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#### Restrictions are prohibitions on action --- the aff is a reporting requirement

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

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

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

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

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

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

#### Vote neg---

#### Only prohibitions on authority guarantee neg ground---their interpretation lets affs no link the best neg offense like deference

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

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#### The plan’s assumption of the nation-state as the natural unit of politics is self-constitutive and reinscribes methodological nationalism --- these extinction and escalating violence becomes inevitable

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World politics has undergone profound changes in the past fifty years. From the super-power rivalry of the Cold War era to the growth of multilateralism following the fall of the Berlin Wall, from the invention of nuclear weapons to the (WOT) war on terror, and from decolonization to the phenomenon of failed states, (to name just a few) world politics has witnessed a series of transformations that have radically altered the way we approach the problem of politics in the international system. IR theory has responded to each of these developments with new conceptual and theoretical vocabularies that are capable of making sense of the news problems and patterns of influence wrought by these changes, be it the theory of nuclear brinksmanship developed by Schelling and others to inform national security strategy during the Cold War or new theories of international organization to better guide the practice of multilateral policy coordination. Perhaps no transformation challenges our traditional understandings of world politics more fundamentally, however, than the advent of supranational forms of governance. The delegation of decision-making authority to (IOs) International Organizations calls into question the basic assumption of IR theory that the international system is an anarchic system constituted by individually sovereign states. States have long jealously guarded their status as sole bearers of decision-making authority, and the exclusive, often territorially defined, spaces of political authority that state sovereignty thus constituted created the very conditions of possibility for an anarchic international system. The move to delegate decision-making authority to international organizations challenges this traditional model, enabling new and more complex forms of collective action in the international system. While balancing, alliance building and even multilateralism are hallmarks of a world populated by exclusively sovereign states, delegation, competing spheres of international authority and even world constitutionalism seem to more accurately capture the dynamics of a world marked by supranational forms of governance. Despite the significant transformation that these developments herald for the future of international politics, making sense of supranationalism remains a challenge for IR theory. Two broadly-defined bodies of theory have emerged to explore the dynamics of delegating authority to international organizations. Studies of the EU have long sought to understand how and why European states have willingly delegated decision-making authority to IOs, yet these approaches often imply that delegation to EU institutions is a unique practice, a sui generis case with little relevance to issues and actors that extend beyond the boundaries of the European continent (for a review of these theories, see Pollack, 2001). Such a perspective is problematic not only because we should have an understanding of how supranational forms of governance could emerge from the traditional European inter-state system in the first place but also because elements of supranationalism are increasingly common in other parts of world politics, evident in the WTO, and to a more limited extent in the ICC and the UN Security Council. These latter cases have not gone unnoticed in broader IR theory. Indeed, the emergence of supranationalism in the international system has been met with an increased interest in questions of institutional design among IR scholars and the emergence of a new approach to international organization. Drawing on theories first developed to explain domestic political processes, principal-agent theory has quickly become the dominant approach to international delegation in IR theory (Hawkins, et al, 2006). While these studies have contributed greatly to our understanding of international delegation, they do not fully address the deeper transformations underlying the move to supranationalism. Missing from these studies is any consideration of how the delegation of decision-making authority became a possible solution to cooperation problems in the first place. This omission is problematic not only because it risks mis-specifying the conditions of possibility for the emergence of supranationalism but also because the delegation of decision-making authority touches on fundamental issues of state sovereignty. Indeed, the authority to make new laws and enact legislation has long been the hallmark of state sovereignty, not simply reflecting state power but constituting the very existence of the sovereign state itself. That states have undertaken