, a candidate with a powerful story of military bravery and heroism to his credit. At the same time, the foregrounding of presidential masculinity in terms of the resolve and capacity to lead the armed forces into battle is nothing unusual. The most significant human protagonist in the narrative of American exceptionalism is almost always the figure of the president. This is especially true in times of danger, crisis or war. He is the commander in chief of the armed forces. To him goes the job of protecting the national family from outside threats and danger. To do this effectively, he must be brave, decisive and rational. He cannot afford to be feminized by being overly emotional or sympathetic to others; he cannot succumb to doubts, or become scared to act (Cohn, Cuordileone, Hopper, Lakoff, Sylvester, Tickner, Young). It is to this mythos that Obama's beginning performance of masculinity in the speech belongs. In the new context of a national audience, it stands out as a deeply-felt and vigorously articulated orientation towards national security.¶ After this initial show of male plumage, Obama continues the foreign policy section of the nomination speech by contrasting his youthful masculinity to McCain's elderly, bumbling masculinity.¶ For -- for while -- while Senator McCain was turning his sights to Iraq just days after 9/11, I stood up and opposed this war, knowing that it would distract us from the real threats that we face. When John McCain said we could just muddle through in Afghanistan, I argued for more resources and more troops to finish the fight against the terrorists who actually attacked us on 9/11, and made clear that we must take out Osama bin Laden and his lieutenants if we have them in our sights. (para. 80-81)¶ While McCain turns his sights away from the target, Obama stands up. While McCain muddles, Obama works to finish the fight and "take out" bin Laden if he's "in our sights." In the subtly crafted metaphor of aiming a gun at an enemy that organizes the passage, McCain appears as a distracted old soldier who aims at the wrong target and is generally confused. In contrast, vigorous and youthful, Obama stands up purposely, aims at the target, and fires. These metaphors all work to highlight the differences between McCain and Obama in terms of their embodiment of a properly militarized masculinity: which candidate can stand up, correctly identify the enemy, and fire the necessary shots to kill him.¶ Obama criticizes McCain for standing alone in "stubborn refusal" to recognize the realities of the conflict (that it is with al Qaeda in Pakistan and Afghanistan, not in Iraq), and therefore for lacking judgment. This lack of judgment is also narrated in terms of a contrast between a youthful and an aging masculinity: "We need a president who can face the threats of the future, not keep grasping at the ideas of the past." (para. 84) Obama declares. The contrast between a man who grasps at the past and one who "faces" the future is coded with messages about age and masculinity: youthful, confident stepping forward into the future versus old, unsteady back-stepping towards the past. At stake in this contrast is which strategy will "defeat" the enemy. "You don't defeat -- you don't defeat a terrorist network that operates in 80 countries by occupying Iraq", (para. 85) Obama argues. These are enemies who must be killed in order to protect the nation. To do this requires a commander-in-chief with masculine resolve and courage who can lead us into battle. This is not work for touchy-feely idealists who want to understand, communicate, and negotiate. And Republicans, Obama points out proudly, are not the only ones with the proper testicular size to lead the army into battle: "We are the party of Roosevelt. We are the party of Kennedy. So don't tell me that Democrats won't defend this country. Don't tell me that Democrats won't keep us safe." (para. 87) As in his opening statement, part of the effectiveness of these lines is their performance of a kind of "I'm up to the challenge masculinity" that talks tough, is aggressive with challengers ("don't tell me"), and does not back down. The rhetoric of American exceptionalism and presidential masculinity foregrounded here in the nomination clearly constitutes the dominant note of continuity in Obama's national security thinking. This is most evident in his two speeches from December 2009 in which he justifies his decision to escalate the war in Afghanistan as the following discussion will show.¶ Reasons for War: the December 1, 2009 Speech at West Point¶ Obama's December 2009 speech at West Point argues for the strategic necessity and ethical correctness of increased war effort in Afghanistan on the basis of history. The history begins with the 19 Al Qaeda operatives who committed the terrorist atrocities on 9/11 and moves quickly to focus on the Taliban who provided them with a secure base from which to operate. After 9/11, as Obama tells the story, we made great military inroads against the Taliban and Al Qaeda, but then mistakenly turned our attention to Iraq. This provided an opening for the Taliban, and for Al Qaeda, who are now coming back into Afghanistan from Pakistan. The Afghan government cannot fight them off and therefore, he says, summing it all up: "In short, the status quo is not sustainable" (para. 12). How does a rudimentary history like this serve as an explanation or justification for war? What is the mediating logic?¶ The over-simplification of contemporary U.S and Afghan history entailed in this schematic narrative is head-spinning.[6] But, even putting that aside, if one accepts the history at face value, it is still the case that our commitment to war is left unexplained and unjustified by the narrative. The history begins with 19 terrorists, and ends with the large-scale military action on the part of the United States. Should it not take a lot more than saying, 'well, the Taliban are gaining momentum and, remember, they are best friends with Al Qaeda' to justify the deployment of 100,000 U.S. troops, predator drones strikes all over northern Pakistan and eastern Afghanistan, full involvement of the CIA, major flows of capital and materiel, and huge contracts with private military contractors like XE Services (aka Blackwater)? Obama's historical narrative simply does not add up to a political argument for this kind of war, and for this kind of outlay of capital.¶ As a justification for war, it seems, rather, to be structured like a myth in the sense that Roland Barthes gave the word. Myth, according to Barthes, is paradoxically effective because, formally, it works like an alibi. It is an explanation based on an absence of evidence and meaning rather than its presence. In an alibi (the accused was absent not present at the scene) the meaning and the evidence are always elsewhere (121-127). Obama's narrative amounts to a mythological explanation for war in the sense that its significance lies not in the history itself but in the formal seriousness of a president telling a story to justify war. That is, its significance lies in the rhetorical gesture that serves to remind the audience of the president's authority as commander in chief and of his role to defend the nation from harm. By telling this story the president in effect quotes an array of motives, intentions, plot sequences and characters that are formally full even if their content in this instance is misleading or empty. To paraphrase Hayden White, in this case the content is the form. Here, the details of the story of the Taliban and Al Qaeda in Afghanistan are significant to the extent that they play a role in a larger narrative already familiar to the American audience: the Unites States stands for peace and prosperity, freedom and democracy but sometimes it is attacked by evil enemies whose irrational desire is to destroy all that is good. In that circumstance, the president must protect the national family through the use of military violence. War is the best and, in fact, the only way to make ourselves secure.¶ Following this schematic historical narrative with which he begins the West Point speech, Obama reassures the audience that his final decision to escalate the war was taken only after a serious and difficult deliberative process. This process, he says, "has allowed me to ask the hard questions, and to explore all the different options, along with my national security team, our military and civilian leadership in Afghanistan, and our key partners. And given the stakes involved, I owed the American people -- and our troops -- no less." (para. 13) The image of the president very seriously asking questions, exploring options, and consulting experts is one intended to produce a sense of citizen confidence both in the decision and in the decider (as George W. Bush famously called himself) again without revealing any of the details or particulars that constitute the decision. The rhetorical appeal here is essentially charismatic and depends on thick cultural associations with the president as benevolent paternal authority, and as rational but determined protector of the nation. The tone of the passage is that of a father reassuring his family that the big decision he has made today was made with great care, and with their communal welfare in mind.¶ Obama's stress on his careful deliberation process but not on the content of the deliberation is reminiscent of Iris Marion Young's emphasis on the "logic of masculinist protection" in national security thinking. This is a logic that connects the protective role of the father in the patriarchal family with the role of commander in chief. In both cases, she argues that one of the prices exacted by benevolent masculinist protection is that the protected woman/feminized citizen must concede "critical distance from decision-making autonomy." (120). In other words, if the fatherly president's allegiance to citizens and soldiers is expressed in the mindfulness with which he makes communal decisions of this magnitude, then it is equally true that our allegiance to the father-president is expressed in our acceptance of his authority and judgment to do what is best for us in these circumstances. The allegiance to the father quickly becomes the measure of our patriotism. As a rhetorical strategy, then, Obama's description of the seriousness of his decision-making process serves to legitimate his decision to escalate war through an appeal to an image of protective presidential masculinity. This appeal interpellates the audience in the role of a complicit, feminized citizenry that needs such fatherly protection.[7]¶ After the scant historical review, and a summary of where we are and why we are obliged to go to war, Obama devotes a good portion of the West Point speech to making a series of sequential points, statements of fact, and reasoned arguments. For example, he gives three specific goals for the Afghan intervention, and outlines how those goals will be achieved and how it will all be paid for. He also identifies three possible objections to the escalation and gives reasoned arguments for why these criticisms are incorrect. In sum, he says "As President, I refuse to set goals that go beyond our responsibility, our means, or our interests." (para. 37).As feminist International Relations scholars have argued, to talk about war in rationalist terms as Obama does here tends to divert attention from the cruelties of war, and to imagine the truth of war "abstracted from bodies" (Ruddick 132). (Ruddick 132). It becomes difficult, in this context, to focus on, or give weight to, the terrible details of war, and in particular to the death and destruction that modern wars exact mostly from civilians not soldiers.[8] As a rhetorical performance, the description of war in terms of rational sequences and formulas also tends to give authority to the rhetorician himself by distancing him from feminized forms of emotionality or care work (Cohn).¶ Obama ends his speech with the conclusion that presidential war speeches commonly have: an eloquent and solemn call to unity and patriotism. "Now, let me be clear: None of this will be easy. The struggle against violent extremism will not be finished quickly, and it extends well beyond Afghanistan and Pakistan. It will be an enduring test of our free society, and our leadership in the world." (para. 41) The logic of a bond between our free society and our leadership in the world is presupposed rather than described or explained. Like all heroes, the hero of the exceptionalist narrative faces a test. In this instance, he is us, and our essential quality of being a free society is linked to our dominance in the world.¶ Since the days of Franklin Roosevelt, and the service and sacrifice of our grandparents and great-grandparents, our country has borne a special burden in global affairs. We have spilled American blood in many countries on multiple continents.We have spent our revenue to help others rebuild from rubble and develop their own economies.We have joined with others to develop an architecture of institutions -- from the United Nations to NATO to the World Bank -- that provide for the common security and prosperity of human beings.¶ We have not always been thanked for these efforts, and we have at times made mistakes. But more than any other nation, the United States of America has underwritten global security for over six decades -- a time that, for all its problems, has seen walls come down, and markets open, and billions lifted from poverty, unparalleled scientific progress and advancing frontiers of human liberty.¶ For unlike the great powers of old, we have not sought world domination.Our union was founded in resistance to oppression. We do not seek to occupy other nations.We will not claim another nation's resources or target other peoples because their faith or ethnicity is different from ours.What we have fought for -- what we continue to fight for -- is a better future for our children and grandchildren. And we believe that their lives will be better if other peoples' children and grandchildren can live in freedom and access opportunity (para. 47-49).¶ Unlike other world powers, we are benevolent, seeking only that which will make the world a better place. We are, that is to say, a world power but not a world empire. Our history shows this: our military violence and our leadership have underwritten global security for over sixty years. Strangely, though, our fatherly sacrifice to protect the world from harm is sometimes misunderstood, and "we have not always been thanked for our efforts." Who are the unthankful and what is their story? In the standard-issue exceptionalist narrative, they are the enemies of freedom, the sowers of chaos, and the ideologically possessed. Obama certainly believes this. At the same time, the statement that "we have not always been thanked for our efforts" also expresses a deep anxiety about the details and the stories that are erased by the great father's version of history.¶ Making War, Talking Peace: The Nobel Peace Prize Speech¶ The Nobel Prize acceptance speech, given just nine days after Obama's announcement of the escalation of the war in Afghanistan, provides a fascinating expansion of the plot of "American as good vs. foreign as evil" that informs the narrative justification for war in the West Point speech. In this speech, Obama contextualizes both American exceptionalism in general, and his specific decision to expand the war in Afghanistan, in a sweeping historical narrative of global progress. "At the dawn of history," Obama declares, "war was routinely pursued between tribes and peoples quite simply as a way of 'seeking power and settling disputes." (para. 6) Later, as "man" progressed, legal and diplomatic efforts were made in an attempt to regulate war and the way it was pursued. Obama invokes just war theory citing it as one of the principle ways in which humans have tried to regulate and civilize war. In Obama's narrative, the United States is located at the upper end of this historical progression because it is the United States that has provided the leadership to produce the global "architecture" of peace in the form of the United Nations, support for human rights, nuclear arms reductions, and so on. Elaborating on the schematic history of the United States that appeared in the West Point speech, Obama says¶ The United States of America has helped underwrite global security for more than six decades with the blood of our citizens and the strength of our arms. The service and sacrifice of our men and women in uniform has promoted peace and prosperity from Germany to Korea, and enabled democracy to take hold in places like the Balkans.We have borne this burden not because we seek to impose our will.We have done so out of enlightened self-interest -- because we seek a better future for our children and grandchildren, and we believe that their lives will be better if others' children and grandchildren can live in freedom and prosperity (para. 18).¶ J. Ann Tickner argues that the idea of enlightened self interest corresponds to a masculinist model of international relations in which states are systematic and instrumental they are competitive "profit maximizers that pursue power and autonomy in an anarchic world system."(52) In this context, if international cooperation exists, it is explained not in terms of community or an interdependent notion of security and welfare, but rather in terms of rational choice and enlightened self-interest. Here, in Obama's version, we shoulder the burden of world peace and prosperity both heroically (with American blood and military power) but also as rational actors. We act not as an imperial power, but as a benign power exercising rational choices in a dangerous world in order to protect our interests. By virtue of the incantatory power of the exceptionalist narrative, our interests are identical with democratic values and the cause of economic justice.¶ The awkward context of the Nobel Prize speech both clarifies and complicates Obama's justification of war. While acknowledging the "moral force" of the theory of non-violence, he also argues that "evil does exist in the world" and that a realist assessment of the world "as it is" sometimes requires violence. This part of the speech is quite subtle, shuttling back and forth between the recognition that war is terrible and the insistence that it is sometimes necessary. The notion that war is sometimes just and sometimes necessary for building peace is modified throughout with an appeal to "responsibility" and to the rational, measured use of military violence. Obama argues that "all responsible nations must embrace the role that militaries with a clear mandate can play to keep the peace." (para. 26) The rationalist tone of responsibility and militaries with clear mandates is matched by Obama's framing of the philosophical question of war and peace as a matter of human imperfection. The ideals of peace are beautiful, but in the world as it is human beings are not perfect. They sometimes act unaccountably and irresponsibly. And sometimes they must be stopped from perpetrating evil.¶ At the end of the speech, Obama signals what for him is the chief human imperfection that is at the root of so much of the world's violence. He says,¶ As the world grows smaller, you might think it would be easier for human beings to recognize how similar we are; to understand that we're all basically seeking the same things; that we all hope for the chance to live out our lives with some measure of happiness and fulfillment for ourselves and our families. ¶ And yet somehow, given the dizzying pace of globalization, the cultural leveling of modernity, it perhaps comes as no surprise that people fear the loss of what they cherish in their particular identities -- their race, their tribe, and perhaps most powerfully their religion. In some places, this fear has led to conflict.At times, it even feels like we're moving backwards.We see it in the Middle East, as the conflict between Arabs and Jews seems to harden.We see it in nations that are torn asunder by tribal lines.¶ And most dangerously, we see it in the way that religion is used to justify the murder of innocents by those who have distorted and defiled the great religion of Islam, and who attacked my country from Afghanistan.T hese extremists are not the first to kill in the name of God; the cruelties of the Crusades are amply recorded. But they remind us that no Holy War can ever be a just war (para. 47-49).¶ In the context of globalization, what jams the machine is fear of loss of identity. This fear also gets in the way of our universal human aspirations for peace and prosperity. The most notable example of this kind of fear is, of course, the terrorism practiced by al Qaeda. This is a fear underwritten by megalomania: the idea that violence is mandated by God. What is striking about this passage is that it plots opposition to globalization as fear of change, almost as a kind of primitive or childish clinging to identity in a world whose universal characteristics are evident. But can this be the whole story? Can one explain the conflict between Israel and the Palestinians, as Obama appears to do here, as irrational fear of loss of identity? Is opposition to capitalist globalization American-style, and under the paternal arm of American power, always and everywhere a form of childishness or partial vision?¶ In his concluding comments, Obama quotes Martin Luther King's 1964 Nobel Prize acceptance speech in which he talks about the moral necessity of striving for what ought to be rather than accepting things as they are. This is an eloquent but highly impertinent frame for the speech. In his Nobel address, King soundly rejects those versions of history organized around notions of necessary violence. Accepting the prize on behalf of the entire civil rights movement, King says:¶ After contemplation, I conclude that this award which I receive on behalf of that movement is a profound recognition that nonviolence is the answer to the crucial political and moral question of our time - the need for man to overcome oppression and violence without resorting to violence and oppression. Civilization and violence are antithetical concepts. Negroes of the United States, following the people of India, have demonstrated that nonviolence is not sterile passivity, but a powerful moral force which makes for social transformation. Sooner or later all the people of the world will have to discover a way to live together in peace, and thereby transform this pending cosmic elegy into a creative psalm of brotherhood. If this is to be achieved, man must evolve for all human conflict a method which rejects revenge, aggression and retaliation. The foundation of such a method is love (para. 4).¶ King clearly rejects the idea that civilization sometimes requires violence, or that violence can sometimes be just or moral. Love, in King's terms, is antithetical to the discourse of innocence, guilt, power and violence that constitutes the narrative of American exceptionalism. Instead, King's ethic of love is consonant with Judith Butler's critique of violence:¶ The violent response is the one that does not ask, and does not seek to know. It wants to shore up what it knows, to expunge what threatens it with not-knowing, what forces it to reconsider the presuppositions of its world, their contingency, their malleability. The nonviolent response lives with its unknowingness about the Other in the face of the Other, since sustaining the bond that the question opens is finally more valuable than knowing in advance what holds us in common, as if we already have all the resources we need to know what defines the human, what its future life might be (35).¶ This is precisely what is wrong with the narrative of American exceptionalism, and with Obama's obligation to it. A story whose plot is organized entirely around the character of its hero does not seek to know. It is narcissistic. It shores up what it knows in fear of the Other, and in this gesture reconfirms that its view of the world is the truth. Obama seems oblivious to the contradictions in his assertion of American power as he struggles here to articulate the oxymoron of peace through war. In the end, what "makes sense" in his justification for war is the cultural and political sense that adheres to the image of embodied presidential masculinity, and to his military leadership performed in patriotic service to America's heroic global mission.¶ Conclusion¶ Obama's national security policies and rhetoric are, to be fair, significantly different in many ways than Bush's. Nonetheless, he steeps his rhetoric of hope for a new foreign policy in the old, familiar language of American exceptionalism. This illustrates how the political logic of a militarized and masculinized nation, presidency and citizenry has proved to be more enduring, significant and powerful than the strategy differences that have divided Democrats and Republicans over the last 60 years. It is important also because the cultural logic of American exceptionalism guaranteed by military power makes so many questions difficult to ask because the questions themselves seem absurd, effeminately nave, or simply out of rhetorical limits. These are unasked questions such as what violence was required to achieve our affluence and power? How can that violence be justified? Are there models for world peace, prosperity and freedom other than America's dominance and "leadership?" Does military power and violence produce security? What constitutes security? Is invulnerability a legitimate security goal? Is the authority of Commander-in-chief one that automatically adheres to the presidency at all times, or should the executive be more limited in its power as originally envisioned in the Constitution? Is citizenship best characterized in terms of a militarized and masculinized patriotism? Can terrorism be fought with large-scale military tactics?¶ Of course, it is impossible to know all the ins and outs of how Obama and his advisors reached the decision to escalate the war in Afghanistan. For those who voted for Obama over Clinton during the Democratic primary campaign because of his clear-spoken commitment to a different kind of foreign policy, the decision is disappointing to say the least. In the final analysis, when the decision was made, and its justification needed to be formulated into public rhetoric, what is clear is that the Obama administration felt at home in and oriented by - the old language of American exceptionalism. Familiar orientations, as Sara Ahmed argues, are an "effect of inhabitance." That is, their sense, their familiarity and their surety are products of their alignment with an already aligned world (7). My argument here is that the sense Obama makes of war is indebted to and made possible by - the familiarity and common-sense orientation of American exceptionalism. If the militarism and masculinism of his national security logic seem sensible or reassuring, it is because they are oriented in deeply familiar ways. The rhetoric of war and national security also works, of course, to recreate the familiar orientation from which it emerges. As Susan Jeffords argues, in the post-Vietnam context, heroic narratives about the war had the decisive (but indirectly manifested) effect of "remasculinizing American culture." This is why the work of disorientation that is proposed by feminist International Relations scholars and activists with its specific focus on the hidden injuries of gender in the familiar discourses of war and security is so important. It is also why it is so difficult.¶ I have argued that Obama's war logic is oriented by, and serves to reorient us towards, a national mythology grounded in narratives of glorified violence and masculinity. The difficulty of challenging and disorienting that prevailing narrative is eloquently described by Jorge Luis Borges in his story "The South." The story serves as an apt allegory of the mythology of American exceptionalism with its multiple commitments to masculinity and violence, and for the ways this mythology works to make military violence the seemingly inevitable and sensible locus where the national story is both resolved and reinvigorated. The main character in "The South" is named Juan Dahlmann. Dahlmann feels "deeply Argentine" despite the fact that his paternal grandfather was a northern European immigrant. Dahlmann's patriotic sense of identity involves, among other things, having purchased a little ranch in the south that had once been in his mother's family. Dahlmann lives in Buenos Aires, and for him the south has tremendous symbolic resonance as that place that retains the masculinist features of national mythology: the pampa, the gaucho, the singing bard, the tavern, the duel. Dahlmann dreams about the ranch and its old house, and takes comfort in imagining it waiting for him on the pampa, even though he never really gets a chance to actually go there. One day, Dahlmann is struck gravely ill with a terrible infection and is hospitalized with high fever. As is typical of so many of Borges' stories, it is impossible to tell if the subsequent narrated events are products of his hallucinatory state or are really happening to him. In any event, after some days of medical intervention, he is released and boards a train towards the south to convalesce at his ranch. He arrives, enters a tavern where he eats barbeque and drinks wine, and then is taunted by some young men who have been drinking too much. Although the bar owner tells him to pay them no mind, Dahlmann confronts them as any traditional male character in a gaucho story would be required to do. In seeming recognition of his decisive entrance into one of the enduring storylines of nationalist mythology (the knife fight between men at a watering hole on the pampa), the ancient gaucho in the corner of the bar who until now has remained motionless as if frozen in time, becomes "ecstatic" and throws him a dagger. The rest is preordained: Dahlmann will walk out of the tavern with a knife in his hand, he will fight bravely, and then die with the stranger's blade in his gut. It is, the narrator says, "as if the South had decided that Dahlmann should agree to the duel." (203) When he picks up the dagger, he feels two things: first, "that this almost instinctive act committed him to fighting" and, second, "that, in his clumsy hand, the weapon would not serve to defend him, but rather to justify their killing of him" (Borges, 203 translations mine).¶ For me, "The South" is a story about the masculinist mythology of national identity and violence. Intricate and contradictory is it dream or reality? the myth exercises its force both from within on Dahlmann's imagination and from without on his body. The logic of a militarized and masculinized rhetoric of national security, in concert with the economic logic of our military budget and the imperial logic of our global ambition, serves as our "south" leading us onward towards the use of large-scale military violence as if in a dream from which we cannot wake. We cannot hear the warnings of the barkeep who tries to tell us that we do not have to kill or be killed in this instance. Like Dahlmann, our politicians even the less bellicose among them when faced with security threats simply cannot imagine any alternative to masculinist bravado and the duel to the death.¶ "The South", then, is a cautionary tale. As long as presidents and politicians dare not challenge the role of the military budget as the primary organizing principle of our economy, and as long as the militarized and masculinized ideology of American exceptionalism remains the almost unitary language with which we speak of national security and foreign policy, there should be no surprise when ostensible doves from the Democratic Party such as Barack Obama pursue large-scale military campaigns in places like Afghanistan, and seem to do so as readily as their reputedly hawkish counterparts in the Republican Party. Alternate strategies to large-scale military violence require new story-lines of national identity and national security. We need to give ourselves a choice about whether taking up the knife is what the situation calls for. We need to ask questions about how we got into such a situation in the first place. We need to create alternatives to the logic that defines security as killing or being killed. Clearly, rhetoric plays a significant role in preparing these choices. But, as Obama's performance indicates, it is unlikely that our presidents and our politicians will do the rhetorical work necessary to disorient the prevailing exceptionalist narrative and reorient the debate towards the ethos of human security. It falls to us - citizens, activists and intellectuals - to turn our political rhetoric away from antagonisms that require violence towards the democratic task of contending with opponents with whom we share the world.