at times to cede willingly this authority to international organizations suggests that profound transformations in the nature and practice of sovereignty underlie the emergence of supranationalism and further suggests the need for an explanatory framework that can fully capture these developments. In what follows, I articulate such a framework. I begin with a brief discussion of supranationalism, emphasizing the ways in which it lies in tension with traditional practices of state sovereignty. Understanding supranationalism requires a more thorough exploration of the transformations that have been wrought in the practice of state sovereignty since the end of World War II, but existing approaches to sovereignty in the discipline are ill-suited to explain these transformations. Indeed, I will argue that despite the centrality of the concept of sovereignty to the study of international relations, IR theory continues to rely upon a conception of sovereignty that recapitulates the political and normative claims of nationalism. In order to overcome this problem of “methodological nationalism,” I re-conceptualize sovereignty as the discursive practice of constituent power, showing how this understanding of sovereignty differs from the command model of sovereignty that structures most approaches to international delegation and how it enables us to better make sense of the phenomenon of supranationalism in the late-modern international system. What is Supranationalism? The concept supranationalism has been employed in different ways by a range of scholars, most notably by those who study the politics of the EU, often as a way to differentiate neo-functionalist and intergovernmental arguments (e.g. Stone Sweet & Sandholtz, 1997; Keohane & Hoffman, 1991). Stone Sweet and Sandholtz (1997) define supranationalism as a “mode of governance . . . in which centralized governmental structures (those organizations constituted at the supranational level) possess jurisdiction over specific policy domains within the territory comprised by the member states (p. 303)” and situate it along a continuum of governance outcomes that extends from intergovernmentalism on one end to supranationalism on the other. Keohane and Hoffman (1991) conceptualize supranationalism not as an outcome but as “a process or style of decisionmaking, ‘a cumulative pattern of accommodation in which the participants refrain from unconditionally vetoing proposals and instead seek to attain agreement by means of compromises upgrading common interests’ (p. 15).” The way I develop the concept most closely follows the work of Stone Sweet and Sandholtz, conceptualizing supranationalism as a governance outcome rather than a style of decision making. In contrast to Stone Sweet and Sandholtz, however, I do not situate supranationalism along a continuum with intergovernmental outcomes. Rather, as I develop the concept here, supranationalism refers to a particular governance outcome in the international system: namely, the delegation of decision-making or legislative authority to international institutions (on legislative authority, see Swaine, 2004; on the delegation of authority in international relations more generally, see Bradley & Kelley, 2008; also Cooper, et al, 2009; Lake, 2008). It is thus distinct from traditional forms of policy coordination, such as intergovernmentalism, in that it involves the transfer of decision-making authority to an international institution; when states delegate the authority to enforce or monitor treaty obligations to international institutions, therefore, this is not evidence of supranationalism. It is also distinct from cases where some states delegate decision-making authority to another state – a governance outcome more properly called hierarchy or empire. Governance outcomes should be understood as cases of supranationalism only when states have willingly invested an international organization with the continuing law-making (rather than law-enforcing) authority to make binding rules for the state. Supranational forms of governance are increasingly common in the international system and are particularly evident in the institutional architecture of the European Union. The European Commission, for example, has been delegated the authority to develop and propose new legislation that, if approved by the Council of Ministers and the Parliament, is binding on all member states, and it can also undertake efforts to ensure policy harmonization across states (Pollack, 2003). The European Court of Justice is also endowed with decision-making authority and is authorized to make final rulings on cases that involve individual claims against member states, rulings that can overturn the decisions of domestic courts and establish a legally binding precedent (Alter, 1998; 2001). Supranationalism appears outside the orbit of Europe governance as well though the degree of delegated decision-making authority in the following cases is often more ambiguous. The WTO dispute resolution mechanism exhibits some supranational characteristics in that it has been endowed, if only indirectly, with some measure of decision-making authority. Under the GATT, a report from the dispute settlement panel had to be approved by a consensus of GATT members, including the state which lost the case. Under the WTO, the dispute settlement panel has the authority to make decisions about individual cases, and these decisions can be overturned only if blocked by a majority of members (a “negative” consensus). The decision-making authority of the dispute settlement panels