#### Democracy peace is primarily a project of consolidating Western ontology and identity---makes war inevitable because it divides the world into Manichean us/them dichotomies---makes our framework key and means all their solvency args are suspect

Kyle Grayson 3, Lecturer in International Politics in the School of Geography, Politics, and Sociology at Newcastle University UK, March 2003, “Democratic Peace Theory as Practice: (Re)Reading the Significance of Liberal Representations of War and Peace,” YCISS Working Paper Number 22, online: http://www.yorku.ca/yciss/publications/WP22-Grayson.pdf

As a result of this analysis, the answers to the questions of ‘for whom and for what purpose’ is democratic peace theory designed are now evident but not surprising. Democratic peace theory and its associated discourse is for the people of the US/West. Its purpose is to fix the American/Western national identity as civilized, peacefully inclined, and democratic with the non-West by definition being considered uncivilized, war-mongering, and authoritarian. Democratic peace theory also aids in the justification of the American/Western world-view which perceives both democracy and war in a particular fashion. In turn, these conceptions of democracy and war help to hide much of the sordid past and present of the international relations of western liberal democratic states. They help to justify the unjustifiable and to legitimate the illegitimate. Of utmost importance is the ontological basis of these international relations practices sanctioned by democratic peace theory and its associated discourse within the popular political realm. This is the focus of the following section which examines the existence of one of the empirical silences within democratic peace theory research and the consequences of ignoring these important events.

Democratic Peace Theory and the Ontology of War and Peace

In Violent Cartographies: Mapping Cultures of War, Michael Shapiro tries to examine “the ways that enmity-related global geographies and ethnoscapes emerge as collectivities, and how they try to achieve, stabilize, and reproduce their unity and coherence”. 4 3 Historically, the practice of war has emerged as one the most enduring methods to attempt to fix national identities and ontological foundations. Victory in war confirms all the positive subjective views of the ‘self’ while at the same time providing ‘proof’ of the subjectively perceived inferior nature of the ‘other’. Conversely, defeat not only leads to (geo)strategic losses, but also to a reappraisal of the national identity and deep questioning of the foundations that helped define national identity. The American defeat in the Vietnam War provides an excellent example of these identity/foundation casualties. Therefore, Shapiro argues that war is not just (geo)strategic, but is also about the confrontation between competing ontologies.

As mentioned earlier, democratic peace theory and its surrounding discourse views war as an activity waged by state actors in pursuit of (geo)strategic spoils (e.g., territory, resources, wealth), as well as an activity arising over disputes of ‘ownership’ of spoils and/or perceived violations of sovereignty. As John Vasquez has argued, “the situation that states in the modern global system are most likely to deal with by the use of force and violence is one in which their territory is threatened....territorial disputes provide the willingness to go to war”. 4 4 Democratic peace theorists believe that liberal democracies can peacefully manage these kinds of disputes amongst themselves; however, in circumstances of dispute between a liberal democracy and a non-liberal/democracy, war is seen as almost inevitable. Conventionally, this has been attributed to the inherently aggressive nature of the ‘authoritarian’ state, which prevents liberal democracies from trusting these states to adhere to peacefully negotiated settlements.

Yet, when democratic peace theory is viewed as a representational practice, war becomes inevitable between disputing liberal democratic states and non-liberal/democratic states not because of the aggressive nature of authoritarian regimes but because these situations are viewed as an opportunity for liberal democratic states to engage in a ‘civilizing’ mission and reaffirm their national identity and ontology by demonstrating their superiority in battle. This imperative becomes especially clear if we abandon the traditional view of war contained within democratic peace theory and look at democratic non-state/liberal democratic state disputes and the underlying ontological contestations that fuelled them. 4 5 Barkawi and Laffey have argued that currently “force is used in the service of defending and expanding economic and to a lesser extent political liberalism (in the guise of democracy) beyond the liberal capitalist core”. 4 6 From a historical perspective, the dispute between the Iroquois Six Nations and the Canadian government over the Grand River territory during the first decades of the twentieth century, provides an excellent example of the ontological impetus behind international relations practices and how warfare can also be directed towards the annihilation of culture.

#### The plan identifies the non-Western world as a space devoid of the rule of law---makes aggressive colonial and neoliberalism violence inevitable---their evidence is based on distorted representations

Ugo Mattei 9, Professor at Hastings College of the Law & University of Turin; and Marco de Morpurgo, M.Sc. Candidate, International University College of Turin, LL.M. Candidate, Harvard Law School, 2009, “GLOBAL LAW & PLUNDER: THE DARK SIDE OF THE RULE OF LAW,” online: <http://works.bepress.com/cgi/viewcontent.cgi?article=1014&context=bocconi_legal_papers>

Within this framework, Western law has constantly enjoyed a dominant position during the past centuries and today, thus being in the position to shape and bend the evolution of other legal systems worldwide. During the colonial era, continental-European powers have systematically exported their own legal systems to the colonized lands. During the past decades and today, the United States have been dominating the international arena as the most powerful economic power, exporting their own legal system to the ‘periphery’, both by itself and through a set of international institutions, behaving as a neo-colonialist within the ideology known as neoliberalism. ¶ Western countries identify themselves as law-abiding and civilized no matter what their actual history reveals. Such identification is acquired by false knowledge and false comparison with other peoples, those who were said to ‘lack’ the rule of law, such as China, Japan, India, and the Islamic world more generally. In a similar fashion today, according to some leading economists, Third World developing countries ‘lack’ the minimal institutional systems necessary for the unfolding of a market economy. ¶ The theory of ‘lack’ and the rhetoric of the rule of law have justified aggressive interventions from Western countries into non-Western ones. The policy of corporatization and open markets, supported today globally by the so-called Washington consensus3, was used by Western bankers and the business community in Latin America as the main vehicle to ‘open the veins’ of the continent—to borrow Eduardo Galeano’s metaphor4—with no solution of continuity between colonial and post-colonial times. Similar policy was used in Africa to facilitate the forced transfer of slaves to America, and today to facilitate the extraction of agricultural products, oil, minerals, ideas and cultural artefacts in the same countries. The policy of opening markets for free trade, used today in Afghanistan and Iraq, was used in China during the nineteenth century Opium War, in which free trade was interpreted as an obligation to buy drugs from British dealers. The policy of forcing local industries to compete on open markets was used by the British empire in Bengal, as it is today by the WTO in Asia, Africa, and Latin America. ¶ Foreign-imposed privatization laws that facilitate unconscionable bargains at the expense of the people have been vehicles of plunder, not of legality. In all these settings the tragic human suffering produced by such plunder is simply ignored. In this context law played a major role in legalizing such practices of powerful actors against the powerless.5 Yet, this use of power is scarcely explored in the study of Western law. ¶ The exportation of Western legal institutions from the West to the ‘rest’ has systematically been justified through the ideological use of the extremely politically strong and technically weak concept of ‘rule of law’. The notion of ‘rule of law’ is an extremely ambiguous one. Notwithstanding, within any public discussion its positive connotations have always been taken for granted. The dominant image of the rule of law is false both historically and in the present, because it does not fully acknowledge its dark side. The false representation starts from the idea that good law (which others ‘lack’) is autonomous, separate from society and its institutions, technical, non-political, non-distributive and reactive rather than proactive: more succinctly, a technological framework for an ‘efficient’ market. ¶ The rule of law has a bright and a dark side, with the latter progressively conquering new ground whenever the former is not empowered by a political soul. In the absence of such political life, the rule of law becomes a cold technology. Moreover, when large corporate actors dominate states (affected by a declining regulatory role), law becomes a product of the economy, and economy governs the law rather than being governed by it.

#### Our alternative is to refuse technical debates about war powers in favor of subjecting the 1ac’s discourse to rigorous democratic scrutiny

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

But this mode of popular involvement comes at a key cost. Secret information is generally treated as worthy of a higher status than information already present in the public realm—the shared collective information through which ordinary citizens reach conclusions about emergency and defense. Yet, oftentimes, as with the lead up to the Iraq War in 2003, although the actual content of this secret information is flawed,197 its status as secret masks these problems and allows policymakers to cloak their positions in added authority. This reality highlights the importance of approaching security information with far greater collective skepticism; it also means that security judgments may be more ‘Hobbesian’—marked fundamentally by epistemological uncertainty as opposed to verifiable fact—than policymakers admit.

If the objective sociological claims at the center of the modern security concept are themselves profoundly contested, what does this meahn for reform efforts that seek to recalibrate the relationship between liberty and security? Above all, it indicates that the central problem with the procedural solutions offered by constitutional scholars-emphasizing new statutory frameworks or greater judicial assertiveness-is that they mistake a question of politics for one of law. In other words, such scholars ignore the extent to which governing practices are the product of background political judgments about threat, democratic knowledge, professional expertise, and the necessity for insulated decision-making. To the extent that Americans are convinced that they face continuous danger from hidden and potentially limitless assailants-danger too complex for the average citizen to comprehend independently-it is inevitable that institutions (regardless of legal reform initiatives) will operate to centralize power in those hands presumed to enjoy military and security expertise. Thus, any systematic effort to challenge the current framing of the relationship between security and liberty must begin by challenging the underlying assumptions about knowledge and security upon which legal and political arrangements rest. Without a sustained and public debate about the validity of security expertise, its supporting institutions, and the broader legitimacy of secret information, there can be no substantive shift in our constitutional politics. The problem at present, however, is that it remains unclear which popular base exists in society to raise these questions. Unless such a base fully emerges, we can expect our prevailing security arrangements to become ever more entrenched.

## Case

## Solvency

### Court Ruling Fails

#### Court rulings are toothless---enforcement is delayed and merely result in legal limbo

Kim Lane Scheppele 12, Laurance S. Rockefeller Professor of Sociology and Public Affairs in the Woodrow Wilson School and University Center for Human Values; Director of the Program in Law and Public Affairs, Princeton University. THE NEW JUDICIAL DEFERENCE, 92 B.U.L. Rev. 89

In this Article, I will show that American courts have often approached the extreme policies of the anti-terrorism campaign by splitting the difference between the two sides - the government and suspected terrorists. One side typically got the ringing rhetoric (the suspected terrorists), and the other side got the facts on the ground (the government). In major decisions both designed to attract public attention and filled with inspiring language about the reach of the Constitution even in times of peril, the Supreme Court, along with some lower courts, has stood up to the government and laid down limits on anti-terror policy in a sequence of decisions about the detention and trial of suspected terrorists. But, at the same time, these decisions have provided few immediate remedies for those who have sought the courts' protection. As a result, suspected terrorists have repeatedly prevailed in their legal arguments, and yet even with these court victories, little changed in the situation that they went to court to challenge. The government continued to treat suspected terrorists almost as badly as it did before the suspected terrorists "won" their cases. And any change in terrorism suspects' conditions that did result from these victorious decisions was slow and often not directly attributable to the judicial victories they won.¶ Does this gap between suspected terrorists' legal gains and their unchanged fates exist because administration officials were flouting the decisions of the courts? The Bush Administration often responded with sound and fury and attempted to override the Supreme Court's decisions or to comply minimally with them when they had to. n6 But, as this Article will show, these decisions did not actually require the government to change its practices very quickly. The decisions usually required the government to change only its general practices in the medium term. Judges had a different framework for analyzing the petitioners' situation than the petitioners themselves did; judges generally couched their decisions in favor of the suspected terrorists as critiques of systems instead of as solutions for individuals. In doing so, however, courts allowed a disjuncture between rights and remedies for those who stood before them seeking a vindication of their claims. Suspected terrorists may have won [\*92] in these cases - and they prevailed overwhelmingly in their claims, especially at the Supreme Court - but courts looked metaphorically over the suspects' heads to address the policies that got these suspects into the situation where the Court found them. Whether those who brought the cases actually got to benefit from the judgments, either immediately or eventually, was another question.¶ Bad though the legal plight of suspected terrorists has been, one might well have expected it to be worse. Before 9/11, the dominant response of courts around the world during wars and other public emergencies was to engage in judicial deference. n7 Deference counseled courts to stay out of matters when governments argued that national security concerns were central. As a result, judges would generally indicate that they had no role to play once the bullets started flying or an emergency was declared. If individuals became collateral damage in wartime, there was generally no judicial recourse to address their harms while the war was going on. As the saying goes, inter arma silent leges: in war, the law is mute. After 9/11, however, and while the conflict occasioned by those attacks was still "hot," courts jumped right in, dealing governments one loss after another. n8 After 9/11, it appears that deference is dead.¶ [\*93] But, I will argue, deference is still alive and well. We are simply seeing a new sort of deference born out of the ashes of the familiar variety. While governments used to win national security cases by convincing the courts to decline any serious review of official conduct in wartime, now governments win first by losing these cases on principle and then by getting implicit permission to carry on the losing policy in concrete cases for a while longer, giving governments a victory in practice. n9 Suspected terrorists have received [\*94] from courts a vindication of the abstract principle that they have rights without also getting an order that the abusive practices that have directly affected them must be stopped immediately. Instead, governments are given time to change their policies while still holding suspected terrorists in legal limbo. As a result, despite winning their legal arguments, suspected terrorists lose the practical battle to change their daily lives.¶ Courts may appear to be bold in these cases because they tell governments to craft new policies to deal with terrorism. But because the new policies then have to be tested to see whether they meet the new criteria courts have laid down, the final approval may take years, during which time suspected terrorists may still be generally subjected to the treatment that courts have said was impermissible. Because judicial review of anti-terrorism policies itself drags out the time during which suspected terrorists may be detained, suspected terrorists win legal victories that take a very long time to result in change that they can discern. As a result, governments win the policy on the ground until court challenges have run their course and the courts make decisions that contribute to the time that the litigation takes. This is the new face of judicial deference.¶ This Article will explore why and how American courts have produced so many decisions in which suspected terrorists appear to win victories in national security cases. As we will see, many judges have handled the challenges that terrorism poses for law after 9/11 by giving firm support, at least in theory, to both separation of powers and constitutional rights. Judges have been very active in limiting what the government can do, requiring substantial adjustments of anti-terrorism policy and vindicating the claims of those who have been the targets. But the solutions that judges have crafted - often bold, ambitious, and brave solutions - nonetheless fail to address the plights of the specific individuals who brought the cases.¶ This new form of judicial deference has created a slow-motion brake on the race into a constitutional abyss. But these decisions give the government leeway to tackle urgent threats without having to change course right away with respect to the treatment of particular individuals. New deference, then, is a mixed bag. It creates the appearance of doing something - an appearance not entirely false in the long run - while doing far less in the present to bring counter-terrorism policy back under the constraint of constitutionalism.

#### Lower courts won’t enforce the plan

Ku and Yoo 6 **-** Associate Professor of Law, Hofstra University School of Law; Visiting Associate Professor of Law, William & Mary Marshall-Wythe School of Law AND Professor of Law, University of California at Berkeley School of Law (Boalt Hall); Visiting Scholar, American Enterprise Institute (Julian and John, 23 Const. Commentary 179, “HAMDAN v. RUMSFELD: THE FUNCTIONAL CASE FOR FOREIGN AFFAIRS DEFERENCE TO THE EXECUTIVE BRANCH” lexis)

Courts are also highly decentralized. With 94 district courts and 667 judges, differing interpretations of ambiguous foreign affairs laws could result in broad conflicts between different judicial districts. Although the appellate process can eventually unify inconsistent interpretations, the process is notoriously slow and limited. The Supreme Court itself hears about 70-85 cases a year compared to the estimated 325,000 appeals that are filed from district court decisions annually. As a result, the system is poorly designed for achieving a speedy and unified interpretation of an ambiguous statute, treaty, or rule of customary international law. Such inflexibility surely advances the goals of a domestic legal system in uniformity, predictability, and stability in the interpretation and application of federal law. For these reasons, deference [201] doctrines do not require judicial abdication to the executive branch. Rather, they typically allow the courts to make the initial judgment about the proper meaning of a statute or treaty. Where such statutes or treaties are ambiguous or broadly phrased, however, a continued resort to a rigid, slow, inflexible and decentralized decisionmaking process based upon limited information is hard to justify. This is not to say that courts could not interpret ambiguous statutes if necessary. Rather, the central question is, from a comparative institutional perspective, whether there is reason to think that courts would be equal or superior to other branches of government in resolving ambiguities in laws designed to achieve national foreign policies.

## Legitimacy

### Drones Alt Cause

#### No solvency---drones/rendition shift

Robert Chesney 11, Charles I. Francis Professor in Law, University of Texas School of Law, “ARTICLE: WHO MAY BE HELD? MILITARY DETENTION THROUGH THE HABEAS LENS”, Boston College Law Review, 52 B.C. L. Rev 769, Lexis

The convergence thesis describes one manner in which law might respond to the cross-cutting pressures associated with the asymmetric warfare phenomenon—i.e., the pressure to reduce false positives (targeting, capture, or detention of the wrong individual) while also ensuring an adequate capacity to neutralize the non-state actors in question. One must bear in mind, however, that detention itself is not the only system of government action that can satisfy that latter interest. Other options exist, including the use of lethal force; the use of rendition to place individuals in detention at the hands of some other state; the use of persuasion to induce some other state to take custody of an individual through its own means; and perhaps also the use of various forms of surveillance to establish a sort of constructive, loose control over a person (though for persons located outside the United States it is unlikely that surveillance could be much more than episodic, and thus any resulting element of “control” may be quite weak).210¶ From the point of view of the individual involved, all but the last of these options are likely to be far worse experiences than U.S.-administered detention. In addition, all but the last are also likely to be far less useful for purposes of intelligence-gathering from the point of view of the U.S. government.211 Nonetheless, these alternatives may grow attractive to the government in circumstances where the detention alternative becomes unduly restricted, yet the pressure for intervention remains. The situation is rather like squeezing a balloon: the result is not to shrink the balloon, but instead to displace the pressure from one side to another, causing the balloon to distend along the unconstrained side. So too here: when one of these coercive powers becomes constrained in new, more restrictive ways, the displaced pressure to incapacitate may simply find expression through one of the alternative mechanisms. On this view it is no surprise that lethal drone strikes have increased dramatically over the past two years, that the Obama administration has refused to foreswear rendition, that in Iraq we have largely (though not entirely) outsourced our detention operations to the Iraqis, and that we now are progressing along the same path in Afghanistan.212¶ Decisions regarding the calibration of a detention system—the¶ management of the convergence process, if you will—thus take place in the shadow of this balloon-squeezing phenomenon. A thorough policy review would take this into account, as should any formal lawmaking process. For the moment, however, our formal law-making process is not directed at the detention-scope question. Instead, clarification and development with respect to the substantive grounds for detention takes place through the lens of habeas corpus litigation.

#### Drones wreck all their advantages

Jeremy Scahill 13, 10/29/13, national security correspondent for the Nation magazine and author of the New York Times bestsellers Blackwater, Obama Presidency Marred by Legacy of Drone Program, www.motherjones.com/politics/2013/10/obama-drone-counterterrorism-war-legacy