has implications beyond the particular settlement of the cases it addresses, moreover, not only because these decisions often require a change to domestic trade law, but also because panel decisions may fill-in gaps in existing international trade law (often procedural) or clarify ambiguous treaty language. These actions effectively serve to create new international trade law without the approval of the WTO member states (Steinberg, 2004; Jackson, 2006). The delegation of decision-making authority occurs not only in the arena of international economic law but has become increasingly important in the realm of international justice as well. The International Criminal Court, though still in its infancy, bears a number of features that one could describe as supranational. The decision to create an independent, permanent court that would prosecute individuals for crimes against humanity suggests a willingness on the part of states to surrender the authority to make binding decisions on issues of international justice. Presumably, ICC decisions would also contribute to the body of international law that deals with crimes against humanity, helping to establish legal precedent for subsequent cases. Indeed, it was arguably the concern over delegating too much authority to ICC prosecutors (whether ICC prosecutors alone could begin an investigation or whether they required prior UNSC approval) and granting the ICC too broad a jurisdiction that led to US opposition (Fehl, 2004). There is some evidence of supranational forms of governance in the realm of international security as well. The UN Security Council has long enjoyed the nominal authority to issue resolutions concerning peace and security that have the force of obligatory international law for all member states. While this authority was exercised in a very limited manner in the past, often restricted to declarations of sanctions against a specific state, since September 11, 2001, the Security Council has exercised this authority more readily and with less restraint. Rather than limiting its resolutions to the enforcement of accepted international law in a particular case, in the area of counter-terrorism policy the UNSC has increasingly sought to issue resolutions that create new laws that are binding upon UN member states (Rosand, 2003; also Talmon, 2005). As Szasz (2002) observes: “[w]ith its recent resolution to counter the threat of terrorism, the United Nations Security Council broke new ground by using, for the first time, its Chapter VII powers under the Charter to order all states to take or to refrain from specified actions in a context not limited to disciplining a particular country (p. 901).” Though many of these cases are more ambiguous examples of supranational institutions than those found in the EU, they do suggest that the delegating decision-making authority to international organizations is becoming an increasingly common characteristic of existing practices of international organization. The effort to develop international rules that are binding upon states has, of course, a long history in international relations, yet the practices through which these rules are articulated and enforced have long involved traditional means of signing treaties or conventions with the occasional delegation of enforcement capabilities to international organizations. While these agreements may subsequently restrict the freedom of action of the signatory states, they are nevertheless premised upon the mutual recognition of sovereignty: states are only bound to those rules to which they have agreed. Supranationalism signals a departure from this traditional model in that international organizations are no longer simply reflections of a prior state-sanctioned agreement but have the authority to promulgate new rules and laws that are binding upon the member states. We can appreciate the novelty of supranationalism as a form of international organization if we more clearly differentiate between two types of authority: decision-making and enforcement authority, for while traditional forms of inter-state coordination have long involved the delegation of the latter form of authority, it is the delegation of the former that constitutes the core of supranational governance. Common to both enforcement and decision-making authority is the fact that they are practiced by political and therefore public actors, but they differ in two other important respects. The first and most obvious concerns the particular practices (or exercise of power) associated with each type of authority. Enforcement authority is manifest when an agent identifies a violation and, in some cases, imposes a sanction on the violator. The practices associated with enforcement authority thus encompass such practices as surveillance, reviews, audits (all species of monitoring) as well as practices such as naming violators, exercising force or coercion to subdue a violator, specifying what is required for retribution, or even shaming (all species of enforcement). Decision-making authority, in contrast, concerns practices of decree and declaration that seek to articulate new laws and norms; it is a practice of founding new principles of legitimate rule. Whereas enforcement authority involves the application of law to a particular case, decision-making authority involves the legitimate creation of new laws. Of course, enforcement authority does involve a decision about who a violator is and what rule should apply to a particular violation and in this sense, enforcement authority entails some measure of decision-making authority (in the sense that the institution “decides” when a violation has occurred). But the qualitative distinction between the two types of practices rests more firmly upon the presumed effect that each practice of authority is intended to have. Enforcement authority is intended to reinforce existing laws and deter future defections; decision-making authority, on the other hand, is purposefully intended to change the contours of those laws, either by creating new laws or by creatively interpreting existing law to flesh out ambiguous or unclear treaty language. As I will show, the practices of power associated with each type of authority reflects a more profound distinction between constituted and constituent power that has gone largely unnoticed in existing approaches to sovereignty. In addition to the differences in types of power exercised, enforcement and decision-making authority also differ according to the way in which these practices are legitimated. Enforcement authority is legitimated by justifying an action in light of an existing law or norm. When an institution identifies a violation, for example, it appeals to the commonly accepted understandings of what the relevant law defines as illegal and makes an argument for why that law should apply to the particular case in question. Decision-making authority, however, cannot, by definition, appeal to an existing law to justify its exercise of power because it is creating new law; rather, it must appeal to a foundation beyond existing law. In modern democratic states, this foundation has traditionally been grounded in beliefs about popular sovereignty – the idea that the purpose of state power is to sustain the autonomy and self-determination of “the people” or nation. When institutions practice decision-making authority, they invariably invoke these foundational beliefs about the collective purpose of the polity to justify the creation of new laws and principles of rule, and the articulation of these foundational beliefs touches on foundational issues of state sovereignty. Decision-making authority thus implicates in the practice of sovereignty in a way that the practice of enforcement authority does not. The distinction drawn above between decision-making authority and enforcement authority has not gone unnoticed in recent IR theory. Majone (2001) distinguishes between two logics of delegation: states may delegate authority to an IO in order to reduce decision-making costs by, for example, creating bureaucracies with specialized knowledge or agencies that may efficiently monitor compliance and impose sanctions on defectors. A distinct logic of delegation governs those instances in which states wish to enhance their credibility to a particular international agreement. In these cases, principals have an interest in granting agents some measure of independence as doing so enhances the credibility of that state’s commitment to a cooperative arrangement. These latter type of delegations, Majone argues, operate according to “fiduciary principles” that are distinct from those cases where states have delegated enforcement authority. The concept of “pooling sovereignty” introduced by Moravcsik (1998) and adopted by others (Keohane, 2002, p. 748; Lake, 2008) further reflects the distinction Majone draws. As Lake describes the difference: In delegation, a principal (or group of principals) hires an agent to perform some specified task(s). The grant of authority from the principal to the agent must be conditional and revocable, and the principle retains all residual rights of control including the right to veto actions by the agent either directly or indirectly by cutting funding or other means . . . When pooling sovereignty, a state transfers authority to a collective decision-making body, most typically an IO, to set policy in a given area (p. 231). When states pool sovereignty, the primary motive is not the reduction of transaction costs nor the desire to create a more efficient decision-making process but the desire to establish credible commitments (Moravcsik, 1998, pp. 73-4). To accomplish this end, states willingly delegate to IOs not simply enforcement or monitoring competencies but decision-making authority as well. The growth of delegated decision-making authority at the international level is puzzling because states enter into interdependent relationships with well-established, pre-existing authority commitments, most notably the commitment to popular sovereignty. As noted above, the decision-making authority of the state rests upon its claim to sovereignty, and in modern democratic states, this claim to sovereignty is almost universally made in the name of the “people” or the nation that the state is supposed to represent, what is known as popular sovereignty (Yack, 2001). The state may legitimately create and enact new laws to govern society because it is believed that these laws reflect or help to realize the collective will of the people. By delegating legislative authority beyond the boundaries of the nation, however, the state cedes decision-making authority to individuals and groups who are not members of “the people” and thus cannot express the collective will of the nation. The delegation of law-making authority would seem to limit the ability of a nation to self-determine its fate. As Rubenfeld (2003), in a qualified apologia for U.S. unilateralism, expresses these concerns: [E]very time a functioning, self-determining nation surrenders itself to the tender mercies of international economic or political regimes, it pays a price.