Using drones, cruise missiles, and Special Ops raids, the United States has embarked on a mission to kill its way to victory. The war on terror, launched under a Republican administration, was ultimately legitimized and expanded by a popular Democratic president. Although Barack Obama's ascent to the most powerful office on Earth was the result of myriad factors, it was largely due to the desire of millions of Americans to shift course from the excesses of the Bush era.¶ Had John McCain won the election, it is difficult to imagine such widespread support, particularly among liberal Democrats, for some of the very counterterrorism policies that Obama implemented. As individuals, we must all ask whether we would support the same policies—the expansion of drone strikes, the empowerment of Joint Special Operations Command (JSOC), the use of the State Secrets Privilege, the use of indefinite detention, the denial of habeas corpus rights, the targeting of US citizens without charge or trial—if the commander in chief was not our candidate of choice.¶ But beyond the partisan lens, the policies implemented by the Obama administration will have far-reaching consequences. Future US presidents—Republican or Democratic—will inherit a streamlined process for assassinating enemies of America, perceived or real. They will inherit an executive branch with sweeping powers, rationalized under the banner of national security.¶ Assassinating Enemies¶ In 2012, a former constitutional law professor was asked about the US drone and targeted killing program. "It's very important for the president and the entire culture of our national security team to continually ask tough questions about 'Are we doing the right thing? Are we abiding by the rule of law? Are we abiding by due process?'" he responded, warning that it was important for the United States to "avoid any kind of slippery slope into a place where we're not being true to who we are."¶ That former law professor was Barack Obama.¶ The creation of the kill list and the expansion of drone strikes "represents a betrayal of President Obama's promise to make counterterrorism policies consistent with the US constitution," charged Boyle. Obama, he added, "has routinized and normalized extrajudicial killing from the Oval Office, taking advantage of America's temporary advantage in drone technology to wage a series of shadow wars in Afghanistan, Pakistan, Yemen, and Somalia. Without the scrutiny of the legislature and the courts, and outside the public eye, Obama is authorizing murder on a weekly basis, with a discussion of the guilt or innocence of candidates for the 'kill list' being resolved in secret." Boyle warned:¶ "Once Obama leaves office, there is nothing stopping the next president from launching his own drone strikes, perhaps against a different and more controversial array of targets. The infrastructure and processes of vetting the 'kill list' will remain in place for the next president, who may be less mindful of moral and legal implications of this action than Obama supposedly is."¶ In late 2012, the ACLU and the New York Times sought information on the legal rationale for the kill program, specifically the strikes that had killed three US citizens—among them 16-year-old Abdulrahman Awlaki. In January 2013, a federal judge ruled on the request. In her decision, Judge Colleen McMahon appeared frustrated with the White House's lack of transparency, writing that the Freedom of Information Act (FOIA) requests raised "serious issues about the limits on the power of the Executive Branch under the Constitution and laws of the United States, and about whether we are indeed a nation of laws, not of men."¶ She charged that the Obama administration "has engaged in public discussion of the legality of targeted killing, even of citizens, but in cryptic and imprecise ways, generally without citing to any statute or court decision that justifies its conclusions." She added, "More fulsome disclosure of the legal reasoning on which the administration relies to justify the targeted killing of individuals, including United States citizens, far from any recognizable 'hot' field of battle, would allow for intelligent discussion and assessment of a tactic that (like torture before it) remains hotly debated. It might also help the public understand the scope of the ill-defined yet vast and seemingly ever-growing exercise."¶ Ultimately, Judge McMahon blocked the release of the documents. Citing her legal concerns about the state of transparency with regard to the kill program, she wrote:¶ "This Court is constrained by law, and under the law, I can only conclude that the Government has not violated FOIA by refusing to turn over the documents sought in the FOIA requests, and so cannot be compelled by this court of law to explain in detail the reasons why its actions do not violate the Constitution and laws of the United States. The Alice-in-Wonderland nature of this pronouncement is not lost on me; but after careful and extensive consideration, I find myself stuck in a paradoxical situation in which I cannot solve a problem because of contradictory constraints and rules—a veritable Catch-22. I can find no way around the thicket of laws and precedents that effectively allow the Executive Branch of our Government to proclaim as perfectly lawful certain actions that seem on their face incompatible with our Constitution and laws, while keeping the reasons for their conclusion a secret."¶ How to Make Enemies and Not Influence People¶ It is not just the precedents set during the Obama era that will reverberate into the future, but also the lethal operations themselves. No one can scientifically predict the future consequences of drone strikes, cruise missile attacks, and night raids. But from my experience in several undeclared war zones across the globe, it seems clear that the United States is helping to breed a new generation of enemies in Somalia, Yemen, Pakistan, Afghanistan, and throughout the Muslim world.¶ Those whose loved ones were killed in drone strikes or cruise missile attacks or night raids will have a legitimate score to settle. In an October 2003 memo, written less than a year into the US occupation of Iraq, Donald Rumsfeld framed the issue of whether the United States was "winning or losing the global war on terror" through one question: "Are we capturing, killing, or deterring and dissuading more terrorists every day than the madrassas and the radical clerics are recruiting, training, and deploying against us?"¶ More than a decade after 9/11, that question should be updated. At the end of the day, US policymakers and the general public must all confront a more uncomfortable question: Are our own actions, carried out in the name of national security, making us less safe or more safe? Are they eliminating more enemies than they are inspiring? Boyle put it mildly when he observed that the kill program's "adverse strategic effects… have not been properly weighed against the tactical gains associated with killing terrorists."¶ In November 2012, President Obama remarked that "there's no country on Earth that would tolerate missiles raining down on its citizens from outside its borders." He made the statement in defense of Israel's attack on Gaza, which was launched in the name of protecting itself from Hamas missile attacks. "We are fully supportive of Israel's right to defend itself from missiles landing on people's homes and workplaces and potentially killing civilians," Obama continued. "And we will continue to support Israel's right to defend itself." How would people living in areas of Yemen, Somalia, or Pakistan that have been regularly targeted by US drones or missile strikes view that statement?¶ Toward the end of President Obama's first term in office, the Pentagon's general counsel, Jeh Johnson, gave a major lecture at the Oxford Union in England. "If I had to summarize my job in one sentence: it is to ensure that everything our military and our Defense Department do is consistent with US and international law," Johnson said. "This includes the prior legal review of every military operation that the Secretary of Defense and the President must approve."¶ As Johnson spoke, the British government was facing serious questions about its involvement in US drone strikes. A legal case brought in the United Kingdom by the British son of a tribal leader killed in Pakistan alleged that British officials had served as "secondary parties to murder" by providing intelligence to the United States that allegedly led to the 2011 strike. A U.N. commission was preparing to launch an investigation into the expanding kill program, and new legal challenges were making their way through the US court system. In his speech, Johnson presented the US defense of its controversial counterterror policies:¶ "Some legal scholars and commentators in our country brand the detention by the military of members of al-Qaeda as 'indefinite detention without charges.' Some refer to targeted lethal force against known, identified individual members of al-Qaeda as 'extrajudicial killing.'¶ "Viewed within the context of law enforcement or criminal justice, where no person is sentenced to death or prison without an indictment, an arraignment, and a trial before an impartial judge or jury, these characterizations might be understandable.¶ "Viewed within the context of conventional armed conflict—as they should be—capture, detention, and lethal force are traditional practices as old as armies."¶ The Era of the Dirty War on Terror¶ In the end, the Obama administration's defense of its expanding global wars boiled down to the assertion that it was in fact at war; that the authorities granted by the Congress to the Bush administration after 9/11 to pursue those responsible for the attacks justified the Obama administration's ongoing strikes against "suspected militants" across the globe—some of whom were toddlers when the Twin Towers crumbled to the ground—more than a decade later.¶ The end result of the policies initiated under President Bush and continued and expanded under his Democratic successor was to bring the world to the dawn of a new age, the era of the Dirty War on Terror. As Boyle, the former Obama campaign counterterrorism adviser, asserted in early 2013, the US drone program was "encouraging a new arms race for drones that will empower current and future rivals and lay the foundations for an international system that is increasingly violent."¶ Today, decisions on who should live or die in the name of protecting America's national security are made in secret, laws are interpreted by the president and his advisers behind closed doors, and no target is off-limits, including US citizens. But the decisions made in Washington have implications far beyond their impact on the democratic system of checks and balances in the United States.¶ In January 2013, Ben Emmerson, the U.N. special rapporteur on counterterrorism and human rights, announced his investigation into drone strikes and targeted killing by the United States. In a statement launching the probe, he characterized the US defense of its use of drones and targeted killings in other countries as "Western democracies… engaged in a global [war] against a stateless enemy, without geographical boundaries to the theatre of conflict, and without limit of time." This position, he concluded, "is heavily disputed by most States, and by the majority of international lawyers outside the United States of America."¶ At his inauguration in January 2013, Obama employed the rhetoric of internationalism. "We will defend our people and uphold our values through strength of arms and rule of law. We will show the courage to try and resolve our differences with other nations peacefully—not because we are naive about the dangers we face, but because engagement can more durably lift suspicion and fear," the president declared. "America will remain the anchor of strong alliances in every corner of the globe; and we will renew those institutions that extend our capacity to manage crisis abroad, for no one has a greater stake in a peaceful world than its most powerful nation."¶ Yet, as Obama embarked on his second term in office, the United States was once again at odds with the rest of the world on one of the central components of its foreign policy. The drone strike in Yemen the day Obama was sworn in served as a potent symbol of a reality that had been clearly established during his first four years in office: US unilateralism and exceptionalism were not only bipartisan principles in Washington, but a permanent American institution. As large-scale military deployments wound down, the United States had simultaneously escalated its use of drones, cruise missiles, and Special Ops raids in an unprecedented number of countries. The war on terror had become a self-fulfilling prophecy.

#### Previous rulings solve the aff

Ashley E. Siegel 12, J.D. – Boston University School of Law, “Some Holds Barred: Extending Executive Detention Habeas Law Beyond Guantanamo Bay,” Boston University Law Review, Vol. 92, <http://www.bu.edu/law/central/jd/organizations/journals/bulr/documents/SIEGEL_000.pdf>)

Mr. Janjua’s situation implicates the very concerns that the Supreme Court discussed in the Boumediene line of cases. While Mr. Janjua’s case does not fall under the definition of extraordinary rendition, since he has not been removed to a foreign country, there are many parallels between his case and extraordinary rendition cases. Specifically, as with extraordinary rendition, the U.S. government has ordered Mr. Janjua’s enforced disappearance by the Pakistani government to avoid compliance with U.S. law and international conventions.212 The Supreme Court and the D.C. Circuit have both expressed a concern that the Executive would seek to avoid compliance with the law by sidestepping any standard the Court would elucidate.213 Further, Mr. Janjua’s situation implicates separation-of-powers concerns, an issue with which the Supreme Court in Boumediene was particularly concerned. By ordering foreign governments to detain terrorist suspects on behalf of the U.S. government, the Executive sidesteps judicial review of its actions and removes such detainees’ rights to challenge their detentions. The Boumediene factors themselves allow habeas rights to be extended to those in Mr. Janjua’s circumstances. The first factor, considering the detainee’s status and the process afforded in determining that status, appears to weigh in favor of a detainee in Mr. Janjua’s circumstances. Such a detainee often has not been charged with any crime, nor given any status whatsoever. Even if a status has been given to such a detainee, it is unlikely that a disappeared person was afforded any process or allowed to rebut that status in any meaningful way. While such detainees are often considered suspected terrorists, their detention should not draw on indefinitely without any formal charges or the opportunity to rebut those charges. The first factor weighs more in this sort of detainee’s favor than perhaps those in Eisentrager, Boumediene, or Maqaleh since both the status and status-determination process in the present case provide significantly less protection.

### AT: Soft Power Impact

#### Soft power fails---empirics

Drezner 11 Daniel W, Professor of International Politics at the Fletcher School of Law and Diplomacy at Tufts University, Foreign Affairs, July/August 2011, "Does Obama Have a Grand Strategy?", <http://www.foreignaffairs.com/print/67869>

What went wrong? The administration, and many others, erred in believing that improved standing would give the United States greater policy leverage. The United States' standing among foreign publics and elites did rebound. But this shift did not translate into an appreciable increase in the United States' soft power. Bargaining in the G-20 and the UN Security Council did not get any easier. Soft power, it turns out, cannot accomplish much in the absence of a willingness to use hard power. The other problem was that China, Russia, and other aspiring great powers did not view themselves as partners of the United States. Even allies saw the Obama administration's supposed modesty as a cover for shifting the burden of providing global public goods from the United States to the rest of the world. The administration's grand strategy was therefore perceived as promoting narrow U.S. interests rather than global public goods.

### 1NC Heg Impact

#### Heg isn’t key to peace

Christopher J. Fettweis 11, Department of Political Science, Tulane University, 9/26/11, Free Riding or Restraint? Examining European Grand Strategy, Comparative Strategy, 30:316–332, EBSCO

Assertions that without the combination of **U.S. capabilities, presence and commitments instability would return** to Europe and the Pacific Rim **are usually rendered in rather vague language**. If the United States were to decrease its commitments abroad, argued Robert Art, “**the world will become a more dangerous place** and, sooner or later, that will redound to America’s detriment.”53 **From where would this danger arise? Who** precisely **would do the fighting, and over what issues?** Without the United States, **would Europe really descend into Hobbesian anarchy? Would the Japanese attack** mainland **China again**, to see if they could fare better this time around? Would the Germans and French have another go at it? In other words, **where exactly is hegemony is keeping the peace?** With one exception, **these questions are rarely addressed**. That exception is in the Pacific Rim. Some analysts fear that a de facto surrender of U.S. hegemony would lead to a rise of Chinese influence. Bradley Thayer worries that Chinese would become “the language of diplomacy, trade and commerce, transportation and navigation, the internet, world sport, and global culture,” and that Beijing would come to “dominate science and technology, in all its forms” to the extent that soon theworldwould witness a Chinese astronaut who not only travels to the Moon, but “plants the communist flag on Mars, and perhaps other planets in the future.”54 Indeed Chin a is the only other major power that has increased its military spending since the end of the Cold War, even if it still is only about 2 percent of its GDP. Such levels of effort do not suggest a desire to compete with, much less supplant, the United States. The much-ballyhooed, **decade-long military buildup has brought Chinese spending up to somewhere between one-tenth and one-fifth of the U.S. level. It is hardly clear that a restrained United States would invite Chinese** regional, must less global, political **expansion.** Fortunately one need not ponder for too long the horrible specter of a red flag on Venus, since on the planet Earth, where war is no longer the dominant form of conflict resolution, the threats posed by even a rising China would not be terribly dire. The dangers contained in the terrestrial security environment are less severe than ever before. **Believers in the pacifying power of hegemony ought to keep in mind** a rather basic tenet: When it comes to policymaking, **specific threats are more significant than vague, unnamed dangers**. Without specific risks, it is just as plausible to interpret U.S. presence as redundant, as overseeing a peace that has already arrived. **Strategy should not be based upon vague images emerging from the dark reaches of the neoconservative imagination.**  Overestimating Our Importance One of **the most basic insights of cognitive psychology provides the final reason to doubt the power of hegemonic stability: Rarely are our actions as consequential** upon their behavior **as we perceive them to be.** A great deal of **experimental evidence exists to support the notion that** people (and therefore **states) tend to overrate the degree to which** **their behavior is responsible for the actions of others.** Robert Jervis has argued that two processes account for this overestimation, both ofwhichwould seem to be especially relevant in theU.S. case. 55 First, **believing that we are responsible** **for their actions gratifies our national ego** (which is not small to begin with; the United States is exceptional in its exceptionalism). The hubris of the United States, long appreciated and noted, has only grown with the collapse of the Soviet Union.56 **U.S. policymakers famously have comparatively little knowledge of—or interest in—events that occur outside of their own borders**. **If there is any state vulnerable to the overestimation of its importance due to the fundamental misunderstanding of the motivation of others, it would have to be the United States.** Second, policymakers in the United States are far more familiar with our actions than they are with the decision-making processes of our allies. Try as we might**, it is not possible to** fully **understand the threats, challenges, and opportunities that our allies see from their perspective.** The European great powers have domestic politics as complex as ours, and they also have competent, capable strategists to chart their way forward. **They react to many international forces, of which U.S. behavior is only one**. Therefore, for any actor trying to make sense of the action of others, Jervis notes, “in the absence of strong evidence to the contrary, the most obvious and parsimonious explanation is that he was responsible.”57 **It is natural**, therefore, **for U.S**. policymakers and **strategists to believe that the behavior of our allies (and rivals) is shaped largely by what Washington does**. Presumably Americans are at least as susceptible to the overestimation of their ability as any other people, and perhaps more so. At the very least, political psychologists tell us, **we are probably not as important to them as we think**. **The importance of U.S. hegemony in contributing to international stability is therefore almost certainly overrated**. In the end, one can never be sure why our major allies have not gone to, and do not even plan for, war. Like deterrence, **the hegemonic stability theory rests on faith; it can only be falsified, never proven**. It does not seem likely, however, that hegemony could fully account for twenty years of strategic decisions made in allied capitals if the international system were not already a remarkably peaceful place. **Perhaps these states have no intention of fighting one another to begin with**, and our commitments are redundant.

### Hegemony---1NC

#### Hegemonic retrenchment’s key to avoid great power war---maintaining unipolarity’s self-defeating which internal link-turns their offense

Nuno P. Monteiro 12, Assistant Professor of Political Science at Yale University, “Unrest Assured: Why Unipolarity is Not Peaceful,” International Security, Winter 2012, Vol. 36, No. 3, p. 9-40

From the perspective of the overall peacefulness of the international system, then, no U.S. grand strategy is, as in the Goldilocks tale, “just right.”116 In fact, each strategic option available to the unipole produces significant conflict. Whereas offensive and defensive dominance will entangle it in wars against recalcitrant minor powers, disengagement will produce regional wars among minor and major powers. Regardless of U.S. strategy, conflict will abound. Indeed, if my argument is correct, the significant level of conflict the world has experienced over the last two decades will continue for as long as U.S. power remains preponderant.

From the narrower perspective of the unipole’s ability to avoid being involved in wars, however, disengagement is the best strategy. A unipolar structure provides no incentives for conflict involving a disengaged unipole. Disengagement would extricate the unipole’s forces from wars against recalcitrant minor powers and decrease systemic pressures for nuclear proliferation. There is, however, a downside. Disengagement would lead to heightened conflict beyond the unipole’s region and increase regional pressures for nuclear proliferation. As regards the unipole’s grand strategy, then, the choice is between a strategy of dominance, which leads to involvement in numerous conflicts, and a strategy of disengagement, which allows conflict between others to fester.

In a sense, then, strategies of defensive and offensive dominance are self-defeating. They create incentives for recalcitrant minor powers to bolster their capabilities and present the United States with a tough choice: allowing them to succeed or resorting to war in order to thwart them. This will either drag U.S. forces into numerous conflicts or result in an increasing number of major powers. In any case, U.S. ability to convert power into favorable outcomes peacefully will be constrained.117

This last point highlights one of the crucial issues where Wohlforth and I differ—the benefits of the unipole’s power preponderance. Whereas Wohlforth believes that the power preponderance of the United States will lead all states in the system to bandwagon with the unipole, I predict that states engaged in security competition with the unipole’s allies and states for whom the status quo otherwise has lesser value will not accommodate the unipole. To the contrary, these minor powers will become recalcitrant despite U.S. power preponderance, displaying the limited pacifying effects of U.S. power.

What, then, is the value of unipolarity for the unipole? What can a unipole do that a great power in bipolarity or multipolarity cannot? My argument hints at the possibility that—at least in the security realm—unipolarity does not give the unipole greater influence over international outcomes.118 If unipolarity provides structural incentives for nuclear proliferation, it may, as Robert Jervis has hinted, “have within it the seeds if not of its own destruction, then at least of its modification.”119 For Jervis, “[t]his raises the question of what would remain of a unipolar system in a proliferated world. The American ability to coerce others would decrease but so would its need to defend friendly powers that would now have their own deterrents. The world would still be unipolar by most measures and considerations, but many countries would be able to protect themselves, perhaps even against the superpower. . . . In any event, the polarity of the system may become less important.”120

At the same time, nothing in my argument determines the decline of U.S. power. The level of conflict entailed by the strategies of defensive dominance, offensive dominance, and disengagement may be acceptable to the unipole and have only a marginal effect on its ability to maintain its preeminent position. Whether a unipole will be economically or militarily overstretched is an empirical question that depends on the magnitude of the disparity in power between it and major powers and the magnitude of the conflicts in which it gets involved. Neither of these factors can be addressed a priori, and so a theory of unipolarity must acknowledge the possibility of frequent conflict in a nonetheless durable unipolar system.

Finally, my argument points to a “paradox of power preponderance.”121 By putting other states in extreme self-help, a systemic imbalance of power requires the unipole to act in ways that minimize the threat it poses. Only by exercising great restraint can it avoid being involved in wars. If the unipole fails to exercise restraint, other states will develop their capabilities, including nuclear weapons—restraining it all the same.122 Paradoxically, then, more relative power does not necessarily lead to greater influence and a better ability to convert capabilities into favorable outcomes peacefully. In effect, unparalleled relative power requires unequaled self-restraint.

## Judicial Globalism

### 1NC No Modeling

#### Friendly democracies can decipher between US norms, and authoritarian nations don’t model

John O. McGinnis 7, Professor of Law, Northwestern University School of Law. \*\* Ilya Somin \*\* Assistant Professor of Law, George Mason University School of Law. GLOBAL CONSTITUTIONALISM: GLOBAL INFLUENCE ON U.S. JURISPRUDENCE: Should International Law Be Part of Our Law? 59 Stan. L. Rev. 1175

The second benefit to foreigners of distinctive U.S. legal norms is information. The costs and benefits of our norms will be visible for all to see. n268 Particularly in an era of increased empirical social science testing, over time we will be able to analyze and identify the effects of differences in norms between the United States and other nations. n269 Such diversity benefits foreigners as foreign nations can decide to adopt our good norms and avoid our bad ones. The only noteworthy counterargument is the claim that U.S. norms will have more harmful effects than those of raw international law, yet other nations will still copy them. But both parts of this proposition seem doubtful. First, U.S. law emerges from a democratic process that creates a likelihood that it will cause less harm than rules that emerge from the nondemocratic processes [\*1235] that create international law. Second, other democratic nations can use their own political processes to screen out American norms that might cause harm if copied. Of course, many nations remain authoritarian. n270 But our norms are not likely to have much influence on their choice of norms. Authoritarian states are likely to select norms that serve the interests of those in power, regardless of the norms we adopt. It is true that sometimes they might cite our norms as cover for their decisions. But the crucial word here is "cover." They would have adopted the same rules, anyway. The cover may bamboozle some and thus be counted a cost. But this would seem marginal compared to the harm of allowing raw international law to trump domestic law.

### AT: Iraq Impact

#### Iraq instability doesn’t escalate

Cook 7 [Steven A. Cook and Ray Takeyh, fellows at the Council on Foreign Relations, Brookings Institution, International Herald Tribune, “Why the Iraq war won't engulf the Mideast,” 6-28-2007, www.iht.com/articles/2007/06/28/opinion/edtakeyh.php]

It is abundantly clear that major outside powers like Saudi Arabia, Iran and Turkey are heavily involved in Iraq. These countries have so much at stake in the future of Iraq that it is natural they would seek to influence political developments in the country. Yet, the Saudis, Iranians, Jordanians, Syrians, and others are very unlikely to go to war either to protect their own sect or ethnic group or to prevent one country from gaining the upper hand in Iraq. The reasons are fairly straightforward. First, Middle Eastern leaders, like politicians everywhere, are primarily interested in one thing: self-preservation. Committing forces to Iraq is an inherently risky proposition, which, if the conflict went badly, could threaten domestic political stability. Moreover, most Arab armies are geared toward regime protection rather than projecting power and thus have little capability for sending troops to Iraq. Second, there is cause for concern about the so-called blowback scenario in which jihadis returning from Iraq destabilize their home countries, plunging the region into conflict. Middle Eastern leaders are preparing for this possibility. Unlike in the 1990s, when Arab fighters in the Afghan jihad against the Soviet Union returned to Algeria, Egypt and Saudi Arabia and became a source of instability, Arab security services are being vigilant about who is coming in and going from their countries. In the last month, the Saudi government has arrested approximately 200 people suspected of ties with militants. Riyadh is also building a 700 kilometer wall along part of its frontier with Iraq in order to keep militants out of the kingdom. Finally, there is no precedent for Arab leaders to commit forces to conflicts in which they are not directly involved. The Iraqis and the Saudis did send small contingents to fight the Israelis in 1948 and 1967, but they were either ineffective or never made it. In the 1970s and 1980s, Arab countries other than Syria, which had a compelling interest in establishing its hegemony over Lebanon, never committed forces either to protect the Lebanese from the Israelis or from other Lebanese. The civil war in Lebanon was regarded as someone else's fight. Indeed, this is the way many leaders view the current situation in Iraq. To Cairo, Amman and Riyadh, the situation in Iraq is worrisome, but in the end it is an Iraqi and American fight. As far as Iranian mullahs are concerned, they have long preferred to press their interests through proxies as opposed to direct engagement. At a time when Tehran has access and influence over powerful Shiite militias, a massive cross-border incursion is both unlikely and unnecessary. So Iraqis will remain locked in a sectarian and ethnic struggle that outside powers may abet, but will remain within the borders of Iraq. The Middle East is a region both prone and accustomed to civil wars. But given its experience with ambiguous conflicts, the region has also developed an intuitive ability to contain its civil strife and prevent local conflicts from enveloping

the entire Middle East. Iraq's civil war is the latest tragedy of this hapless region, but still a tragedy whose consequences are likely to be less severe than both supporters and opponents of Bush's war profess.