The idea that men and women can be their own governors is sacrificed, and democracy suffers a loss. While states routinely delegate enforcement authority in modern society, be it to internal security forces such as the police, to non-state actors, or to international organizations, these delegations do not touch on the principles of popular sovereignty that underlie the legitimate claim to decision-making authority in the modern state. Ultimately, the actions of these agents are authorized by basic democratic institutions, such as Congress or the executive, whose legitimacy rests upon the presumption that they reflect and help to realize the will of the people. When these same basic institutions delegate decision-making authority away from the nation-state, however, they risk undermining the foundational principles of popular sovereignty upon which their legitimacy as law-making institutions rests, concerns that have long troubled scholars critical of the democratic deficit of international organizations (Archibugi, 2004; Nye, 2001; Pogge, 1997). Principal-agent models and rationalist approaches to institutional design more broadly have often explicitly sought to explain the conditions under which states will willingly delegate authority to international organizations. These approaches, moreover, often acknowledge the mutual implication of delegation and the practice of state sovereignty. Koremenos, et al (2001), for example, note that the practice of centralization in an international institution “is controversial, politically and conceptually, because it touches so directly on national sovereignty . . . States understandably guard their domestic authority and their control over foreign policy. They are suspicious of encroachments by other states and strongly resist any shift of sovereign responsibilities to superordinate bodies (p. 771).” In order to capture this often problematic relationship between delegation and state authority, rationalist approaches typically introduce the concept of sovereignty costs in an attempt to explain when the benefits of cooperation will outweigh the costs associated with surrendering authority to an international institution (Epstein & O’Halloran, 2009; Hathaway, 2009). Abbott and Snidal (2001), for example, refer to sovereignty costs when discussing the “potential for inferior outcomes” and the “loss of authority (p. 53)” that often attends the legalization of a particular international agreement. As they note, states are often reluctant to surrender the control over domestic policy that frequently accompanies the use of “hard law” in international agreements and will often opt for “soft law” instead, particularly in issue-areas such as national security that involve traditional state concerns for preserving national decision-making autonomy. Bradley and Kelley (2008), in their discussion of international delegation, also employ the concept of sovereignty costs, which they define as “reductions in state autonomy through displacement of its decisionmaking or control (p. 27).” They argue that states will incur these sovereignty costs when the benefits from more efficient cooperation outweigh the concern for preserving state autonomy (p. 25). In each of these studies, the concept of sovereignty costs is intended to capture the concerns for preserving state authority in the face of pressures for delegation, be it in the form of centralizing activities in an international institution or adopting hard law in international agreements. Though these studies implicitly acknowledge the unique challenges to state sovereignty that delegating decision-making authority presents, the cost-benefit framework that they employ does not seem to provide the analytical leverage needed to explain when sovereignty costs will be incurred. It is not even clear from these analyses that the costs associated with a loss of sovereignty and the benefits that accompany greater efficiency in inter-state cooperation through delegation can be meaningfully compared to determine optimal institutional outcomes. Indeed, the concern for protecting national sovereignty seems to be an end in itself, intimately related to basic beliefs about the nature of democratic practice and popular sovereignty, and not a means to an end as increased institutional efficiency is. The principal reason that the concept of sovereignty costs remains ambiguous and under-developed in many approaches to international delegation is not because we cannot operationalize effectively the costs associated with the loss of state autonomy but because it is not clear to what the concept of sovereignty refers. Indeed, despite the ubiquity with which IR scholars talk about sovereignty, surprisingly little analytic attention has been paid to what, precisely, the practice of sovereignty entails, beyond the simple claim that it refers to the supreme authority within a state. As I argue below, how we conceptualize sovereignty has important implications for how we make sense of international delegation, and in order to explain the increasingly common practice of supranational governance, we must develop a concept of sovereignty that moves us beyond the simple equation of sovereignty with supreme authority. Sovereignty in IR Theory If the defining characteristic of supranational governance is the unique departure it represents from traditional practices of inter-state coordination and the challenge this departure poses to traditional practices of state authority, any explanation of supranationalism must begin with an adequate understanding of the relationship between state sovereignty and international authority. Unfortunately, IR theory continues to rely upon an under-developed concept of sovereignty that leaves us ill-equipped to theorize this relationship. Sovereignty, of course, remains one of the central concepts in IR theory, and there exist myriad distinctions within the literature that seek to disentangle its multiple dimensions and the different practices through which these dimensions are expressed (e.g. Bierkster, 2002; Krasner, 1999). Despite the renewed interest in sovereignty among IR scholars, most existing approaches seek to disaggregate the concept rather than clarifying what, precisely, the concept of sovereignty is meant to capture. As a consequence, while IR theory enjoys an increasingly complex conceptual vocabulary to describe the diverse practices that surround the exercise of state authority, our understanding what sovereignty entails, that is, what particular practices and exercises of power constitute the core of this concept, remains under-developed. This shortcoming is manifested in two distinct approaches to the study of sovereignty. First, there has been a move in recent years to identify the historically particular dimensions of sovereignty (Barkin & Cronin, 1994; Philpott, 2001; Reus-Smit, 1999; Spruyt, 1994; Wendt, 1994). Rather than taking the existence of sovereignty as given, these scholars, many of whom are influenced by the Constructivist research program in international relations, identify the different practices through which distinct understandings of sovereignty and authority have been expressed in world politics. Philpott (2001), for example, shows how revolutions in beliefs about sovereignty have fundamentally transformed what constitutes legitimate authority relationships in the international system. Other scholars have similarly sought to demonstrate that the putatively timeless institution of state sovereignty is in actuality a product of historically particular cultural practices and beliefs and local struggles for power (e.g. Beirkster and Weber, 1996). By demonstrating that sovereignty is historically variable, these studies challenge the orthodox view that sovereignty constitutes a common starting point for understanding international relations throughout history, demonstrating that it is, in fact, a socially constructed institutional fact. Drawing attention to the variety of political practices through which authority is both expressed and constituted contributes to a more historically informed approach to the study of sovereignty and helps us to avoid simple generalizations that suffer from false parsimony. Yet the focus on the historically particular dimensions of sovereignty may obscure the common formal properties that this practice of authority shares across time and space. In so doing, it may impede our ability to develop explanatory generalizations that abstract away from historically particular circumstances and capture a set of dynamics that adhere in the practice of sovereignty itself. It may be that there are no common explanatory claims that can be made about sovereignty across time and space – that each context is so heavily influenced by local beliefs, cultural practices, and political struggles, that what we identify as “sovereignty” owes more to these dynamics than to any identifiable formal property. This may, in fact, be the case, but if this is so, then there is little reason to use the common concept of sovereignty (rather than, say, politics) in each of these cases. If, however, we believe that the practice of sovereignty may exhibit its own particular set of dynamics, identifying and theorizing its formal properties as well as its historically particular characteristics is necessary if we are to develop a more complete understanding of sovereignty. Recent scholarship has witnessed the growth of a parallel trend in the study of sovereignty: an attempt to analytically disaggregate the concept of sovereignty, an approach exhibited most clearly in the work of Krasner (see also Lake, 2003). Krasner (1999) differentiates four types of sovereignty: interdependence sovereignty, Westphalian sovereignty, international legal sovereignty and domestic sovereignty. By distinguishing the diverse set of practices through which sovereignty is expressed, this analytic approach seeks to parse the concept into distinct areas of analysis, allowing for a more precise theorization of the different mechanisms and dynamics through which sovereignty impacts international political life. Though this approach represents a more formally analytic approach than that offered by some Constructivist analyses, it does not help us grasp the constitutive core of state sovereignty. As Walker (2003) argues, these different concepts “are diverse operationalizations of a single claim to the ultimate ordering power which constitutes and sustains the polity (p. 8).” Indeed, by proliferating the conceptual dimensions along which sovereignty may vary, the concept begins to lose coherence and risks being stripped of any substantive explanatory utility. Moreover, it is not clear what, precisely, unites these diverse practices under the concept of sovereignty. Much as the focus on sovereignty as a social construct strips the concept of any cross-temporal or cross-contextual theoretical utility, so the effort to analytically parse sovereignty into a diverse set of political practices obscures what, precisely, these practices have in common, calling into question the utility of sovereignty as an explanatory concept. What is needed is not only an