# Block

## K

### FW

#### Our framework is necessary to reclaim the political from state-focused methods that constrict democratic dialogue. Vote negative to reject simplistic yes/no legal debates and the threat of immediate consequences in favor of intellectual recalibration

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

The recent resuscitation of the project of Empire should give International Relations scholars particular pause.1 For a discipline long premised on a triumphant Westphalian sovereignty, there should be something remarkable about the ease with which the case for brute force, regime change and empire-building is being formulated in widespread commentary spanning the political spectrum. Writing after the 1991 Gulf War, Edward Said notes the US hesitance to use the word ‘empire’ despite its long imperial history.2 This hesitance too is increasingly under attack as even self-designated liberal commentators such as Michael Ignatieff urge the US to overcome its unease with the ‘e-word’ and selfconsciously don the mantle of imperial power, contravening the limits of sovereign authority and remaking the world in its universalist image of ‘democracy’ and ‘freedom’.3 Rashid Khalidi has argued that the US invasion and occupation of Iraq does indeed mark a new stage in American world hegemony, replacing the indirect and proxy forms of Cold War domination with a regime much more reminiscent of European colonial empires in the Middle East.4 The ease with which a defence of empire has been mounted and a colonial project so unabashedly resurrected makes this a particularly opportune, if not necessary, moment, as scholars of ‘the global’, to take stock of our disciplinary complicities with power, to account for colonialist imaginaries that are lodged at the heart of a discipline ostensibly interested in power but perhaps far too deluded by the formal equality of state sovereignty and overly concerned with security and order. Perhaps more than any other scholar, Edward Said’s groundbreaking work in Orientalism has argued and demonstrated the long and deep complicity of academic scholarship with colonial domination.5 In addition to spawning whole new areas of scholarship such as postcolonial studies, Said’s writings have had considerable influence in his own discipline of comparative literature but also in such varied disciplines as anthropology, geography and history, all of which have taken serious and sustained stock of their own participation in imperial projects and in fact regrouped around that consciousness in a way that has simply not happened with International Relations.6 It has been 30 years since Stanley Hoffman accused IR of being an ‘American social science’ and noted its too close connections to US foreign policy elites and US preoccupations of the Cold War to be able to make any universal claims,7 yet there seems to be a curious amnesia and lack of curiosity about the political history of the discipline, and in particular its own complicities in the production of empire.8 Through what discourses the imperial gets reproduced, resurrected and re-energised is a question that should be very much at the heart of a discipline whose task it is to examine the contours of global power. Thinking this failure of IR through some of Edward Said’s critical scholarly work from his long distinguished career as an intellectual and activist, this article is an attempt to politicise and hence render questionable the disciplinary traps that have, ironically, circumscribed the ability of scholars whose very business it is to think about global politics to actually think globally and politically. What Edward Said has to offer IR scholars, I believe, is a certain kind of global sensibility, a critical but sympathetic and felt awareness of an inhabited and cohabited world. Furthermore, it is a profoundly political sensibility whose globalism is predicated on a cognisance of the imperial and a firm non-imperial ethic in its formulation. I make this argument by travelling through a couple of Said’s thematic foci in his enormous corpus of writing. Using a lot of Said’s reflections on the role of public intellectuals, I argue in this article that IR scholars need to develop what I call a ‘global intellectual posture’. In the 1993 Reith Lectures delivered on BBC channels, Said outlines three positions for public intellectuals to assume – as an outsider/exile/marginal, as an ‘amateur’, and as a disturber of the status quo speaking ‘truth to power’ and self-consciously siding with those who are underrepresented and disadvantaged.9 Beginning with a discussion of Said’s critique of ‘professionalism’ and the ‘cult of expertise’ as it applies to International Relations, I first argue the importance, for scholars of global politics, of taking politics seriously. Second, I turn to Said’s comments on the posture of exile and his critique of identity politics, particularly in its nationalist formulations, to ask what it means for students of global politics to take the global seriously. Finally, I attend to some of Said’s comments on humanism and contrapuntality to examine what IR scholars can learn from Said about feeling and thinking globally concretely, thoroughly and carefully. IR Professionals in an Age of Empire: From ‘International Experts’ to ‘Global Public Intellectuals’ One of the profound effects of the war on terror initiated by the Bush administration has been a significant constriction of a democratic public sphere, which has included the active and aggressive curtailment of intellectual and political dissent and a sharp delineation of national boundaries along with concentration of state power. The academy in this context has become a particularly embattled site with some highly disturbing onslaughts on academic freedom. At the most obvious level, this has involved fairly well-calibrated neoconservative attacks on US higher education that have invoked the mantra of ‘liberal bias’ and demanded legislative regulation and reform10, an onslaught supported by a well-funded network of conservative think tanks, centres, institutes and ‘concerned citizen groups’ within and outside the higher education establishment11 and with considerable reach among sitting legislators, jurists and policy-makers as well as the media. But what has in part made possible the encroachment of such nationalist and statist agendas has been a larger history of the corporatisation of the university and the accompanying ‘professionalisation’ that goes with it. Expressing concern with ‘academic acquiescence in the decline of public discourse in the United States’, Herbert Reid has examined the ways in which the university is beginning to operate as another transnational corporation12, and critiqued the consolidation of a ‘culture of professionalism’ where academic bureaucrats engage in bureaucratic role-playing, minor academic turf battles mask the larger managerial power play on campuses and the increasing influence of a relatively autonomous administrative elite and the rise of insular ‘expert cultures’ have led to academics relinquishing their claims to public space and authority.13 While it is no surprise that the US academy should find itself too at that uneasy confluence of neoliberal globalising dynamics and exclusivist nationalist agendas that is the predicament of many contemporary institutions around the world, there is much reason for concern and an urgent need to rethink the role and place of intellectual labour in the democratic process. This is especially true for scholars of the global writing in this age of globalisation and empire. Edward Said has written extensively on the place of the academy as one of the few and increasingly precarious spaces for democratic deliberation and argued the necessity for public intellectuals immured from the seductions of power.14 Defending the US academy as one of the last remaining utopian spaces, ‘the one public space available to real alternative intellectual practices: no other institution like it on such a scale exists anywhere else in the world today’15, and lauding the remarkable critical theoretical and historical work of many academic intellectuals in a lot of his work, Said also complains that ‘the American University, with its munificence, utopian sanctuary, and remarkable diversity, has defanged (intellectuals)’16. The most serious threat to the ‘intellectual vocation’, he argues, is ‘professionalism’ and mounts a pointed attack on the proliferation of ‘specializations’ and the ‘cult of expertise’ with their focus on ‘relatively narrow areas of knowledge’, ‘technical formalism’, ‘impersonal theories and methodologies’, and most worrisome of all, their ability and willingness to be seduced by power.17 Said mentions in this context the funding of academic programmes and research which came out of the exigencies of the Cold War18, an area in which there was considerable traffic of political scientists (largely trained as IR and comparative politics scholars) with institutions of policy-making. Looking at various influential US academics as ‘organic intellectuals’ involved in a dialectical relationship with foreign policy-makers and examining the institutional relationships at and among numerous think tanks and universities that create convergent perspectives and interests, Christopher Clement has studied US intervention in the Third World both during and after the Cold War made possible and justified through various forms of ‘intellectual articulation’.19 This is not simply a matter of scholars working for the state, but indeed a larger question of intellectual orientation. It is not uncommon for IR scholars to feel the need to formulate their scholarly conclusions in terms of its relevance for global politics, where ‘relevance’ is measured entirely in terms of policy wisdom. Edward Said’s searing indictment of US intellectuals – policy-experts and Middle East experts - in the context of the first Gulf War20 is certainly even more resonant in the contemporary context preceding and following the 2003 invasion of Iraq. The space for a critical appraisal of the motivations and conduct of this war has been considerably diminished by the expertise-framed national debate wherein certain kinds of ethical questions irreducible to formulaic ‘for or against’ and ‘costs and benefits’ analysis can simply not be raised. In effect, what Said argues for, and IR scholars need to pay particular heed to, is an understanding of ‘intellectual relevance’ that is larger and more worthwhile, that is about the posing of critical, historical, ethical and perhaps unanswerable questions rather than the offering of recipes and solutions, that is about politics (rather than techno-expertise) in the most fundamental and important senses of the vocation.21

### 2NC K Prior-Ethics > Law

#### The rush to pragmatic legal solutions forcloses a broader set of ethical questions beyond the law---investigating the discursive frame through which juridical solutions are proposed is a prerequisite to sound legal analysis

Craig Jones 13, PhD student at the University of British Columbia, Vancouver. Department of Geography. Scholar at the Liu Institute for Global Issues at UBC. Research update – method in the madness?, warlawspace.com/2013/09/30/research-update-method-in-the-madness/

Steven Keeva called the First Gulf War the first ‘lawyers war’, though in fact this isn’t quite correct because lawyers were involved in Panama a couple of years earlier and – albeit in a very different way – in Vietnam too; but that’s for a later post. While the last two decades have witnessed an unprecedented rise in the provision of legal advice in operational decision making, crucial questions still remain about what military lawyers do and how they contribute to the targeting process, and I’ll get to these questions in a moment. Before asking the more theoretical questions that interest me, I have found it more useful to begin with seemingly straightforward and pragmatic questions. I use ‘seemingly’ advisedly: targeting is a very technical process and to understand the role that the lawyer plays, one first has to understand how targeting works. There is a lot of jargon; there are many different types of targeting; many different ‘phases’ and ‘rhythms’; many different rules; endless information feeds; numerous intelligence (re)sources and analyses; countless technicalities and calibrations; and, I could go on. My point is that, just as the military lawyer must learn the technical specifics of military operations (and I mean everything from RoE and ‘place-based’ knowledge to munitions and weaponeering), we, as scholars and publics, too must understand how the thing gets done if we want write and think responsibly and – I hope – critically and authoritatively about the role of the lawyer in targeting and (more broadly) the role of law in war. Of course, such proximity requires extra vigilance, else understanding quickly turns on empathizing and with it comes an apology for pragmatism – what Costas Douzinas once called the ideology of Empire.

Research update – method in the madness?

September 30, 2013 by jonescraig

After a long radio silence – my apologies – I’m back in the UK (although whether I’m back ‘home’, I’m not so sure…). I’m here for a number of reasons, and want to thank Peter Adey and the Department of Geography at Royal Holloway University of London for hosting me as a visiting scholar for the semester. It has been an action-packed first week, and I’m glad to confirm that I’ll be giving a departmental talk, ‘The War Lawyers & The Targeting Machine’, later in the semester and will be leading a one-off guest seminar, ‘war/law/space’ (!), for the MSc Geopolitics & Security group, a bright and diverse bunch who I had the pleasure of meeting last week.

The other reason I’m here is to conduct the final component of my research: to try to figure out how the Royal Air Force approaches and executes its targeting missions in Afghanistan and Iraq. For those who are new to the blog, my study is a multi-site investigation of the role that legal advice and operational law play in the conduct of lethal targeting operations. So far my focus has been on Israel and the U.S. and I have been busy (hence the silence, I think) interviewing former and current legal advisors on their practical and often nail-biting role in what is a tremendously complicated and variegated targeting process. It is impossible to condense the lawyers role into a few sentences, not least because it changes from one state/air force to another and is a highly contextual practice which also varies from one operation to the next. I have written very some preliminary notes on the U.S. and Israeli cases here and here and I promise to fill in the U.K. blanks shortly.

Steven Keeva called the First Gulf War the first ‘lawyers war’, though in fact this isn’t quite correct because lawyers were involved in Panama a couple of years earlier and – albeit in a very different way – in Vietnam too; but that’s for a later post. While the last two decades have witnessed an unprecedented rise in the provision of legal advice in operational decision making, crucial questions still remain about what military lawyers do and how they contribute to the targeting process, and I’ll get to these questions in a moment. Before asking the more theoretical questions that interest me, I have found it more useful to begin with seemingly straightforward and pragmatic questions. I use ‘seemingly’ advisedly: targeting is a very technical process and to understand the role that the lawyer plays, one first has to understand how targeting works. There is a lot of jargon; there are many different types of targeting; many different ‘phases’ and ‘rhythms’; many different rules; endless information feeds; numerous intelligence (re)sources and analyses; countless technicalities and calibrations; and, I could go on. My point is that, just as the military lawyer must learn the technical specifics of military operations (and I mean everything from RoE and ‘place-based’ knowledge to munitions and weaponeering), we, as scholars and publics, too must understand how the thing gets done if we want write and think responsibly and – I hope – critically and authoritatively about the role of the lawyer in targeting and (more broadly) the role of law in war. Of course, such proximity requires extra vigilance, else understanding quickly turns on empathizing and with it comes an apology for pragmatism – what Costas Douzinas once called the ideology of Empire.

Fortunately, the airforces in my study are more open and frank than is frequently assumed, and I am only repeating what my supervisor Derek Gregory first told me years ago when I say that the U.S. armed forces are prolific publishers on these matters (for the tip of the ice-berg see here). CIA and secret and classified operations are, of course, something else entirely and often so too are the RAF and Israeli Air Force. Anyhow, I am slowly reconstructing and understanding the targeting process and will be sharing any new material that I find over the coming months. In the meantime, Derek Gregory remains our best source for a critical understanding of the kill-chain (at the very least see his ‘drones’ tab here). I should also say that targeting/military language is not the only lexicon I have had to learn – or at least have tried to learn – in this project; I am also trying my best to become conversational in law and legalese. Needless to say, one wouldn’t get very far with a military lawyer who has 30 years service under his/her belt without at least some knowledge of the relevant law. As one former military lawyer for the IDF told me, “you’d have no chance; they’d eat you for breakfast”. But as it was, one or two of the lawyers invited me to breakfast not to eat (me) but to talk, and it is through such discussions that I have been realising that – surprise surprise – the text is not the practice and that what happens in the manual is one thing; the real world of military operations and legal advice, quite another.

Having nearly completed the Israeli and U.S. components of my study I am now better placed to understand what the pertinent questions are. Now that I am in the U.K., I’ll be asking questions which will help me to compare the different approaches taken by the U.S., Israel and the U.K. toward legal advice and targeting. The following are some tensions which have arisen thus far:

a) What is the formal and non-formal (by which I mean unspoken, implicit and de facto) role of the legal advisor? Does s/he merely (sic) advise and leave it for the commander to decide, or has the legal advisor gained an effective veto power as to whether a strike goes ahead? Many lawyers have been reticent to admit the latter, though others have assured me that it frequently takes place and that they have been personally responsible for giving the effective final word on life and death operations.

b) Where should the lawyer be located? Should s/he accompany troops on potentially life-threatening missions (as is common in the U.S. Army) or should s/he stay at the military base or the Air Operations Centre (AOC) (as is common in the U.S. Air Forces)? It may be surprising to some – it certainly was to me – that U.S. legal advisors die on the battlefield while on active duty. Not in Israel, because they are not forward deployed. One U.S. lawyer spoke of going out on multiple IED de-activation missions as a way of gaining respect from soldiers whose daily life and death was marked by ‘tours’ outside of the green zone in Baghdad. There are many commentators who think lawyers have no place at what the military call the ‘tip of the spear’, but the commanders who rely on their legal advice beg to differ; to them the lawyer has been likened to a priest bringing redemption. Not quite ‘forgive me Lord for I have sinned’, but ‘advise me Lawyer so that I may not’, perhaps?

c) When should the lawyer be involved? Few in the respective military establishments now doubt that military lawyers perform an important role in operations; they provide a clear legal analysis as to whether this or that action is legal and thus serve as a safety valve for the commander who is not so sure. This may or may not be a good thing and many question whether the power to decide has not been delegated away from the commander, only to be taken by a lawyer who may have little experience in military operations. But the crux of the issue here is whether legal advisors should be involved only in the planning part of the targeting process, or whether they should also be involved in time-sensitive decision making where legal calls are required in seconds, not hours and days. The cartoon parable of this, which I can’t find now, is of the military lawyer, rule book in hand ,running after the soldier onto the battlefield and the soldier asks “can I…”

I am putting all of this (and much more) together to ask a different kind of question at once practical yet also political and philosophical: what effects do the military lawyer and operational law have on the targeting process? This Foucauldian inspired question seeks to understand the functioning of a legal practice and of certain legal experts in the production of a discourse which we might broadly characterize as the ‘judicialization of war’. As legal questions have come, more and more, to dominate discussions about war, I think it is worth pausing to reflect on the consequences and to ask at what cost have legal questions come to the fore? The problem with law (though clearly not everyone sees it as a problem) is that it confers legitimacy and at the political level, this legal-legitimate amalgam has come to stand in for the other questions we might be asking about war; not ‘is it legal?’ but rather ‘is it right?’ or more simply, ‘why war?’ Military lawyers are not stupid people and modern militaries are not the buffoons they may once have been; both are attuned to and tune into how publics perceive what they do, hence why the Israeli military have become social media fanatics. To paraphrase Foucault, and to borrow from Derek Gregory, modern militaries have become obsessed with the ‘conduct of their conduct’. This means that they are surprisingly reflective and reflexive about what they do and how it is represented. Representing war – or targeted killing – as legal provides lethal action with a skein of legitimacy, but what difference does the law make, and *on what difference is international law founded?* For, and at my most provocative I ask, what difference does it make to the victim of a drone strike whether or not the strike was legal? The answer for a legalistic discourse of war is that many never stop to consider that there is something beyond the law.

### 2NC Chandler Subjectivity Impact

#### **Our framework impacts how we constitute ourselves as political subjects---this is comparatively better than the aff’s hubristic strategy of attempting to change the external world which only creates resentment and stifles the potentiality of becoming**

David Chandler 13, prof of IR @ Westminster, The World of Attachment? The Post-humanist Challenge to Freedom and Necessity, Millenium: Journal of International Studies, 41(3), 516– 534

The world of becoming thereby is an ontologically flat world without the traditional hierarchies of existence and a more shared conception of agency. For Bennett, therefore, ‘to begin to experience the relationship between persons and other materialities more horizontally, is to take a step toward a more ecological sensibility’.78 Here there is room for human agency but this agency involves a deeper understanding of and receptivity to the world of objects and object relations. Rather than the hubristic focus on transforming the external world, the ethico-political tasks are those of work on the self to erase hubristic liberal traces of subject-centric understandings, understood to merely create the dangers of existential resentment. Work on the self is the only route to changing the world. As Connolly states: ‘To embrace without deep resentment a world of becoming is to work to “become who you are”, so that the word “become” now modifies “are” more than the other way around.’ Becoming who you are involves the ‘microtactics of the self’, and work on the self can then extend into ‘micropolitics’ of more conscious and reflective choices and decisions and lifestyle choices leading to potentially higher levels of ethical self-reflectivity and responsibility. Bennett argues that against the ‘narcissism’ of anthropomorphic understandings of domination of the external world, we need ‘some tactics for cultivating the experience of our selves as vibrant matter’. Rather than hubristically imagining that we can shape the world we live in, Bennett argues that: ‘Perhaps the ethical responsibility of an individual human now resides in one’s response to the assemblages in which one finds oneself participating. Such ethical tactics include reflecting more on our relationship to what we eat and considering the agentic powers of what we consume and enter into an assemblage with. In doing so, if ‘an image of inert matter helps animate our current practice of aggressively wasteful and planet-endangering consumption, then a materiality experienced as a lively force with agentic capacity could animate a more ecologically sustainable public’. For new materialists, the object to be changed or transformed is the human – the human mindset. By changing the way we think about the world and the way we relate to it by including broader, more non-human or inorganic matter in our considerations, we will have overcome our modernist ‘attachment disorders’ and have more ethically aware approaches to our planet. In cultivating these new ethical sensibilities, the human can be remade with a new self and a ‘new self-interest’.

### Jones 99

#### Critical intellectualism key to solve extinction---it outweighs the benefits of “policy relevance”

**Jones 99**—IR, Aberystwyth (Richard, “6. Emancipation: Reconceptualizing Practice,” Security, Strategy and Critical Theory, http://www.ciaonet.org/book/wynjones/wynjones06.html, AMiles)

The central political task of the intellectuals is to aid in the construction of a counterhegemony and thus undermine the prevailing patterns of discourse and interaction that make up the currently dominant hegemony. **This** task **is accomplished through educational activity**, because, as Gramsci argues, “every relationship of ‘hegemony’ is necessarily a pedagogic relationship” (Gramsci 1971: 350). Discussing the relationship of the “philosophy of praxis” to political practice, Gramsci claims: It [the theory] does not tend to leave the “simple” in their primitive philosophy of common sense, but rather to lead them to a higher conception of life. If it affirms the need for contact between intellectuals and “simple” it is not in order to restrict scientific activity and preserve unity at the low level of the masses, but precisely in order to construct an intellectual–moral bloc which can make politically possible the intellectual progress of the mass and not only of small intellectual groups. (Gramsci 1971: 332–333) According to Gramsci, this attempt to construct an alternative “intellectual–moral bloc” should take place under the auspices of the Communist Party—a body he described as the “modern prince.” Just as Niccolò Machiavelli hoped to see a prince unite Italy, rid the country of foreign barbarians, and create a virtù–ous state, Gramsci believed that the modern prince could lead the working class on its journey toward its revolutionary destiny of an emancipated society (Gramsci 1971: 125–205). Gramsci’s relative optimism about the possibility of progressive theorists playing a constructive role in emancipatory political practice was predicated on his belief in the existence of a universal class (a class whose emancipation would inevitably presage the emancipation of humanity itself) with revolutionary potential. It was a gradual loss of faith in this axiom that led Horkheimer and Adorno to their extremely pessimistic prognosis about the possibilities of progressive social change. But does a loss of faith in the revolutionary vocation of the proletariat necessarily lead to the kind of quietism ultimately embraced by the first generation of the Frankfurt School? The conflict that erupted in the 1960s between them and their more radical students suggests not. Indeed, contemporary critical theorists claim that the deprivileging of the role of the proletariat in the struggle for emancipation is actually a positive move. Class remains a very important axis of domination in society, but it is not the only such axis (Fraser 1995). Nor is it valid to reduce all other forms of domination—for example, in the case of gender—to class relations, as orthodox Marxists tend to do. To recognize these points is not only a first step toward the development of an analysis of forms of exploitation and exclusion within society that is more attuned to social reality; it is also a realization that there are other forms of emancipatory politics than those associated with class conflict. 1 This in turn suggests new possibilities and problems for emancipatory theory. Furthermore, the abandonment of faith in revolutionary parties is also a positive development. The history of the European left during the twentieth century provides myriad examples of the ways in which the fetishization of party organizations has led to bureaucratic immobility and the confusion of means with ends (see, for example, Salvadori 1990). The failure of the Bolshevik experiment illustrates how disciplined, vanguard parties are an ideal vehicle for totalitarian domination (Serge 1984). Faith in the “infallible party” has obviously been the source of strength and comfort to many in this period and, as the experience of the southern Wales coalfield demonstrates, has inspired brave and progressive behavior (see, for example, the account of support for the Spanish Republic in Francis 1984). But such parties have so often been the enemies of emancipation that they should be treated with the utmost caution. Parties are necessary, but their fetishization is potentially disastrous. History furnishes examples of progressive developments that have been positively influenced by organic intellectuals operating outside the bounds of a particular party structure (G. Williams 1984). Some of these developments have occurred in the particularly intractable realm of security. These examples may be considered as “resources of hope” for critical security studies (R. Williams 1989). They illustrate that ideas are important or, more correctly, that change is the product of the dialectical interaction of ideas and material reality. One clear security–related example of the role of critical thinking and critical thinkers in aiding and abetting progressive social change is the experience of the peace movement of the 1980s. At that time the ideas of dissident defense intellectuals (the “alternative defense” school) encouraged and drew strength from peace activism. Together they had an effect not only on short–term policy but on the dominant discourses of strategy and security**, a far more important result in the long run.** The synergy between critical security intellectuals and critical social movements and the potential influence of both working in tandem can be witnessed particularly clearly in the fate of common security. As Thomas Risse–Kappen points out, the term “common security” originated in the contribution of peace researchers to the German security debate of the 1970s (Risse–Kappen 1994: 186ff.); it was subsequently popularized by the Palme Commission report (Independent Commission on Disarmament and Security Issues 1982). Initially, mainstream defense intellectuals dismissed the concept as hopelessly idealistic; it certainly had no place in their allegedly hardheaded and realist view of the world. However, notions of common security were taken up by a number of different intellectual communities, including the liberal arms control community in the United States, Western European peace researchers, security specialists in the center–left political parties of Western Europe, and Soviet “institutchiks”—members of the influential policy institutes in the Soviet Union such as the United States of America and Canada Institute (Landau 1996: 52–54; Risse–Kappen 1994: 196–200; Kaldor 1995; Spencer 1995). These communities were subsequently able to take advantage of public pressure exerted through social movements in order to gain broader acceptance for common security. In Germany, for example, “in response to social movement pressure, German social organizations such as churches and trade unions quickly supported the ideas promoted by peace researchers and the SPD” (Risse–Kappen 1994: 207). Similar pressures even had an effect on the Reagan administration. As Risse–Kappen notes: When the Reagan administration brought hard–liners into power, the US arms control community was removed from policy influence. It was the American peace movement and what became known as the “freeze campaign” that revived the arms control process together with pressure from the European allies. (Risse–Kappen 1994: 205; also Cortright 1993: 90–110) Although it would be difficult to sustain a claim that the combination of critical movements and **intellectuals** persuaded the Reagan government to adopt the rhetoric and substance of common security in its entirety, it is clear that it did at least **have a substantial impact on ameliorating U.S. behavior.** The most dramatic and certainly the most unexpected impact of alternative defense ideas was felt in the Soviet Union. Through various East–West links, which included arms control institutions, Pugwash conferences, interparty contacts, and even direct personal links, a coterie of Soviet policy analysts and advisers were drawn toward common security and such attendant notions as “nonoffensive defense” (these links are detailed in Evangelista 1995; Kaldor 1995; Checkel 1993; Risse–Kappen 1994; Landau 1996 and Spencer 1995 concentrate on the role of the Pugwash conferences). This group, including Palme Commission member Georgii Arbatov, Pugwash attendee Andrei Kokoshin, and Sergei Karaganov, a senior adviser who was in regular contact with the Western peace researchers Anders Boserup and Lutz Unterseher (Risse–Kappen 1994: 203), then influenced Soviet leader Mikhail Gorbachev. Gorbachev’s subsequent championing of common security may be attributed to several factors. It is clear, for example, that new Soviet leadership had a strong interest in alleviating tensions in East–West relations in order to facilitate much–needed domestic reforms (“the interaction of ideas and material reality”). But what is significant is that the Soviets’ commitment to common security led to significant changes in force sizes and postures. These in turn aided in the winding down of the Cold War, the end of Soviet domination over Eastern Europe, and even the collapse of Russian control over much of the territory of the former Soviet Union. At the present time, in marked contrast to the situation in the early 1980s, common security is part of the common sense of security discourse. As MccGwire points out, the North Atlantic Treaty Organization (NATO) (a common defense pact) is using the rhetoric of common security in order to justify its expansion into Eastern Europe (MccGwire 1997). This points to an interesting and potentially important aspect of the impact of ideas on politics. As concepts such as common security, and collective security before it (Claude 1984: 223–260), are adopted by governments and military services, they inevitably become somewhat debased. The hope is that enough of the residual meaning can survive to **shift the parameters of the debate** in a potentially progressive direction. Moreover, the adoption of the concept of common security by official circles provides critics with a useful tool for (immanently) critiquing aspects of security policy (as MccGwire 1997 demonstrates in relation to NATO expansion). The example of common security is highly instructive. First, it indicates that critical intellectuals can be politically engaged and play a role—a significant one at that—in making the world a better and safer place. Second, it points to potential future addressees for critical international theory in general, and critical security studies in particular. Third, it also underlines the role of ideas in the evolution of society. Although most proponents of critical security studies reject aspects of Gramsci’s theory of organic intellectuals, in particular his exclusive concentration on class and his emphasis on the guiding role of the party, the desire for engagement and relevance must remain at the heart of their project. The example of the peace movement suggests that critical theorists can still play the role of organic intellectuals and that this organic relationship need not confine itself to a single class; it can involve alignment with different coalitions of social movements that campaign on an issue or a series of issues pertinent to the struggle for emancipation (Shaw 1994b; R. Walker 1994). Edward Said captures this broader orientation when he suggests that critical intellectuals “are always tied to and ought to remain an organic part of an ongoing experience in society: of the poor, the disadvantaged, the voiceless, the unrepresented, the powerless” (Said 1994: 84). In the specific case of critical security studies, this means placing the experience of those men and women and communities for whom the present world order is a cause of insecurity rather than security at the center of the agenda and making suffering humanity rather than raison d’état the prism through which problems are viewed. Here the project stands full–square within the critical theory tradition. If “all theory is for someone and for some purpose,” then critical security studies is for “the voiceless, the unrepresented, the powerless,” and its purpose is their emancipation. The theoretical implications of this orientation have already been discussed in the previous chapters. They involve a fundamental reconceptualization of security with a shift in referent object and a broadening of the range of issues considered as a legitimate part of the discourse. They also involve a reconceptualization of strategy within this expanded notion of security. But the question remains at the conceptual level of how these alternative types of theorizing—even if they are self–consciously aligned to the practices of critical or new social movements, such as peace activism, the struggle for human rights, and the survival of minority cultures—can become “a force for the direction of action.” Again, Gramsci’s work is insightful. In the Prison Notebooks, Gramsci advances a sophisticated analysis of how dominant discourses play a vital role in upholding particular political and economic orders, or, in Gramsci’s terminology, “historic blocs” (Gramsci 1971: 323–377). Gramsci adopted Machiavelli’s view of power as a centaur, half man, half beast: a mixture of consent and coercion. Consent is produced and reproduced by a ruling hegemony that holds sway through civil society and through which ruling or dominant ideas become widely dispersed. 2 In particular, Gramsci describes how ideology becomes sedimented in society and takes on the status of common sense; it becomes subconsciously accepted and even regarded as beyond question. **Obviously**, for Gramsci, **there is nothing immutable about the values that permeate society; they can and do change.** In the social realm, ideas and institutions that were once seen as natural and beyond question (i.e., commonsensical) in the West, such as feudalism and slavery, are now seen as anachronistic, unjust, and unacceptable. In Marx’s well–worn phrase, “All that is solid melts into the air.” Gramsci’s intention is to harness this potential for change and ensure that it moves in the direction of emancipation. To do this he suggests a strategy of a “war of position” (Gramsci 1971: 229–239). Gramsci argues that in states with developed civil societies, such as those in Western liberal democracies, any successful attempt at progressive **social change requires** a slow, **incremental**, even **molecular, struggle** to break down the prevailing hegemony and construct an alternative counterhegemony to take its place. Organic intellectuals have a crucial role to play in this process by helping to undermine the “natural,” “commonsense,” internalized nature of the status quo. This in turn helps create political space within which alternative conceptions of politics can be developed

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

### Perm

#### Links swamp the permutation---it instrumentalizes the alternative which only masks the plan’s violent governmentality---internal contradictions means it inevitably fails

Laura Sjoberg 13, Department of Political Science, University of Florida , Gainesville The paradox of security cosmopolitanism?, Critical Studies on Security, 1:1, 29-34

Particularly, Burke suggests that security cosmopolitanism ‘rejects a procedural faith in strongly post-Westphalian forms of government and democracy’ (p. 17) and reiterates that such an approach includes ‘no automatic faith in any one institutional design’ (p. 24). This seems to move away from one of the prominent critiques of, in Anna Agathangelou and Ling’s (2009) words, the ‘neoliberal imperium,’ as reliant on Western, liberal notions of governance to the detriment of those on whom such a form of government is imposed. Burke clearly problematizes this imposition, framing many of the serious problems in global politics as a result of ‘choices that create destructive dynamics and constraints’ (p. 15) at least in part by Western, liberal governments – characterizing modernity as culpable for insecurity. At the same time, the solution seems to be clearly situated within the discursive framework of the problem. Burke suggests that there should be a primary concern for ‘effectiveness, equality, fairness, and justice – not for states, per se, but for human beings, and the global biosphere’ (p. 24). Unless the only problem with modernity is the post- Westphalian structure of the state (which this approach does not eschew, but claims not to privilege), then this statement of values might entrench the problem. Many of the ideas of equality, fairness, and justice that come to mind with the (somewhat rehearsed) use of those words in progressive politics are inseparable from an ethos of enlightenment modernity.

This may be problematic on a number of levels. First, it may fail to interrupt the series of choices that Burke suggests produce a cycle of insecurity. Second, it may fold back onto itself in the recommendations that security cosmopolitanism produces. This especially concerned me in Burke’s discussion of how to end ‘dangerous processes,’ where he places ‘greater faith in the ethical, normative, and legal suppression of dangerous processes and actions than in formalistic or procedural solutions’ (p. 24). It seems to me that there is a good argument that ‘suppression’ is itself a ‘dangerous process,’ yet Burke’s framework does not really include a mechanism for internal critique.

Another problem that seems to confound security cosmopolitanism is evaluating the relationships between power, governance, and governmentality. There are certainly several ways in which Burke uses a notion of the state that distinguishes security cosmopolitanism from the mainstream neoliberal literature. For example, he characterizes the ‘state as an entity whose national survival depends on its global participation, obligations, and depen- dencies,’ (citing Burke 2013a, 5). This view of the state sees it as not only survival-seeking (in the neo-neo synthesis sense) but also dependent on its positive interactions with other states for survival. Burke’s approach to government/governance initially appears to be global rather than state-based, another potentially transformative move. For example, he sees the job of security cosmopolitanism as to ‘theorize and defend norms for the respon- sible conduct and conceptualization of global security governance’ (p. 21). At the same time, later in the article, Burke suggests entrenching the current structure of the state. His practical approach of looking for the ‘solidarity of the governing with the governed’ seems to simultaneously interrogate the current power structures and reify them. Burke says:

Such a ‘solidarity of the governed’ that engages in a ‘practical interrogation of power’ ought to be a significant feature of security cosmopolitanism. At the same time, however, security cosmopolitanism must be concerned with improving the global governance of security by elites and experts. (p. 21)

This attachment to the improvement of existing structures of governance seems to be at the heart of what I see as the failure of the radical potential in the idea of security cosmopolitanism. When discussing how the power dynamics between the elite and the subordinated might change, Burke suggests that ‘voluntary renunciation of the privileges and powers of both state and corporate sovereignty will no doubt be a necessary feature of such an order’ (p. 25). Relying on the voluntary renunciation of power by the powerful seems both unrealistic and not particularly theoretically innovative.

This seems to be at the center of a paradox inherent in security cosmopolitanism: Faith in the Western liberal state is insidious, but the Western liberal state does not have to be. Modernity causes insecurity, but need not be discarded fully. Some universalizations are dangerous, others are benign. Dangerous processes must be stopped, even if by dangerous processes. Moral entrepreneurship is the key, but ther e is no clear foundation for what counts as moral. The security cosmopolitanism critique is inspired by consequentialism, but lacks deontological foundations despite deontological implications. Burke calls for (and indeed demands) to ‘take responsibility for it’ (p. 23) in terms of ‘both formal and moral accountability’ (p. 24). In so doing, he endorses (Booth’s vision of) ‘moral progress’ (p. 25), despite understanding the insidious deployment of various notions of moral progress by others.

Security cosmopolitanism, then, is a proclamation for radical change that is initially stalled by its internal contradictions and further handicapped by its lack of capacity to enact the very sort of radical change Burke sees it as fundamental to righting the wrongs he sees in the world. The result seems to be the (potential) reification of existing governments/governmentality through what essentially appears to be a non-anthropocentric ‘human security’ which cannot be clearly distinguished from current notions of human security (p. 15). It appears to remain top-down and without clear moral foundation while claiming significant improvement over existing approaches. This appearance/seduction of improvement without real promise for change might be more insidious than the nihilism of which many post-structuralists are accused, as it seductively appears to solve a problem it does not solve.

### 2NC Causes Extinction

#### Structural violence locks in social and environmental tension---culminates in extinction and makes war inevitable

Tamás Szentes 8, Professor Emeritus at the Corvinus University of Budapest. “Globalisation and prospects of the world society” 4/22/08 http://www.eadi.org/fileadmin/Documents/Events/exco/Glob.\_\_\_prospects\_-\_jav..pdf

It’ s a common place that human society can survive and develop only in a lasting real peace. Without peace countries cannot develop. Although since 1945 there has been no world war, but --numerous local wars took place, --terrorism has spread all over the world, undermining security even in the most developed and powerful countries, --arms race and militarisation have not ended with the collapse of the Soviet bloc, but escalated and continued, extending also to weapons of mass destruction and misusing enormous resources badly needed for development, --many “invisible wars” are suffered by the poor and oppressed people, manifested in mass misery, poverty, unemployment, homelessness, starvation and malnutrition, epidemics and poor health conditions, exploitation and oppression, racial and other discrimination, physical terror, organised injustice, disguised forms of violence, the denial or regular infringement of the democratic rights of citizens, women, youth, ethnic or religious minorities, etc., and last but not least, in the degradation of human environment, which means that --the “war against Nature”, i.e. the disturbance of ecological balance, wasteful management of natural resources, and large-scale pollution of our environment, is still going on, causing also losses and fatal dangers for human life. Behind global terrorism and “invisible wars” we find striking international and intrasociety inequities and distorted development patterns , which tend to generate social as well as international tensions, thus paving the way for unrest and “visible” wars. It is a commonplace now that peace is not merely the absence of war. The prerequisites of a lasting peace between and within societies involve not only - though, of course, necessarily - demilitarisation, but also a systematic and gradual elimination of the roots of violence, of the causes of “invisible wars”, of the structural and institutional bases of large-scale international and intra-society inequalities, exploitation and oppression. Peace requires a process of social and national emancipation, a progressive, democratic transformation of societies and the world bringing about equal rights and opportunities for all people, sovereign participation and mutually advantageous co-operation among nations. It further requires a pluralistic democracy on global level with an appropriate system of proportional representation of the world society, articulation of diverse interests and their peaceful reconciliation, by non-violent conflict management, and thus also a global governance with a really global institutional system. Under the contemporary conditions of accelerating globalisation and deepening global interdependencies in our world, peace is indivisible in both time and space. It cannot exist if reduced to a period only after or before war, and cannot be safeguarded in one part of the world when some others suffer visible or invisible wars. Thus, peace requires, indeed, a new, demilitarised and democratic world order, which can provide equal opportunities for sustainable development. “Sustainability of development” (both on national and world level) is often interpreted as an issue of environmental protection only and reduced to the need for preserving the ecological balance and delivering the next generations not a destroyed Nature with overexhausted resources and polluted environment. However, no ecological balance can be ensured, unless the deep international development gap and intra-society inequalities are substantially reduced. Owing to global interdependencies there may exist hardly any “zero-sum-games”, in which one can gain at the expense of others, but, instead, the “negative-sum-games” tend to predominate, in which everybody must suffer, later or sooner, directly or indirectly, losses. Therefore, the actual question is not about “sustainability of development” but rather about the “sustainability of human life”, i.e. survival of mankind – because of ecological imbalance and globalised terrorism. When Professor Louk de la Rive Box was the president of EADI, one day we had an exchange of views on the state and future of development studies. We agreed that development studies are not any more restricted to the case of underdeveloped countries, as the developed ones (as well as the former “socialist” countries) are also facing development problems, such as those of structural and institutional (and even system-) transformation, requirements of changes in development patterns, and concerns about natural environment. While all these are true, today I would dare say that besides (or even instead of) “development studies” we must speak about and make “survival studies”. While the monetary, financial, and debt crises are cyclical, we live in an almost permanent crisis of the world society, which is multidimensional in nature, involving not only economic but also socio-psychological, behavioural, cultural and political aspects. The narrow-minded, election-oriented, selfish behaviour motivated by thirst for power and wealth, which still characterise the political leadership almost all over the world, paves the way for the final, last catastrophe. One cannot doubt, of course, that great many positive historical changes have also taken place in the world in the last century. Such as decolonisation, transformation of socio-economic systems, democratisation of political life in some former fascist or authoritarian states, institutionalisation of welfare policies in several countries, rise of international organisations and new forums for negotiations, conflict management and cooperation, institutionalisation of international assistance programmes by multilateral agencies, codification of human rights, and rights of sovereignty and democracy also on international level, collapse of the militarised Soviet bloc and system-change3 in the countries concerned, the end of cold war, etc., to mention only a few. Nevertheless, the crisis of the world society has extended and deepened, approaching to a point of bifurcation that necessarily puts an end to the present tendencies, either by the final catastrophe or a common solution. Under the circumstances provided by rapidly progressing science and technological revolutions, human society cannot survive unless such profound intra-society and international inequalities prevailing today are soon eliminated. Like a single spacecraft, the Earth can no longer afford to have a 'crew' divided into two parts: the rich, privileged, wellfed, well-educated, on the one hand, and the poor, deprived, starving, sick and uneducated, on the other. Dangerous 'zero-sum-games' (which mostly prove to be “negative-sum-games”) can hardly be played any more by visible or invisible wars in the world society. Because of global interdependencies, the apparent winner becomes also a loser. The real choice for the world society is between negative- and positive-sum-games: i.e. between, on the one hand, continuation of visible and “invisible wars”, as long as this is possible at all, and, on the other, transformation of the world order by demilitarisation and democratization. No ideological or terminological camouflage can conceal this real dilemma any more, which is to be faced not in the distant future, by the next generations, but in the coming years, because of global terrorism soon having nuclear and other mass destructive weapons, and also due to irreversible changes in natural environment.

### Shiva

#### Global movements against neoliberal hegemony are emerging now and will be effective---the plan’s consolidation of U.S.-driven economic orthodoxy collapses democracy, causes resource wars, environmental collapse, and extinction

Vandana Shiva 3-1, founder of the Research Foundation for Science, Technology and Ecology, Ph.D. in Philosophy from the University of Western Ontario, chairs the Commission on the Future of Food set up by the Region of Tuscany in Italy and is a member of the Scientific Committee which advises President Zapatero of Spain, March 1, 2012, “Imposed Austerity vs Chosen Simplicity: Who Will Pay For Which Adjustments?,” online: http://www.ethicalmarkets.com/2012/03/01/imposed-austerity-vs-chosen-simplicity-who-will-pay-for-which-adjustments/

The dominant economic model based on limitless growth on a limited planet is leading to an overshoot of the human use of the earth’s resources. This is leading to an ecological catastrophe. It is also leading to intense and violent resource grab of the remaining resources of the earth by the rich from the poor. The resource grab is an adjustment by the rich and powerful to a shrinking resource base – land, biodiversity, water – without adjusting the old resource intensive, limitless growth paradigm to the new reality. Its only outcome can be ecological scarcity for the poor in the short term, with deepening poverty and deprivation. In the long run it means the extinction of our species, as climate catastrophe and extinction of other species makes the planet un-inhabitable for human societies. Failure to make an ecological adjustment to planetary limits and ecological justice is a threat to human survival. The Green Economy being pushed at Rio +20 could well become the biggest resource grabs in human history with corporations appropriating the planet’s green wealth, the biodiversity, to become the green oil to make bio-fuel, energy plastics, chemicals – everything that the petrochemical era based on fossil fuels gave us. Movements worldwide have started to say “No to the Green Economy of the 1%”.

But an ecological adjustment is possible, and is happening. This ecological adjustment involves seeing ourselves as a part of the fragile ecological web, not outside and above it, immune from the ecological consequences of our actions. Ecological adjustment also implies that we see ourselves as members of the earth community, sharing the earth’s resources equitably with all species and within the human community. Ecological adjustment requires an end to resource grab, and the privatization of our land, bio diversity and seeds, water and atmosphere. Ecological adjustment is based on the recovery of the commons and the creation of Earth Democracy.

The dominant economic model based on resource monopolies and the rule of an oligarchy is not just in conflict with ecological limits of the planet. It is in conflict with the principles of democracy, and governance by the people, of the people, for the people. The adjustment from the oligarchy is to further strangle democracy and crush civil liberties and people’s freedom. Bharti Mittal’s statement that politics should not interfere with the economy reflects the mindset of the oligarchy that democracy can be done away with. This anti-democratic adjustment includes laws like homeland security in U.S., and multiple security laws in India.

The calls for a democratic adjustment from below are witnessed worldwide in the rise of non-violent protests, from the Arab spring to the American autumn of “Occupy” and the Russian winter challenging the hijack of elections and electoral democracy.

And these movements for democratic adjustment are also rising everywhere in response to the “austerity” programmes imposed by IMF, World Bank and financial institutions which created the financial crisis. The Third World had its structural Adjustment and Forced Austerity, through the 1980s and 1990s, leading to IMF riots. India’s structural adjustment of 1991 has given us the agrarian crisis with quarter million farmer suicides and food crisis pushing every 4th Indian to hunger and every 2nd Indian child to severe malnutrition; people are paying with their very lives for adjustment imposed by the World Bank/IMF. The trade liberalization reforms dismantled our food security system, based on universal PDS. It opened up the seed sector to seed MNCs. And now an attempt is being made through the Food Security Act to make our public feeding programmes a market for food MNCs. The forced austerity continues through imposition of so called reforms, such as Foreign Direct Investment (FDI) in retail, which would rob 50 million of their livelihoods in retail and millions more by changing the production system. Europe started having its forced austerity in 2010. And everywhere there are anti-austerity protests from U.K., to Italy, Greece, Spain, Ireland, Iceland, and Portugal. The banks which have created the crisis want society to adjust by destroying jobs and livelihoods, pensions and social security, public services and the commons. The people want financial systems to adjust to the limits set by nature, social justice and democracy. And the precariousness of the living conditions of the 99% has created a new class which Guy Standing calls the “Precariate”. If the Industrial Revolution gave us the industrial working class, the proletariat, globalization and the “free market” which is destroying the livelihoods of peasants in India and China through land grabs, or the chances of economic security for the young in what were the rich industrialized countries, has created a global class of the precarious. As Barbara Ehrenreich and John Ehrenreich have written in “The making of the American 99%”, this new class of the dispossessed and excluded include “middle class professional, factory workers, truck drivers, and nurses as well as the much poorer people who clean the houses, manicure the fingernails, and maintain the lawn of the affluent”.

Forced austerity based on the old paradigm allows the 1% super rich, the oligarchs, to grab the planets resources while pushing out the 99% from access to resources, livelihoods, jobs and any form of freedom, democracy and economic security. It is often said that with increasing growth, India and China are replicating the resource intensive and wasteful lifestyles of the Western countries. The reality is that while a small 3 to 4% of India is joining the mad race for consuming the earth with more and more automobiles and air conditioners, the large majority of India is being pushed into “de-consumption” – losing their entitlements to basic needs of food and water because of resource and land grab, market grab, and destruction of livelihoods. The hunger and malnutrition crisis in India is an example of the “de-consumption” forced on the poor by the rich, through the imposed austerity built into the trade liberalization and “economic reform” policies.

There is another paradigm emerging which is shared by Gandhi and the new movements of the 99%, the paradigm of voluntary simplicity of reducing one ecological foot print while increasing human well being for all. Instead of forced austerity that helps the rich become super rich, the powerful become totalitarian, chosen simplicity enables us all to adjust ecologically, to reduce over consumption of the planets resources, it allows us to adjust socially to enhance democracy and it creates a path for economic adjustment based on justice and equity.

Forced austerity makes the poor and working families pay for the excesses of limitless greed and accumulation by the super rich. Chosen simplicity stops these excesses and allow us to flower into an Earth Democracy where the rights and freedoms of all species and all people are protected and respected.

### War Down---2NC

#### War down relies on bad data manipulation, ignores structural violence, and naturalizes the institutional factors that make war inevitable

Herman 12—professor emeritus of finance at the Wharton School, University of Pennsylvania (Edward, 7/25/12, Reality Denial : Steven Pinker's Apologetics for Western-Imperial Volence, http://www.zcommunications.org/reality-denial-steven-pinkers-apologetics-for-western-imperial-volence-by-edward-s-herman-and-david-peterson-1)

Pinker wants us to believe that the relative power of warmakers and the institutional forces developing within and between them don’t matter. After all, was it not the emergence and consolidation of Leviathans that made it possible for our “better angels” to assert themselves and peaceableness to grow? Manchuria was just as likely to invade Japan in 1931 as was Japan to invade Manchuria; Poland just as likely to invade Germany in 1939 as Germany to invade Poland; and Iraq just as likely to invade the United States in 2003 as the United States to invade Iraq. He also wants us to believe that the existence of a military-industrial complex, rooted in the richest and most powerful country to emerge from the ruins of the Second World War, is irrelevant to the probability that it will engage in wars, and to the deadliness of the wars in which it does. (At least Richardson could plead that he died in 1952, and was no longer around to analyze the institutions and practices of permanent warmaking.[219]) ¶ “Suppose,” Pinker writes, “for the sake of argument, that World War II was the most destructive event in history….What does that tell us about long-term trends in war and peace? The answer is: nothing. The most destructive event in history had to take place in some century, and it could be embedded in any of a large number of very different long-term trends.” (191) ¶ With comments such as these, Pinker is imploring us to ignore major pieces of evidence that violence has reached new and more lethal heights in modern times.¶ This is the final triumph of ideology. ¶ Concluding Note ¶ Steven Pinker’s The Better Angels of Our Nature: Why Violence Has Declined is a terrible book, both as a technical work of scholarship and as a moral tract and guide. But it is extremely well-attuned to the demands of U.S. and Western elites at the start of the 21st century, with its optimistic message that the “better angels” of their nature are taking charge, and its lament over the other peoples of the world, whose “inner demons” and cultural backwardness have prevented them from keeping-up.¶ With his country engaged in a record-breaking number of simultaneous wars and interventions on four continents, with NATO expanding and asserting its military dominance globally, with Israeli settlement and dispossession policies unabated on the West Bank, with the United States and Israel threatening to attack Iran, and with some critics (not cited by Pinker) expressing profound concern over a deteriorating institutional environment in which it has become “hard to imagine any president or Congress standing up to the powerful vested interests of the Pentagon, the secret intelligence agencies and the military industrial complex,”[220] along comes Pinker bearing his 832-page gift on the declining relevance of war. ¶ Pinker’s book also coincides with the surprising emergence of an Occupy Movement that is protesting a wide range of political, economic, and social developments that have increased human insecurity, inequality, and unemployment, filled U.S. prisons, and diminished the democratic substance of elections and political power. This is also a period in which civil liberties have been under serious attack, the right to Habeas Corpus suspended, torture openly employed and given legal sanction by the executive branch, and free speech rights of protest subject to increasing restriction.¶ The convenience of Pinker’s themes and the warm reception of his work reminds us of the similar treatment of Claire Sterling’s book The Terror Network back in 1981,[221] when her stress on an alleged Soviet responsibility for cross-border terrorism fit so well the Reagan administration’s intensified focus on terrorism and the threats posed by the “Evil Empire.” Sterling’s work was ludicrously sourced and biased (e.g., she had the Apartheid regime of South Africa combating the African National Congress’ and Nelson Mandela’s “terrorism,” but not itself engaging in terrorism), and easily shown to be intellectually indefensible,[222] but The Terror Network was given great attention and treated with respect in the media, and excerpts from it were published in establishment journals and presented as credible and authoritative.[223]¶ It is true that Pinker’s book employs a much larger scholarly apparatus, but this is a misleading façade. He relies heavily on the work of the International Peace Research Institute of Oslo (PRIO) as well as the Uppsala Conflict Data Program (UCDP)—two organizations whose findings largely overlap and, as we have seen, categorize the overwhelming U.S. role in the Afghan and Iraqi theaters of violence over the last decade as “secondary” to internal and “intercommunal” warfare.[224] Pinker also relies on the Vancouver-based Human Security Report Project (HSRP), whose work draws heavily from that of PRIO and UCDP, and whose interrelated themes of a decline in great-power violence and the “shrinking costs of war,” reversed in recent years by a surge in “Islamist political violence,”[225] fit well the foreign and domestic policies of the Western imperial powers.¶ Pinker relies also on the work of Matthew White, who in his own book on the worst atrocities in history asserts that the “Western philosophy of war-making tries to avoid killing civilians.” Under this philosophy, White explains, the “1945 atomic bombing of Hiroshima is justified as a legitimate act of war, while the 1983 suicide bombing of the U.S. Marine barracks in Beirut is condemned as terrorism.” The “key difference,” White adds, was that “one was performed openly against a declared enemy who had the opportunity to fight back or surrender, while the other was sneaky”[226]—that is, not an act of resistance to occupying armies that had just killed some 20,000 people and were still indiscriminately shelling the hills around Beirut. Pinker also relies on Rudolph Rummel’s work, a man who believes that Barack Obama is a left-wing appeaser of global tyrants, and busily engineering a coup d’état in the United States.[227] Rummel’s twin-volumes on “democide” are so badly deformed by bias that he estimated that all but 5,500 Vietnamese civilians killed by U.S. forces during the war were "collateral damage" and thus the unintended victims of a civilian-protective war policy, whereas North Vietnam had deliberately targeted and killed vastly greater numbers, all as a matter of policy.[228] Pinker himself claims that “at least 800,000 civilians died” in Vietnam, (267) but he also adds that these were “battle deaths,”[229] and that the deaths ultimately were a result of the Vietnamese Communists’ “fanatical dedication to outlasting their opponents”—that is, to their refusal to submit to superior force. (308)¶ Better Angels has been received even more warmly than was Claire Sterling’s book, garnering many positive reviews and its author invited to lecture about it and to appear on numerous radio, television, and Podcast interviews.[230] The New York Times treated the book to at least five prominent mentions prior to the flattering front-page account it received in the Sunday Book Review in early October 2011 by philosopher Peter Singer, in which Singer called it “supremely important“ and a “masterly achievement.”[231] Overall, the Times reviewed, excerpted, discussed, blogged, mentioned, or invited Pinker himself to reiterate its themes in more than 20 different items.[232] That was quite a positive push by the United States’ most prominent newspaper. ¶ Even more noteworthy is the fact that so many liberals and leftists have been taken-in by Better Angels. The British philosopher Simon Blackburn praised the “riveting and myth-destroying” book, with its “positive history of humanity” and its “wealth of historical, anthropological and geographical data.”[233] The British political scientist David Runciman called it a “brilliant, mind-altering book,” and swallowed “Pinker’s careful, compelling account of why the 20th century does not invalidate his thesis that violence is in a long decline”—because the “violence of the 20th century is best understood as a series of random spasms,” according to Runciman, and because the “two world wars were essentially freak events, driven by contingency and in some cases lunacy.”[234] Both reviewers display the same inability or unwillingness to engage in serious institutional analysis as does Pinker.¶ In this country, Stephen Colbert had Pinker as a guest on his popular Comedy Central program, but asked him no serious questions; Pinker himself repeated without challenge his mantra that “we may be living in the most peaceful era in our species’ existence.”[235] Colbert did, however, find the courage to add that “Stalin killed 20 million people. Mao killed 70 million people. Hitler racked-up six million Jews alone and then like a cluster-of-millions of everybody else he didn’t care for….”¶ David Sirota also interviewed Pinker on his Colorado-based radio show. Sirota’s webpage at the KKZN radio station announces that Pinker’s book is “startling and engaging,” and adds in what appears to have been reproduced from the promotional literature of the Pinker camp that “Pinker shows (with the help of more than a hundred graphs and maps)…[that] we may be living in the most peaceful time in our species’ existence.”[236]¶ In introducing Pinker on his MSNBC show, The Nation’s Chris Hayes called Better Angels a “phenomenal book,” and added later that the book is “very persuasive that things are getting better, that humans are actually getting less violent.” Hayes asked no challenging questions about this book during his two-hour show. And in the show’s closing “You should know” segment, Pinker said that the audience should know that “The rate of death in war has been going down since 1946”—to which Hayes added that, yes, all of us “should know that it’s getting better, even in really bad weeks it’s getting better.”[237] ¶ But do Colbert, Sirota, and Hayes (et al.) really go along with Pinker’s view that the 1960s was a decade of “decivilization,” and that the mushrooming of the U.S. prison population over the past 35 years is a sign of progress, as it further thinned the ranks of the Uncivilized roaming the streets? Do they accept that what those “overly indulgent” and future-discounting savages had suffered from was a lack of “self-control,” rather than adverse social conditions? And that the “recivilizing” process from the 1990s on—which included intensive policing, mass incarceration, and the reduction of welfare-state pampering—was the key to this improvement? ¶ Do they also accept Pinker’s accolades to Charles Murray, Richard Herrnstein, James Q. Wilson, and Daniel Patrick Moynihan for emphasizing the alleged sociobiological roots of the class structure and inequality of U.S. society, and go along with his denunciations of the “hard-left” deniers of human nature whom,[238] in contrast to Pinker and his allies, have “radical” political agendas and want to protect the welfare state’s undermining of “self-control” and reversal of the “Civilizing Process”? Are they not aware that Pinker completely ignores the structural violence of the global class war that has increased inequality and interacted with systems of state violence to enlarge "internal security" operations and prison populations? That many of the Western so-called “democracies” are really national security states? And that Pinker classifies these as the advanced-guard of the “Civilizing Process”?¶ Do they accept that the post-World War II era was a “Long Peace,” and for Pinker’s reason that the great powers fought no wars among themselves? Do they buy-into Pinker’s view that the role of the United States in this era was merely the “containment” of an expansionist Communist enemy, and had no self-interested purpose or ideological base? Do they agree with his shifting of responsibility for Korean and Vietnamese civilian deaths in those distant wars from the United States to the communist sides? What do they think about Pinker’s citing the peace movements of the 1960s and during the run-up to the 2003 U.S. invasion of Iraq as evidence of the growth of our “better angels,” while failing to explain why those “angels” neither prevented nor stopped the wars? Could it be that institutional factors—the global interests of transnational corporations and the military-industrial complex, the refusal of the nuclear weapons-states to give up their advantage, a permanent-war system that is more resource-commanding than ever, and possesses the potential for unprecedented destruction—carry more weight in policy decisions than does the sociobiological expansion in the powers of reason and empathy speculatively asserted by Pinker, but impossible to prove? ¶ Can they not see the inversion of reality in the notion that it is a “militant Islam” that is the cause of Western intervention in Islamic countries? And that the “Islamic threat” that Pinker elevates to ominous levels is contrived and, like Soviet “containment,” an excuse for a violent and forward-looking policy, necessary to meet Western institutional demands? ¶ This critical failure to understand Pinker’s misrepresentations no doubt rests in part on the sheer volume of the purported evidence that he throws at his readers, with more than 1,950 endnotes, some 1,100 references, and roughly one figure for every six pages of text. But selectivity and ideological bias dominate throughout, and his key evidence does not withstand close scrutiny. ¶ We have shown that Pinker’s most basic idea, that humans moved from a Hobbesian condition of chronic warfare via the growth of civilization and the Leviathan state to a slowly and unevenly developing peaceableness, is not sustained by credible evidence. In fact, the extant archaeological record flatly contradicts it, and in his review of Better Angels, the anthropologist Douglas P. Fry referred to this as “Pinker’s Big Lie.”[239] But without the counter-myth of the Violent Savage, there could be no “Pacification Process,” and his story about the “better angels of our nature” would take on an entirely different cast than the one he gives us, in which “human history contains an arrow” and “violence meanders downward.” (694) ¶ Pinker calls the belief that the “twentieth century was the bloodiest in history” a “cliché” and an “illusion.” (193) He deals with the fact that World War II was the historical peak in war-related deaths, and World War I a big-time killer as well, by several tricks. One is to relativize deaths by adjusting the numbers killed in earlier conflicts to later and much larger population bases, so that although the absolute death toll from World War II tops all others, he can depict it as far less deadly than several other wars and conflagrations from centuries long ago. But while Pinker makes violence into a relative matter in order to prove his main theme, he often mentions the long historical diminution in violence without making explicit that he is talking about relative, not absolute, levels of violence. But increases in absolute levels of violence might well be independent of the sizes of the population base. Surely the U.S. attacks on Korea, Vietnam, and Iraq were rooted in independent factors, not the number of people then living on the planet. Nor was there any link between the Nazi holocaust and the population of China.¶ Another Pinker-device is to claim that the great wars of the 20th century were “random” events, and in his book’s many figures where he cannot avoid the deadliness of the First and Second World Wars, he waves-off their magnitude as "statistical illusions”—they are “outliers” and even “apparitions”—and he urges us to forget that they both occurred in the past 100 years. They are unrelated to “modernity,” whose “forces” for the “reduction of violence” remain sacrosanct in spite of these and subsequent wars—and the evident failure of the “better angels” to do their work. ¶ Yet another trick is to start the "Long Peace" conveniently at the end of World War II, and to define it as a period in which there have been no wars between the great powers. But the First and especially the Second World War had taught them that with their advancing and life-threatening means of self-destruction, they could not go on playing their favorite game of mutual slaughter any longer. But this didn’t prevent them from carrying out numerous and deadly wars against the Third World, which filled-in the great-power war-gap nicely. Thus the “Long Peace”—a brief 67 years through 2012—has been peaceful only in a Pinkerian sense, and it appears to have very shallow or even no roots in our “better angels.” Furthermore, as we have stressed, it is increasingly threatened by a Western elite-instigated global class war and a permanent-war system fueled by “threats” manufactured by institutional structures that continue to overwhelm these “better angels.”¶ In the final analysis, The Better Angels of Our Nature is an inflated political tract that misuses data and rewrites history in accord with its author’s clear ideological biases, while finding ideology at work only in the actions of his opponents. Pinker fears that readers will find his book “Whiggish and presentist and historically naïve,” (692) but this secular theodicy is animated by the spirit of Dr. Pangloss more than anyone else,[240] and with its deep commitments to an elitist, Western-imperial point of view, it transcends even Voltaire’s character in the fantasy that everything done by the Holy State and its minions is leading to the best of all actual worlds. ¶ Small wonder, then, that the message of Better Angels pleases so well the editors of the New York Times and the large U.S. permanent-war establishment. It is regrettable that despite its manifest problems, the book has bamboozled so many other people who should know better.

#### War isn’t down---their argument is cover for imperial and structural violence

Herman 12—professor emeritus of finance at the Wharton School, University of Pennsylvania (Edward, 7/25/12, Reality Denial : Steven Pinker's Apologetics for Western-Imperial Volence, http://www.zcommunications.org/reality-denial-steven-pinkers-apologetics-for-western-imperial-volence-by-edward-s-herman-and-david-peterson-1)

It is amusing to see how eagerly the establishment media have welcomed Steven Pinker’s 2011 tome, The Better Angels of Our Nature: Why Violence Has Declined,[1] which explains not only that “violence has been in decline for long stretches of time,” but that “we may be living in the most peaceful era in our species' existence.”[2] A professor in the Department of Psychology at Harvard University since 2002 and a two-time Pulitzer Prize finalist in the general nonfiction category,[3] Pinker’s lovable theme coincides with the Nobel Peace Laureate’s current engagement in wars on at least four separate continents (Asia, Africa, Europe, and South America); his regretful partial withdrawal from invaded and occupied Iraq; his victorious termination of the 2011 war in Libya; his buildup and threats to engage in even larger wars with Syria and Iran, both already underway with aggressive sanctions and an array of covert actions;[4] his semi-secret and ever-widening use of remote-controlled aerial gunships and death squads in global killing operations;[5] and his declaration of the right to kill any person anywhere for “national security” reasons—officially making the entire world a U.S. free-fire-zone.[6] The Barack Obama regime, and before it the Bush-Cheney regime, have also supported and protected Israel’s escalated ethnic cleansing of Palestinians, and the hostile U.S. actions and threats involving Iran and Syria are closely geared with those of Israel. ¶ Whereas in Pinker’s view there has been a “Long Peace” since the end of the Second World War,[7] in the real world there has been a series of long and devastating U.S. wars: in the Koreas (1950-1953), Vietnam, Laos, and Cambodia (1954-1975), Iraq (1990-), Afghanistan (2001- or, arguably, 1979-), the Democratic Republic of the Congo (1996-), with the heavy direct involvement of U.S. clients from Rwanda (Paul Kagame) and Uganda (Yoweri Museveni) in large-scale Congo killings; and Israel’s outbursts in Lebanon (1982 and 2006), to name a few. There were also very deadly wars in Iran, invaded by Saddam Hussein’s Iraq (1980-1988), with Western encouragement and support. And with the stimulus-excuse of 9/11, the U.S. political and “defense” establishment was able to declare a global “War on Terror,” open-ended and still ongoing, to assure that the “Long Peace” would not be interrupted by a conflict that met the Pinkerian standards for a real war.¶ In the same time frame as Pinker’s “New Peace,” alleged to have begun with the dissolution of the Soviet bloc, the Warsaw Pact, and of the Soviet Union itself (1989-1991), we have also witnessed the relentless expansion of the U.S.-led NATO bloc, its 1990s war on and dismantlement of Yugoslavia,[8] its acceptance of new “out of area” responsibilities for “security,”[9] its steadily enlarging membership from 16 to 28 states, including the Baltic and former Eastern European satellites of the Soviet Union, and a growing U.S. and NATO encirclement of and threats to China and Russia.[10] And during the first decade of the 21st century, the United States openly embarked on the systematic use of “enhanced interrogations” (i.e., torture) and the frequent resort to “extraordinary renditions” that send captives to torture-prone clients for some not-so-angelic working over.[11]¶ Pinker’s standard for an interruption of the “Long Peace” would be a war between the “great powers,” and it is true that the major Axis and Allied powers that fought each other during World War II have not made war among themselves since 1945. But Pinker carries this line of thought even further: He contends not only that the “democracies avoid disputes with each other,” but that they “tend to stay out of disputes across the board,” (283) an idea he refers to as the “Democratic Peace.”[12] (278-284) This will surely come as a surprise to the many victims of U.S. assassinations, sanctions, subversions, bombings and invasions since 1945.[13] For Pinker, no attack on a lesser power by one or more of the great democracies counts as a real war or confutes the “Democratic Peace,” no matter how many people die.¶ “Among respectable countries,” Pinker writes, “conquest is no longer a thinkable option. A politician in a democracy today who suggested conquering another country would be met not with counterarguments but with puzzlement, embarrassment, or laughter.” (260) This is an extremely silly assertion. Presumably, when George Bush and Tony Blair sent U.S. and British forces to attack Iraq in 2003, ousted its government, and replaced it with one operating under laws drafted by the Coalition Provisional Authority, this did not count as “conquest,” as these leaders never stated that they launched the war to “conquer” Iraq, but rather “to disarm Iraq, to free its people and to defend the world from grave danger.”[14] What conqueror has ever pronounced as his goal something other than self-defense and the protection of life and limb? It is on the basis of devices such as this that Pinker’s “Long Peace,” “New Peace,” and “Democratic Peace” rest. (See “Massaging the Numbers,” below.) ¶ And it is in this kind of context Pinker throws-in his “gentle commerce” theme by advancing the so-called “Golden Arches Peace” idea—that “no two countries with a McDonald’s have ever fought in a war.” The “only unambiguous” exception that he can name occurred in 1999, “when NATO briefly bombed Yugoslavia.” (285) In an endnote he mentions that an “earlier marginal exception was the U.S. attack on Panama in 1989,” but he dismisses this U.S. war as too insignificant to make the grade—“its death count falls short of the minimum required for a war according to the standard definition,”[15] though according to the UN Charter and customary international law, there was nothing sub-standard about this unambiguous U.S. aggression against a sovereign country. Here as in many other places, Pinker selects the estimated death toll that minimizes the U.S.-inflicted casualties and fits his political agenda.[16]¶ Pinker mentions in passing that the post-World War II peace among the giants was possibly a result of the immense cost of wars that might involve a nuclear exchange—and it did extend to the Soviet Union during its post-World War II life—but his explanation focuses mainly on the cultural evolution and biological adaptations of the Civilized,[17] in contrast with the Uncivilized of the Third World. Why this new peaceableness of the Civilized does not stop their violent interventions abroad he fails to explain. The exclusion of wars against the Uncivilized from his definition of a “Long Peace” reflects gross political bias. ¶ Pinker attributes the sense of increased violence to multiple “illusions,” one of which he believes is caused by the development of media and other advanced forms of communication that allow a rushing to the spot of bloody events, and recording them and transmitting them to the world. As he explained in a guest appearance on CBS TV’s The Early Show in mid-December 2011: “Not only can we send a helicopter with a film crew to any troubled spot in the world but now anyone with a cell phone is an instant reporter. They can broadcast color footage of bloodshed wherever it occurs and so we’re very aware of it.”[18] Apparently Pinker believes that the media cover the world on a non-discriminatory basis, reporting on Guatemalan peasants slaughtered by their army, civilian victims of U.S. drone warfare in Afghanistan, Honduran protesters shot dead by their own military, and dead and injured U.S. soldiers as aggressively as they report on civilian protesters shot dead on the streets of Tehran, or the victims of the Syrian government or of the late Muammar Gaddafi in 2011.[19] The naiveté here is staggering. ¶ Pinker’s “Long Peace” and “New Peace” and their alleged declines of violence not only coincide with the numerous and ongoing attacks by the giants on the midgets, the huge expansion in arms, and the new “burgeoning” of torture,[20] but runs parallel with the increasing structural violence of a global class war that has resulted in growing inequality within and between countries, systematic dispossession of vast numbers, a widespread seizure of the commons, major migrations, growing cities of slums, increased ethnic tensions and anti-Islamic fervor, deliberately stoked in a troubled, receptive environment, mass incarceration of minority populations, and more vocal oppositional forces both here and abroad.[21] These do not constitute “violence” in Pinker’s accounting system. ¶ Pinker’s “Cold War” ¶ Although Pinker covers a great deal of ground from the earliest humans to the present, with numerous figures and learned citations, Better Angels is an overwhelmingly ideological work, with biases that reveal themselves at every level—sourcing, language, framing, historical and political context, and substance—and on all topics.¶ Consider this example:¶ You would think that the disappearance of the gravest threat in the history of humanity [i.e., a NATO-Warsaw Pact nuclear war] would bring a sigh of relief among commentators on world affairs. Contrary to expert predictions, there was no invasion of Western Europe by Soviet tanks, no escalation of a crisis in Cuba or Berlin or the Middle East to a nuclear holocaust. The cities of the world were not vaporized; the atmosphere was not poisoned by radioactive fallout or choked with debris that blacked out the sun and sent Homo sapiens the way of the dinosaurs. Not only that, but a reunited Germany did not turn into the fourth reich, democracy did not go the way of monarchy, and the great powers and developed nations did not fall into a third world war but rather a long peace, which keeps getting longer. (295)¶ This is of course rhetoric, but it is saturated with political bias, straw persons, and literal errors: The nuclear war-threat has not disappeared, and two cities of the world were vaporized, with a quarter of a million civilians killed in two quick strokes, but this was done by Pinker’s home country, just as nuclear war remains “on the table” and nuclear arms continue to be an integral part of the arsenal of the United States, NATO, Israel, and India (the last shielded outside the Treaty on the Non-Proliferation of Nuclear Weapons by the new “strategic partnership” between the United States and India since July 2005[22])—and all despite the United States’ and the other four original nuclear weapons-states’ promise in 1968 to work toward the elimination of nuclear weapons.[23]

### Liberal Peace

[in AT pinker democratic peace]

#### Democratic/liberal peace theory ignores the violence that goes into creating pliant regimes willing to trade with the US---naturalizes mass violence in the interim and makes long term collapse inevitable

Herman 12—professor emeritus of finance at the Wharton School, University of Pennsylvania (Edward, 7/25/12, Reality Denial : Steven Pinker's Apologetics for Western-Imperial Volence, http://www.zcommunications.org/reality-denial-steven-pinkers-apologetics-for-western-imperial-volence-by-edward-s-herman-and-david-peterson-1)

Pinker’s establishment ideology kicks-in very clearly in his comparative treatment of communism, on the one hand, and democracy and capitalism, on the other. He is explicit that whereas communism is a “utopian” and dangerous “ideology” from which most of the world’s serious violence allegedly flowed during the past century, democracy, capitalism, “markets,” “gentle commerce,” and the like, are all tied to liberalism—or more exactly to “classical liberalism.”[133] These institutional forms are not the result of ideologies, much less utopian and dangerous; they are the historically more advanced permutations of the Leviathan that help to elicit those components of the neurobiology of peaceableness (or “better angels” as opposed to “inner demons”) for which the human brain has been naturally selected over evolutionary time. Hence, they are sources of the alleged decline in violence, and their spread is a force for positive and more peaceful change in the world.[134]¶ Not so communism. At the outset of Chapter 6, “The New Peace,” Pinker approvingly quotes Aleksandr Solzhenitsyn’s line that, unlike the communists, “Shakespeare’s evildoers stopped short at a dozen corpses [b]ecause they had no ideology” driving them. (295) In discussing the alleged mental traits of the members of a society mobilized to commit genocide, he argues that “Utopian creeds that submerge individuals into moralized categories may take root in powerful regimes and engage their full destructive might,” and highlights “Marxism during the purges, expulsions, and terror-famines in Stalin’s Soviet Union, Mao’s China, and Pol Pot’s Cambodia.” (328) In his 2002 book, The Blank Slate: The Modern Denial of Human Nature, he devoted several pages to what he called the “Marxist genocides of the twentieth century,” and noted that “Historians are currently debating whether the Communists’ mass-executions, forced marches, slave labor, and man-made famines led to one hundred million deaths or ‘only’ twenty-five million.”[135] And in the section of the current book titled “The Trajectory of Genocide,” Pinker cites the authority of the “democratic peace” theorist and “atrocitologist” Rudolph Rummel, who in his 1994 book Death By Government wrote that whereas “totalitarian communist governments slaughter their people by the tens of millions[,]…many democracies can barely bring themselves to execute serial murderers.”[136] (357)¶ As we have seen, Pinker rewrites history to accommodate this familiar establishment perspective, so that the Cold War was rooted in communist expansionism and U.S. efforts at containment, and the several million deaths in the Korean and Vietnam wars were attributable to the communists’ fanatical unwillingness to surrender to superior force, not to anti-communist and racist attitudes that facilitated the U.S. military’s mass killings of distant peoples. He deals with U.S. state-capitalism’s support and sponsorship of the corrupt open-door dictatorships of Suharto, Marcos, Mobutu, Pinochet, Diem, the Greek Colonels, and the National Security States of Latin America (among many others), and the “burgeoning” of torture following the end of the Cold War, by eye aversion. ¶ In Pinker’s view, the Third World’s troubled areas are suffering from their failure to absorb the civilizing lessons modeled for them in the United States and other advanced countries. He ignores the eight-decades-long massive U.S. investment in the military and ideological training, political takeovers, and subsequent support of Third World dictators in numerous U.S. client terror states, including Guatemala, transformed from a democracy to terror state in 1954, Brazil, shifted from a democracy to military dictatorship in 1964, the Philippines in 1972, and Chile the same in 1973, among many others. A tabulation by one of the present authors in 1979 found that 26 of the 35 states in that era that used torture on an administrative basis were U.S. clients, all of them recipients of U.S. military and economic aid.[137] These clients were capitalist in structure, but threatened and employed force to keep the lower orders disorganized and more serviceable to the local elites and transnational corporations investing there. One Latin American Church document of that period spoke of the local U.S.-supported regimes as imposing an economic model so repressive that it “provoked a revolution that did not exist.”[138] This was a deliberate “decivilizing” process, with the civilized serving as co-managers.¶ We have seen that Pinker finds the modern era peaceful by focusing on the absence of war between the major powers, downplaying the many murderous wars carried out by the West (and mainly the United States) against small countries, and falsely suggesting that the lesser-country conflicts are home-grown, even where, as in the cases of Iraq and Afghanistan, it was U.S. military assaults that precipitated the internal armed conflicts, with the United States then actively participating in them. The Israeli occupation and multi-decade ethnic cleansing of Palestine he misrepresents as a “cycle of deadly revenge,” with only Israel fighting against “terrorism” in this cycle. He speaks of Islamic and communist ideology as displaying violent tendencies, and congratulates the U.S. military for allegedly overcoming the kind of racist attitudes reported at the time of the Vietnam war (U.S. soldiers referring to Vietnamese as “gooks,” slopes,” and the like)—but the military’s new humanism is another piece of Pinker misinformation and pro-war propaganda. And he fails to cite the numerous instances of Israeli leaders referring to Palestinians as “grasshoppers,” “beasts walking on two legs,” “crocodiles,” “insects,” and a “cancer,” or Israeli rabbis decrying them as the “Amalekites” of the present era, calling for extermination of these unchosen people.[139]¶ As regards Israel, Pinker never mentions the Israeli belief in a “promised land” and “chosen people” who may be fulfilling God’s will in dispossessing Palestinians.[140] Although the lack of angelic behavior in these assaults and this language, ethnic cleansing, and dispossession process is dramatic, and has had important effects on the attitudes and behavior of Islamic peoples, it fails to fit Pinker’s ideological system and political agenda, and therefore is not a case of conflict with ideological roots. ¶ For Pinker, there is also nothing ideological in the “miracle of the market” (Reagan), no “stark utopia” in Friedrich von Hayek’s assertion that the “particulars of a spontaneous order cannot be just or unjust,”[141] no ideology in the faith that an unconstrained free market will not produce intolerable inequalities and majority resistance that in turn require the likes of Pinochet, Suharto, or Hitler to reassert the requisite “stability.” It is simply outside of Pinker’s orbit of thought that liberalism and neoliberalism in the post-Soviet world are ideologies that have serviced an elite in a class war; that the major struggles and crises that we have witnessed, over climate change, the massive upward redistribution of income and wealth, the global surge of disposable workers, and the enlargement of NATO and the police-and-surveillance state, are features of a revitalized consolidation of class power, under more angelic names like “reform,” “free markets,” “flexibility,” “stability,” and “fiscal discipline.” For Pinker, the huge growth of the prison population shows the lack of “self-control” of the incarcerated savages still with us; and it is one merit of the liberal state that it gets the bad guys off the streets. ¶ Another device that Pinker uses when weighing capitalism versus communism is to take notorious state abuses committed in the name of communism (e.g., under Joseph Stalin), not as perversions of communism, but as inherent in its ideology, and flowing directly from it. Many historians and leftists have long argued that Stalinism constituted a radical betrayal and perversion of genuine communism, and that it emerged out of crises and stresses that made anything approaching genuine communism unreachable.[142] Pinker never addresses this kind of explanation and exemption of real-world communism, but he does this implicitly for real-world degenerate forms of capitalism. Thus, Nazi Germany and its mass murders are not credited to capitalism’s account, even though Germany under the Nazis was still capitalist in economic form and surely a variant of capitalism arising under stress and threat from below, with important business support.[143] Suharto’s Indonesia and Pinochet’s Chile could be said to fit this same pattern. Rightwing believers in the crucial importance of free markets, such as Friedrich von Hayek and Milton Friedman, approved of Pinochet’s rule, which ended political freedom and freedom of thought, but worked undeviatingly for corporate interests and rights. But it took only one decade of the Chicago Boys’ privatizations and other “reforms” for Chile’s economy and financial system to collapse. In the harsh depression that ensued, the banks were re-nationalized and their foreign creditors bailed-out in a process sometimes called the “Chicago Road to Socialism,” but then shortly thereafter they were re-privatized all over again, at bargain-basement prices.[144] (Pinochet does not show up in Pinker’s index; Chile does, but never as a free market state loved by von Hayek, Friedman, and the Chicago School of Economics, and supported by the United States.)¶ In one of his book’s more outlandish moments, Pinker even allocates Nazism and the holocaust to communism. He writes that since “Hitler read Marx in 1913,” Marxism led definitively if “more circuitously” to the “[dekamegamurders] committed by the Nazi regime in Germany.”[145] (343) But while there is no evidence that Hitler really examined Marx or accepted any of his or his fellow Marxist writers’ ideas,[146] it is incontestable fact that Hitler held Marxism in contempt, and that communism and communists ranked very high among Hitler’s and the Nazi’s demons and targets (along with Jews) when they held power in Germany.[147] So is the fact that racist theories and “mismeasure of man” literature in the Houston Stewart Chamberlain tradition—of which Richard Herrnstein and Charles Murray arguably are heirs—were fanatically embraced by Hitler, and therefore linked to Nazism—and not very “circuitously,” either. ¶ Pinker not only doesn’t credit the Nazi holocaust to capitalism, he also fails to give capitalism credit for the extermination of the Native Americans in the Western Hemisphere and the huge death tolls from the Slave Trades,[148] which should have been prevented by the rising “better angels.” As noted, he also ignores democratic capitalism’s responsibility for the surge of colonialism in the 18th and 19th centuries, the associated holocausts,[149] and the death-dealing and exploitation of the Western-sponsored terror states in Indonesia, the Philippines, Latin America and elsewhere. He also fails to address the huge toll of structural violence under capitalism flowing from its domestic and global dispossession processes, and, interestingly, intensifying with the post-1979 transformation of China and the breakup of the Soviet bloc and Soviet Union (1989-1991), which reduced any need on the part of Western capitalism to show concern for the well-being of its own working class majority. This helps explain the significant global increases in inequality and dispossession and slum-city enlargement over the past two decades, a period that Pinker calls the “New Peace” and depicts as an age of accelerating “Civilization”!¶ Pinker refers to the deaths during China’s Great Leap Forward (1958-1961) as a “Mao masterminded…famine that killed between 20 million and 30 million people.”[150] (331) For Pinker, clearly, the dead were victims of a deliberate policy that demonstrates the evil behind communist ideology. But as the development economists Jean Drèze and Amartya Sen have pointed out, China under Mao installed a massive and effective system of public medical services, as well as literacy and nutrition programs that greatly benefitted the general population in the years prior to the famine—a fact that is difficult to reconcile with the allegation that Mao regarded mass starvation as an acceptable means to some other end. Instead, Drèze and Sen blamed this tragedy on the lack of democracy in China, with the absence of pressure from below and a lack of timely knowledge of policy failure significantly offsetting the life-saving benefits of communist China’s medical and other social welfare programs.[151] ¶ Drèze and Sen also compared the number of deaths caused by this famine under Mao with the number of deaths caused by what they called the “endemic undernutrition and deprivation” that afflicts India’s population year-in and year-out. “Estimates of extra mortality [from China’s famine] vary from 16.5 million to 29.5 million,” they wrote, “arguably the largest in terms of total excess mortality in recorded history.”[152] But “despite the gigantic size of excess mortality in the Chinese famine,” they continued, the “extra mortality in India from regular deprivation in normal times vastly overshadows the former. Comparing India’s death rate of 12 per thousand with China’s 7 per thousand, and applying that difference to India’s population of 781 million in 1986, we get an estimate of excess normal mortality in India of 3.9 million per year. This implies that every eight years or so more people die in India because of its higher death rate than died in China in the gigantic famine….India seems to manage to fill its cupboard with more skeletons every eight years than China put there in its years of famine.”[153] Indeed, by 2005, some 46 percent (or 31 million) of India’s children were underweight, and 79 percent suffered anemia. “Forty years of efforts to raise how much food-grains Indians are able to eat has been destroyed by a mere dozen years of economic reform,” Jawaharal Nehru University economist Utsa Patnaik observes.[154]

## Globalism

### No Model

#### No one cites the US for anything---there are too many other countries to look to

Mila Versteeg 13, Associate Professor at the University of Virginia School of Law. Model, Resource, or Outlier? What Effect Has the U.S. Constitution Had on the Recently Adopted Constitutions of Other Nations?, 29 May 2013, www.heritage.org/research/lecture/2013/05/model-resource-or-outlier-what-effect-has-the-us-constitution-had-on-the-recently-adopted-constitutions-of-other-nations

Unsurprisingly, attempting to gauge one constitution’s “influence” on another involves various conceptual and methodological challenges. To illustrate, a highly generic constitution may be generic because others have followed its lead, because it has modeled others, or simply by coincidence. That said, if two constitutions are becoming increasingly dissimilar, by definition, one cannot be following the other. That is, neither is exerting influence on the other (at least not in a positive way). This is the phenomenon we observed in comparing the U.S. Constitution to the rest of the world; based on the rights index, the U.S. has become less similar to the world since 1946 and, with a current index of 0.30, is less similar now than at any point during the studied period. This phenomenon has occurred even among current American allies; among countries in regions with close cultural and historic ties to the U.S. (namely, Latin America and Western Europe); and among democracies. Only among common law countries is constitutional similarity higher than it was after World War II, but even that similarity has decreased since the 1960s. Rights provisions are not the only constitutional elements that have lost favor with the rest of the world; structural provisions pioneered by American constitutionalism—such as federalism, presidentialism, and judicial review—have also been losing their global appeal. For instance, in the early 20th century, 22 percent of constitutions provided for federalistic systems, while today, just 12 percent do. A similar trend has occurred for presidentialism, another American innovation. Since the end of World War II, the percentage of countries employing purely presidential systems has declined, mainly in favor of mixed systems, which were a favorite of former Soviet bloc countries. Finally, though judicial review is not mentioned in the U.S. Constitution, it has proved the most popular American structural innovation. But though the popularity of judicial review in general has exploded over the past six decades, most countries have opted for the European style of review (which designates a single, constitutional court which alone has the power to nullify laws inconsistent with the constitution) over the American model (in which all courts are empowered to strike unconstitutional laws). In 1946, over 80 percent of countries exercised American-style constitutional review; today, fewer than half do. Reasons for the Decline It appears that several factors are driving the U.S. Constitution’s increasing atypicality. First, while in 2006 the average national constitutions contained 34 rights (of the 60 we identify), the U.S. Constitution contains relatively few—just 21—and the rights it does contain are often themselves atypical. Just one-third of constitutions provide for church and state separation, as does the U.S. Establishment Clause, and only 2 percent of constitutions (including, e.g., Mexico and Guatemala) contain a “right to bear arms.” Conversely, the U.S. Constitution omits some of the most globally popular rights, such as women’s rights, the right to social security, the right to food, and the right to health care. These peculiarities, together with the fact that the U.S. Constitution is both old and particularly hard to amend, have led some to characterize the Constitution as simply antiquated or obsolete.

#### Modeling fails

HiramChodosh 3, Professor of Law, Director of the Frederick K. Cox International Law Center, Case Western Reserve University School of Law, 38 Tex. Int'l L.J. 587, lexis

**Exposure to foreign systems is** helpful but **seldom sufficient for effective reform design.** Reform models are more likely to be successful if they are not merely copied or transplanted into the system. The argument that transplants are easy and common (though based on substantial historical evidence) **profoundly undervalues** the relationship between law and external social objectives. 103 Furthermore, reforms conceived as blunt negations of [\*606] the status quo are not likely to be successful. 104 Reform proposals based on foreign systems or in reaction to (or as a negation of) recent domestic experience require careful adaptation to local circumstances and conditions. However, most communities are **not familiar with the tools of adaptation** and tend to think of foreign models as package deals to accept or reject (but rarely to alter), and alterations tend to graft one institution onto another without comprehensive consideration of the system as a whole. 105

#### Nobody cares

Eric Black 12, former reporter for the Star Tribune and Twin Cities blogger, Some ideas to limit the ‘supremacy’ of the U.S. Supreme Court, 11/27/12, www.minnpost.com/eric-black-ink/2012/11/some-ideas-limit-supremacy-us-supreme-court

It seems to be part of our national DNA. We see ourselves as so unlike the rest of the world that we have developed a semi-religious belief in what we call “American exceptionalism.” Maybe the upside is some kind of boost to our collective self-esteem. But one of the downsides is a reluctance to look around the world and see if anyone (especially not France) has a good idea from which we might benefit.

Especially on democracy. We see ourselves as the world’s model for democracy and the “rule of law.” We expect others to copy us, although they have long since stopped doing so with reference to the specifics of how to design a government. We grumble a good deal about the breakdowns in our system, but we are not much open to ideas for improving it.

University of Minnesota political scientist Lisa Hilbink, whose specialties include comparative constitutional systems around the world, said that basically, since the end of World War II, most of the world outside of Latin America came to the conclusion that the U.S. system was “pretty crazy.”

### AT: DPT

#### Democratic peace is wrong --- democracies more likely to engage in war

Baliga 11—prof of managerial economics and decision sciences at Kellog School of Business, NU. PhD from Harvard—AND—Tomas Sjöström—chaired prof of economics at Rutgers—AND—David O. Lucca—economist with the Federal Reserve Board (Sandeep, Domestic Political Survival and International Conflict: Is Democracy Good for Peace?, The Review of Economic Studies, July 2011, 78;3)

The idea that democracy promotes peace has a long history. Thomas Paine argued that monarchs go to war to enrich themselves, but a more democratic system of government would lead to lasting peace: “What inducement has the farmer, while following the plough, to lay aside his peaceful pursuit, and go to war with the farmer of another country?” (Paine, 1985 p. 169). Immanuel Kant agreed that if “the consent of the subjects is required to determine whether there shall be war or not, nothing is more natural than that they should weigh the matter well, before undertaking such a bad business” (Kant, 1795, 1903, p. 122). More recently, the democratic peace hypothesis has influenced the “neoconservative” view of international relations (Kaplan and Kristol, 2003). U.S. policy makers of different political persuasions have invoked it in support of a policy to “seek and support the growth of democratic movements and institutions in every nation and culture.”1 But some anecdotal observations seem to support a more “realist” viewpoint. For example, after the breakup of Yugoslavia, democratic reforms were followed by war, not peace. When given a chance in the legislative elections of 2006, the Palestinians voted for Hamas, which did not have a particularly peaceful platform. Such anecdotes suggest that democratization does not always promote peace. Even fully democratic countries such as the U.S. sometimes turn aggressive: under perceived threats to the homeland, the democratically elected President George W. Bush declared war on Iraq. ¶ We develop a simple game-theoretic model of conflict based on Baliga and Sjöström (2004). Each leader can behave aggressively or peacefully. A leader's true propensity to be aggressive, his “type”, is his private information. Since actions are strategic complements, the fear that the other leader might be an aggressive type can trigger aggression, creating a fear spiral we call “Schelling's dilemma” (see Schelling, 1960; Jervis, 1976, Jervis, 1978; Kydd, 1997). Unlike Baliga and Sjöström (2004), we assume a leader may be removed from power. Whether a leader can stay in power depends on the preferences of his citizens, the political system, and the outcome of the interaction between the two countries. The political system interacts with Schelling's dilemma to create a non-monotonic relationship between democracy and peace.¶ Like the leaders, citizens have different types. By hypothesis, the median type prefers to live in peace. This imposes a “dovish bias” on a dyad of two full democracies (whose leaders can be replaced by their median voters). Thus, a dyadic democratic peace is likely to obtain. However, when facing a country that is not fully democratic, the median voter may support aggression out of fear and may replace a leader who is not aggressive enough. (For example, Neville Chamberlain had to resign after appeasing Hitler.) This gives rise to a “hawkish bias”. Thus, in a fully democratic country, a dovish bias is replaced by a hawkish bias when the environment becomes more hostile. In contrast, a dictator is not responsive to the preferences of his citizens, so there is neither a hawkish nor a dovish bias. Accordingly, a dyad of two dictators is less peaceful than a fully democratic dyad, but a dictator responds less aggressively than a democratically elected leader to increased threats from abroad.¶ In the model, the leader of a limited democracy risks losing power if hawks in his population turn against him. For instance, the German leaders during World War I believed signing a peace agreement would lead to their demise (Asprey, 1991, pp. 486–487, 491). Conversely, the support of the hawkish minority trumps the opposition of more peaceful citizens. Thus, a limited democracy experiences a hawkish bias similar to a full democracy under threat from abroad but never a dovish bias. On balance, this makes limited democracies more aggressive than any other regime type¶ . In a full democracy, if the citizens feel safe, they want a dovish leader, but if they feel threatened, they want a hawkish leader. In dictatorships and limited democracies, the citizens are not powerful enough to overthrow a hawkish leader, but the leader of a limited democracy risks losing power by appearing too dovish. This generates a non-monotonic relationship between democracy and peace.¶ Our empirical analysis reassesses the link between democracy and peace using a flexible semiparametric functional form, where fixed effects account for unobserved heterogeneity across country dyads. We use Polity IV data to classify regimes as dictatorships, limited democracies or full democracies. Following the literature on the democratic peace hypothesis, we define a conflict as a militarized dispute in the Correlates of War data set. The data, which span over the period 1816–2000, contain many military disputes between limited democracies. In the nineteenth century, Britain had a Parliament, but even after the Great Reform Act of 1832, only about 200,000 people were allowed to vote. Those who owned property in multiple constituencies could vote multiple times.2 Hence, Britain is classified as a limited democracy for 58 years and becomes a full democracy only after 1879. France, Italy, Spain, and Germany are also limited democracies at key points in the nineteenth and early twentieth centuries. These countries, together with Russia and the Ottoman Empire, were involved in many militarized disputes in Europe and throughout the world. For much of the nineteenth century, Britain and Russia had many skirmishes and outright wars in the “Great Game” for domination of Central Asia (Hopkirk, 1990). France is also involved in many disputes and is a limited democracy during the Belgian War of Independence and the Franco-Prussian War. Germany is a limited democracy at the start of the First World War.¶ Over the full sample, the data strongly support a dyadic democratic peace hypothesis: dyads consisting of two full democracies are more peaceful than all other pairs of regime types. This is consistent with previous empirical studies (Babst, 1972, Levy, 1988, , maozrussett, Russett and Oneal, 2001). Over the same period, limited democracies were the most aggressive regime type. In particular, dyads consisting of two limited democracies are more likely to experience militarized disputes than any other dyads, including “mixed” dyads where the two countries have different regime types. These results are robust to changing the definitions of the three categories (using the Polity scores) and to alternative specifications of our empirical model. The effects are quantitatively significant. Parameter estimates of a linear probability model specification, suggest that the likelihood that a dyad engages in a militarized dispute falls roughly 35% if the dyad changes from a pair of limited democracies to a pair of dictatorships. We also find that if some country j faces an opponent which changes from a full democracy to another regime type, the estimated equilibrium probability of conflict increases most dramatically when country j is a full democracy. This suggests that as the environment becomes more hostile, democracies respond more aggressively than other regime types, which is also consistent with our theoretical model.¶ A more nuanced picture emerges when we split the data into subsamples. Before World War II, the data strongly suggest that limited democracies were the most conflict prone. It is harder to draw conclusions for the post World War II period, when very few countries are classified as limited democracies, and full democracies have very stable Polity scores. The Cold War was a special period where great power wars became almost unthinkable due to the existence of large nuclear arsenals (Gaddis, 2005). Did the weakening and demise of the Soviet Union bring a return to the pre-1945 patterns? Although the time period is arguably short, in the post-1984 period, it does seem that dyads of limited democracies are again the most prone to conflict.¶ It is commonly argued that a process of democratization, e.g. in the Middle East, will lead to peace (Bush, 2003). But both theory and data suggest that the relationship between democracy and peace may be complex and non-monotonic. Replacing a dictatorship with a limited democracy may actually increase the risk of militarized disputes. Even if a dictatorship is replaced by a full democracy, this may not reduce the risk of militarized disputes if the region is dominated by hostile non-democratic countries. In the data, only dyads consisting of two full democracies are peaceful. Democratic countries such as Israel and India, with hostile neighbours, do not enjoy a low level of conflict.

#### Prefer our ev---theirs doesn’t assume weak democracies

Baliga 11—prof of managerial economics and decision sciences at Kellog School of Business, NU. PhD from Harvard—AND—Tomas Sjöström—chaired prof of economics at Rutgers—AND—David O. Lucca—economist with the Federal Reserve Board (Sandeep, Domestic Political Survival and International Conflict: Is Democracy Good for Peace?, The Review of Economic Studies, July 2011, 78;3)

Theoretical and empirical work in economics and political science has investigated the relationship between political systems and war. Jackson and Morelli (2007) formalize the idea that leaders start wars when their preferences are sufficiently biased away from their citizens' preferences. Levy and Razin (2004) provide a theory of the democratic peace based on incomplete information. They assume the representative citizen is less well informed about the benefit of concessions than the leader and show that democratically elected leaders are more likely to reveal information truthfully. In Bueno De Mesquita et al. (1999), political leaders must bribe key supporters to stay in power when foreign policy fails. A dictator has to bribe fewer supporters and is therefore more likely to go to war than a democratically elected leader. On the other hand, in order to avoid being replaced, a leader may “gamble for resurrection” with an aggressive foreign policy (Downs and Rocke, 1994, Bueno De Mesquita and Silverson, 1995, Hess and Orphanides, 1995). Fearon (1994) assumes leaders suffer “audience costs” if they back down during a war of attrition. If audience costs are higher in democracies, then democracies are more committed to a conflict and may be more reluctant to enter into one. Tangeras (2008) assumes that leaders have private information about the probability of winning a war. Democratically elected leaders are more reluctant to start a war because they will lose power if the war ends badly. According to Leeds (1999), democratic leaders are more able to commit to honouring agreements and thus more able to cooperate.

These theories provide underpinnings for the democratic peace hypothesis, but it is not obvious how they can be extended to explain the non-monotonicity we find in the data. For example, a natural extension of Fearon (1994) model would be to assume the audience costs of limited democracies lie between those of dictatorships and full democracies, but this would not produce non-monotonicity. Similarly, if the leader of a limited democracy has less biased preferences than a dictator, then the Jackson and Morelli (2007) model would predict that limited democracies go to war less often than dictatorships.

Our theory incorporates an important feature of Bueno De Mesquita et al. (1999): the support for the leader's action is derived from heterogeneous preferences among the citizens. In our model, leaders of full and limited democracies suffer audience costs (as in Fearon, 1994) if they are dovish when the opposing leader is hawkish; in addition, a leader of a full democracy faces audience costs (from the median voter) if he is hawkish against a dovish opponent; a dictator faces no audience costs at all. The result is a non-monotonic relationship between democracy and peace.

Mansfield and Snyder (2005) argue that increased nationalism can cause conflict during a period of transition when a regime is being democratized. However, in our baseline empirical model, dyads of limited democracies are the most conflict ridden even when controlling for regime transitions (using Mansfield and Snyder's, 2005, transitional dummies). This suggests that limited democracies are not only prone to conflict during periods of transition.

Several articles have investigated the hypothesis that dyads consisting of countries with similar regime types, and thus perhaps “shared values” are relatively peaceful. Peceny, Beer and Sanchez-Terry (2004) classify autocratic regimes as personalist, military and single-party dictatorships and find evidence that dyads consisting of two autocracies of the same type are relatively peaceful. Bennett (2006) analyses plots of conflict probabilities for dyads with different Polity scores. He finds that the hypothesized relationship between similarity and peace holds for dyads with either very high or very low Polity scores, but not in the intermediate range. This is consistent with our finding that dyads of two limited democracies (which have intermediate Polity scores by definition) are relatively conflict prone. However, it is challenging within Bennett's pooled logit specification to formally test for non-monotonicity and to assess robustness within higher-order parametric specifications because the functional form is bidimensional and marginal effects are non-linear functions of explanatory variables. In addition, his specification cannot include dyadic fixed effects. Our dummy variable non-parametric approach has dyad-specific fixed effects, and non-monotonicity can be assessed through simple tests on coefficients. Unlike Bennett's continuous specification, we define limited democracies by cut-off Polity scores, but we verify the robustness of our results by varying the cut-off points.

Other authors have analysed limited democracies along other dimensions and found reasons for why such regimes might experience conflicts. Fearon and Laitin (2003) find that limited democracies are more prone to civil wars, as insurgencies are more likely to succeed in weaker political regimes. Epstein et al. (2006) find that political transitions from limited democracies to other political regimes are harder to explain than political transitions of autocracies and full democracies.

Determining the underlying motives behind conflicts, based on a subjective reading of history, will always leave scope for disagreement. Our theoretical model, building on Baliga and Sjöström (2004), assumes that conflicts can be sparked by fear (“Schelling's dilemma”). Historians have uncovered many examples of such “fear spirals”.3 For example, Thucydides (1.23, p. 49 1972) argued that the Peloponnesian War was caused by “the growth of Athenian power and the fear which this caused in Sparta.” The period that preceded World War I was characterized by mutual distrust and fear (Sontag, 1933, Tuchman, 1962, Wainstein, 1971). A spiral of fear was evident during the Cold War arms race (Leffler, 1992). The India–Pakistan arms race is a current example of escalation fuelled by mutual distrust, and Bobbitt (p. 10 2008) suggests a similar logic will continue to operate in the wars of the twenty-first century: “We think terrorists will attack; so they think we think the terrorists will attack; so they think we shall intervene; so they will attack; so we must.” Nevertheless, there is disagreement about the number of large-scale wars that can be said to have been triggered by fear (see Van Evera, 1999, Reiter, 2000). Reiter (1995) argues that leaders who understand the spiraling logic can prevent conflict by communicating. Baliga and Sjöström (2004) verify that, in theory at least, cheap talk can sometimes prevent a conflict, but it cannot always do so. Our current model assumes that leaders are partly motivated by domestic political concerns and may behave hawkishly in order to maintain political support. Thus, fear is not the only reason for starting a war, and the argument by Reiter (1995) that World War I was not a pure fear spiral is consistent with our model:

Domestic politics in a number of nations set the stage for war, though some …have gone further to argue that Germany sought war … to shore up the threatened domestic political order at home (Reiter, 1995, p. 22).

#### Their ev conflates correlation and causation

Mueller 9—pol sci prof and IR, 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, Faulty Correlation, Foolish Consistency, Fatal Consequence: Democracy, Peace, and Theory in the Middle East, 15 June 2007, http://psweb.sbs.ohio-state.edu/faculty/jmueller/KENT2.PDF)

In the last couple of decades there has been a burgeoning and intriguing discussion about the connection between democracy and war aversion.7 Most notable has been the empirical observation that democracies have never, or almost never, gotten into a war with each other. This relationship seems more correlative than causal, however. Like many important ideas over the last few centuries, the idea that war is undesirable and inefficacious and the idea that democracy is a good form of government have largely followed the same trajectory: they were embraced first in northern Europe and North America and then gradually, with a number of traumatic setbacks, became more accepted elsewhere. In this view, the rise of democracy not only is associated with the rise of war aversion, but also with the decline of slavery, religion, capital punishment, and cigarette smoking, and with the growing acceptance of capitalism, scientific methodology, women's rights, environmentalism, abortion, and rock music.8 While democracy and war aversion have taken much the same trajectory, however, they have been substantially out of synchronization with each other: the movement toward democracy began about 200 years ago, but the movement against war really began only about 100 years ago (Mueller 1989, 2004). Critics of the democracy/peace connection often cite examples of wars or near-wars between democracies. Most of these took place before World War I--that is, before war aversion had caught on.9 A necessary, logical connection between democracy and war aversion, accordingly, is far from clear. Thus, it is often asserted that democracies are peaceful because they apply their domestic penchant for peaceful compromise (something, obviously, that broke down in the United States in 1861) to the international arena or because the structure of democracy requires decision-makers to obtain domestic approval.10 But authoritarian regimes must also necessarily develop skills at compromise in order to survive, and they all have domestic constituencies that must be serviced such as the church, the landed gentry, potential urban rioters, the nomenklatura, the aristocracy, party members, the military, prominent business interests, the police or secret police, lenders of money to the exchequer, potential rivals for the throne, the sullen peasantry.11 Since World War I, the democracies in the developed world have been in the lead in rejecting war as a methodology. Some proponents of the democracy-peace connection suggest that this is because the democratic norm of non-violent conflict resolution has been externalized to the international arena. However, developed democracies have not necessarily adopted a pacifist approach, particularly after a version of that approach failed so spectacularly to prevent World War II from being forced upon them. In addition, they were willing actively to subvert or to threaten and sometimes apply military force when threats appeared to loom during the Cold War contest. At times this approach was used even against regimes that had some democratic credentials such as in Iran in 1953, Guatemala in 1954, Chile in 1973, and perhaps Nicaragua in the 1980s (Rosato 2003, 590-91). And, they have also sometimes used military force in their intermittent efforts to police the post-Cold War world (Mueller 2004, chs. 7, 8). It is true that they have warred little or not at all against each other--and, since there were few democracies outside the developed world until the last quarter of the twentieth century, it is this statistical regularity that most prominently informs the supposed connection between democracy and peace. However, the developed democracies hardly needed democracy to decide that war among them was a bad idea.12 In addition, they also adopted a live-and-let-live approach toward a huge number of dictatorships and other non-democracies that did not seem threatening during the Cold War--in fact, they often aided and embraced such regimes if they seemed to be on the right side in the conflict with Communism. Moreover, the supposed penchant for peaceful compromise of democracies has not always served them well when confronted with civil war situations, particularly ones involving secessionist demands. The process broke down into civil warfare in democratic Switzerland in 1847 and savagely so in the United States in 1861. Democracies have also fought a considerable number of wars to retain colonial possessions--six by France alone since World War II--and these, as James Fearon and David Laitin suggest, can in many respects be considered essentially to be civil wars (2003, 76). To be sure, democracies have often managed to deal with colonial problems peacefully, mostly by letting the colonies go. But authoritarian governments have also done so: the Soviet Union, for example, withdrew from his empire in Eastern Europe and then dissolved itself, all almost entirely without violence. Thus, while democracy and war aversion have often been promoted by the same advocates, the relationship does not seem to be a causal one. And when the two trends are substantially out of step today, democracies will fight one another. Thus, it is not at all clear that telling the elected hawks in the Jordanian parliament that Israel is a democracy will dampen their hostility in the slightest. And various warlike sentiments could be found in the elected parliaments in the former Yugoslavia in the early 1990s or in India and then-democratic Pakistan when these two countries engaged in armed conflict in 1999. If Argentina had been a democracy in 1982 when it seized the Falkland Islands (a very popular undertaking), it is unlikely that British opposition to the venture would have been much less severe. "The important consideration," observes Miriam Fendius Elman after surveying the literature on the subject, does not seem to be "whether a country is democratic or not, but whether its ruling coalition is committed to peaceful methods of conflict resolution." As she further points out, the countries of Latin America and most of Africa have engaged in very few international wars even without the benefit of being democratic (for a century before its 1982 adventure, Argentina, for example, fought none at all) (1997, 484, 496). (Interestingly, although there has also been scarcely any warfare between Latin American states for over 100 years or among Arab ones or European ones for more that 50--in all cases whether democratic or not--this impressive phenomenon has inspired remarkably few calls for worldwide Arab colonialism or for the systematic transplant of remaining warlike states to Latin America or Europe.) And, of course, the long peace enjoyed by developed countries since World War II includes not only the one that has prevailed between democracies, but also the even more important one between the authoritarian east and the democratic west. Even if there is some connection, whether causal or atmospheric, between democracy and peace, it cannot explain this latter phenomenon. Democracy and the democratic peace become mystiques: the role of philosophers and divines Democracy has been a matter of debate for several millennia as philosophers and divines have speculated about what it is, what it might become, and what it ought to be. Associated with these speculations has been a tendency to emboss the grubby gimmick with something of a mystique. Of particular interest for present purposes is the fanciful notion that democracy does not simply express and aggregate preferences, but actually somehow creates (or should create) them. In addition, the (rough) correlation between democracy and war aversion has also been elevated into a causal relationship.

#### Prefer our evidence—backed by studies

Rosato 3 – PhD PolSci, Chicago; conclusion of a statistical survey of democracies (Sebastian, The Flawed Logic of Democratic Peace Theory, The American Political Science Review 97.4, AG)

The causal logics that underpin democratic peace theory cannot explain why democracies remain at peace with one another because the mechanisms that make up these logics do not operate as stipulated by the theory's proponents. In the case of the normative logic, liberal democracies do not reliably externalize their domestic norms of conflict resolution and do not treat one another with trust and respect when their interests clash. Similarly, in the case of the institutional logic, democratic leaders are not especially accountable to peaceloving publics or pacific interest groups, democracies are not particularly slow to mobilize or incapable of surprise attack, and open political competition offers no guarantee that a democracy will reveal private information about its level of resolve. In view of these findings there are good reasons to doubt that joint democracy causes peace.

### AT: Iraq

#### No escalation to Iraq conflict --- major powers will prevent civil war

Hadar 11—former prof of IR at American U and Mount Vernon-College. PhD in IR from American U (1 July 2011, Leon, Saving U.S. Mideast Policy, http://nationalinterest.org/commentary/saving-us-policy-the-mideast-5556)

Indeed, contrary to the warning proponents of U.S. military intervention typically express, the withdrawal of American troops from Iraq and Afghanistan would not necessarily lead to more chaos and bloodshed in those countries. Russia, India and Iran—which supported the Northern Alliance that helped Washintgon topple the Taliban—and Pakistan (which once backed the Taliban) all have close ties to various ethnic and tribal groups in that country and now have a common interest in stabilizing Afghanistan and containing the rivalries.¶ A similar arrangement could be applied to Iraq where Turkey, Saudi Arabia and Iran share an interest in assisting their local allies and in restraining potential rivals—Shiites, Sunnis, Kurds and Turkmen—by preventing the sectarian tensions in Iraq from spilling into the rest of the region.¶ Hence, Turkey has already been quite successful in stabilizing and developing economic ties with the autonomous Kurdish area of Iraq while containing irredentist Kurdish pressures in northern Iraq and southern Turkey and protecting the Turkmen minority. And Turkey, together with Saudi Arabia and Iran, has played a critical role toward forming a government in Baghdad that recognizes the interests of Shiites, Sunnis, and Kurds.

## Legitimacy

### Drones Alt Cause

#### Drones outweigh detention

Stephen Holmes 13, the Walter E. Meyer Professor of Law, New York University School of Law, July, “What’s in it for Obama?” The London Review of Books, <http://www.lrb.co.uk/v35/n14/stephen-holmes/whats-in-it-for-obama>

Obama rightly boasts that he has extracted the country from land wars. But he is simultaneously sleepwalking it into new conflict zones around the world. He would presumably not be doing this had drone warfare not been an available option. In his 23 May speech, speaking about the war America launched in the wake of 9/11, he said: ‘this war, like all wars, must end. That’s what history advises. That’s what our democracy demands.’ What he apparently meant to say was that he has found a way for this war to continue without penetrating the consciousness of US citizens. That is apparently what American democracy demands. The instrument that has allowed him to narrow the fight guarantees that the fight will go on. Obama came into office promising to restrict and reconfigure the country’s counterterrorism efforts, to bring them back within the rule of law. Instead, he too is fighting fire with fire. He continues to play according to bin Laden’s archaic playbook, perpetuating an endless post-9/11 revenge cycle, tit for tat. The Khost tragedy, where revenge against drone strikes justified further revenge strikes by drone, is a case in point. On the basis of undisclosed evidence, evaluated in unspecified procedures by rotating personnel with heterogeneous backgrounds, the US is continuing to kill those it classifies as suspected terrorists in Somalia, Yemen and Pakistan. It has certainly been eliminating militants who had nothing to do with 9/11, including local insurgents fighting local battles who, while posing no realistic threat to America, had allied themselves opportunistically with international anti-American jihadists. By following the latter wherever they go, the US is allowing ragtag militants to impose ever new fronts in its secret aerial war. Mistakes are made and can’t be hidden, at least not from local populations. Nor can the resentment of surrounding communities be easily assuaged. This is because, even when it finds its target, the US is killing not those who are demonstrably guilty of widely acknowledged crimes but rather those who, it is predicted, will commit crimes in the future. Of course, the civilian populations in the countries where these strikes take place will never accept the hunches of CIA or Pentagon futurologists. And so they will never accept American claims about the justice of Obama’s slimmed-down war on terror, but instead claim the right of self-defence, and this would be true even if drone operators could become as error-free as Brennan once claimed they already are. But of course collateral damage and mistaken-identity strikes will continue. They are inevitable accompaniments of all warfare. And they, too, along with intentional killings that are never publicly justified, will communicate resoundingly to the world that the arbitrary and unpredictable killing of innocent Muslims falls within America’s commodious concept of a just war. The rage such strikes incite will be all the greater if onlookers believe, as seems likely, that the killing they observe makes relatively little contribution to the safety of Americans. Indeed, this is already happening, which is the reason that the drone, whatever its moral superiority to land armies and heavy weaponry, has replaced Guantánamo as the incendiary symbol of America’s indecent callousness towards the world’s Muslims. As Bush was the Guantánamo president, so Obama is the drone president. This switch, whatever Obama hoped, represents a worsening not an improvement of America’s image in the world.

### No Impact

#### U.S. primacy isn’t key to peace---their data is flawed

Christopher Preble 10, director of Foreign Policy Studies at the CATO Institute, August 3, 2010, “U.S. Military Power: Preeminence for What Purpose?,” online: <http://www.cato-at-liberty.org/u-s-military-power-preeminence-for-what-purpose/>

Most in Washington still embraces the notion that America is, and forever will be, the world’s indispensable nation. Some scholars, however, questioned the logic of hegemonic stability theory from the very beginning. A number continue to do so today. They advance arguments diametrically at odds with the primacist consensus. Trade routes need not be policed by a single dominant power; the international economy is complex and resilient. Supply disruptions are likely to be temporary, and the costs of mitigating their effects should be borne by those who stand to lose — or gain — the most. Islamic extremists are scary, but hardly comparable to the threat posed by a globe-straddling Soviet Union armed with thousands of nuclear weapons. It is frankly absurd that we spend more today to fight Osama bin Laden and his tiny band of murderous thugs than we spent to face down Joseph Stalin and Chairman Mao. Many factors have contributed to the dramatic decline in the number of wars between nation-states; it is unrealistic to expect that a new spasm of global conflict would erupt if the United States were to modestly refocus its efforts, draw down its military power, and call on other countries to play a larger role in their own defense, and in the security of their respective regions.

But while there are credible alternatives to the United States serving in its current dual role as world policeman / armed social worker, the foreign policy establishment in Washington has no interest in exploring them. The people here have grown accustomed to living at the center of the earth, and indeed, of the universe. The tangible benefits of all this military spending flow disproportionately to this tiny corner of the United States while the schlubs in fly-over country pick up the tab.

### Monteiro

#### Best data proves unipolar systems are four times more war-prone than multipolar alternatives---reject their impact ev because it lacks a quantitative methodology

Nuno P. Monteiro 12, Assistant Professor of Political Science at Yale University, “Unrest Assured: Why Unipolarity is Not Peaceful,” International Security, Winter 2012, Vol. 36, No. 3, p. 9-40

How well, then, does the argument that unipolar systems are peaceful account for the first two decades of unipolarity since the end of the Cold War? Table 1 presents a list of great powers divided into three periods: 1816 to 1945, multipolarity; 1946 to 1989, bipolarity; and since 1990, unipolarity.46 Table 2 presents summary data about the incidence of war during each of these periods. Unipolarity is the most conflict prone of all the systems, according to at least two important criteria: the percentage of years that great powers spend at war and the incidence of war involving great powers. In multipolarity, 18 percent of great power years were spent at war. In bipolarity, the ratio is 16 percent. In unipolarity, however, a remarkable 59 percent of great power years until now were spent at war. This is by far the highest percentage in all three systems. Furthermore, during periods of multipolarity and bipolarity, the probability that war involving a great power would break out in any given year was, respectively, 4.2 percent and 3.4 percent. Under unipolarity, it is 18.2 percent—or more than four times higher.47 These figures provide no evidence that unipolarity is peaceful.48

#### Heg causes over-estimation of U.S. interests and capabilities---unipoles behave like revolutionary revisionist powers

Robert Jervis 11, Professor in the Department of Political Science and School of International and Public Affairs at Columbia University, December 2011, “Force in Our Times,” Survival, Vol. 25, No. 4, p. 403-425

As the previous paragraphs indicate, a central challenge for scholars (and policymakers) is to understand actors’ preferences and the intensity with which they are held. Morgenthau’s textbook (but not many of his other writings) 27 may have talked about the national interest as though it was clear and unchanging, but one does not have to be a constructivist to know that this is wrong. For all the centrality of the question of how the national interest is defined, our knowledge is relatively sparse, however. What is most relevant here is the proposition, widely accepted if not completely verified, that the interests a country defines as extremely important if not vital tend to expand as its power does. Winston Churchill got to the heart of the matter:

When nations or individuals get strong they are often truculent and bullying, but when they are weak they become better mannered. But this is the reverse of what is healthy and wise. I have always been astonished, having seen the end of these two wars, how difficult it is to make people to understand the Roman wisdom, ‘Spare the conquered and confront the proud’ … The modern practice has too often been, ‘Punish the defeated and grovel to the strong.’ 28

This means that a state’s use of force may not decline as it gains a particularly advantaged position in the international system, which helps explain some of the puzzling trends to which I will turn in the next section. It is not only that such a state has the ability to bully others, but also that the state’s conception of its needs grow in a way that will create new conflicts. In the case of the US today, this effect is magnified by perceptions of both the threat from terrorism and the opportunity to make a better world. Contrary to what one might expect, then, the American position as the sole superpower leads it to behave at least as much as a revolutionary state as one that is seeking to maintain the status quo, often arguing that it is acting preventatively. 29

Bismarck’s famous labeling of preventive war as suicide for fear of death assumes that the war will be disastrous for the state. When it believes otherwise, preventive wars may make more sense, and because there are few guarantees in international politics and fears often loom larger than hopes, it is difficult to put bounds on what acts should be undertaken in the name of prevention. One thing is clear, however: because powerful states are, by definition, in a relatively advantageous position, they are prone to take strong preventative actions. Because they are well off, many changes are likely to hold at least the potential for harm. Modern psychology indicates that losses hurt more than gains of the same magnitude gratify, 30 and states that have gained a powerful position find more values, positions and territory worth fighting for. It is not only aggressors and evil states which find that the appetite grows with the eating. These impulses are more likely to be acted on because their great power gives these states confidence that the costs of acting now are reasonably low. So it is not entirely surprising that the US and the UK adopted a strong notion of prevention in overthrowing Saddam Hussein in the wake of the terrorist attacks of 11 September 2001. Although much remains in dispute about their objectives and perceptions, there is significant evidence that both governments were deeply concerned, not with existing ties between terrorists and Saddam, but with the danger that they would be brought to fruition later and that Saddam could eventually provide terrorists with weapons of mass destruction (WMD), even if he did not have them in 2003. 31 A middle-level official in the Bush administration went so far as to tell me that while he thought Saddam was sensible enough not to engage in such an adventure, whoever succeeded him might be bolder. To many of us, these fears seemed farfetched and the estimates of the likely costs of invasion as under-weighted as the fears of the future were exaggerated, but at least decision-makers could not have been accused of looking only to the short run, and the discussion showed how great power can lead to great fears and a very broad conception of interest.