understanding of the various dimensions of sovereignty, but, as Walker suggests, an understanding of their “common derivation from a deep, core claim to know and order the world in a particular way (p. 8).” The continuing difficulties associated with theorizing the practice of sovereignty is not the result of any theoretical myopia on the part of IR scholars; rather, it is rooted in a deeper methodological shortcoming that pervades modern social theory: the problem of methodological nationalism. Until IR theory is able to move beyond the implicit ontological categories of analysis suggested by nationalist ideology, we will be ill-equipped to fully understand the dynamics of sovereignty in world politics, and our understanding of the contemporary transformations accompanying the emergence of supranationalism will be impoverished as a result. The Problem of Methodological Nationalism The term methodological nationalism was first employed by Herminio Martins in 1974 to refer to the scholarly practice of treating the “national community as the terminal unit and boundary condition for the demarcation of problems and phenomena for social science (quoted in Chernilo, 2006, p. 7).” The term was a key part of the debates about the sociology of the state during the late 1970s and has once again become a point of debate in social theory (Beck, 2004, 2007; Chernilo, 2006a, 2006b). Driven largely by the growing attention afforded to globalization, scholars have increasingly called into question the traditional practice of equating the nation-state with society and examining how the internal practices of the state negotiate the putatively external forces of globalization. Calling attention to the problem of methodological nationalism involves a call for a more cosmopolitan approach to social theory, one that appreciates the transnational and global dimensions of contemporary political life (Beck, 2002, 2004). While the term methodological nationalism circulates primarily in the discipline of sociology, the influence of nationalist categories of practice is very much evident in the discipline of IR. Indeed, taking the nation-state as the natural unit for the analysis of political life is, in many ways, the constitutive assumption of IR theory. The existence of internally constituted political communities that interact with each other in an anarchic environment is a core assumption not only of many IR theories but of the discipline of IR itself. Without this assumption, there would be little rationale for maintaining world politics as a realm that requires theories and methods distinct from the study of domestic or comparative political dynamics. These disciplinary concerns notwithstanding, theories that explicitly question the assumed necessity of the nation-state as the basis of political life have proliferated in recent years (for an overview, see Wendt & Snidal, 2009). The study of cosmopolitanism, transnationalism, global civil society, and theories of global governance more broadly have drawn our attention to the importance of non-state actors in shaping the contours of world politics, and many of these approaches self-consciously imagine a world organized around principles distinct from the parochial political claims of nationalism (e.g. Archibugi, 2004; Held, 1996; Linklater, 1997; Shaw, 2000) These developments are a welcome correction to the traditional state-centric assumptions of much of IR theory, yet moving towards a more cosmopolitan perspective on world politics does not, in itself, fully avoid the dangers of methodological nationalism. Methodological nationalism entails not only the historical reification of the nation-state as a necessary unit of political life but also the ontological reification of belonging as a natural and pre-political expression of organic unity. While cosmopolitanism explicitly calls into question the historical claims of nationalism (that society and the state are necessarily co-terminus), it does not always acknowledge the often implicit ontological claims that structure nationalist ideology and influence, on a deep level, the study of political life. This ontological problem of methodological nationalism is rooted in the difficulties associated with theorizing the political practice of constituting a social unit, not only in IR theory but in social theory more broadly. Much of modern social theory assumes that the unity of a political community, that is, the practices and interactions that constitute a set of relationships as an identifiable unit of analysis, resides in a set of processes that are prior to the daily struggles and contestations we associate with political life, and the analytic focus remains on the ways in which this unit(y) or interdependence is managed and regulated through social norms, institutional rules or the imposition of costs and benefits rather than how this unity is constituted as such in the first place. Such an analytical move reproduces the aim of nationalism to naturalize political belonging. Taking the existence of interdependent relations among actors that are in need of governance as the starting point for the analysis of political life necessarily marginalizes or even overlooks entirely the prior political question of what set of relations should be managed, what principles found these sets of relationships, and what actors and issues are encompassed by these principles.

Adopting this methodological perspective suggests the need for the further conceptual differentiation between the various practices through which the regulation of social life is accomplished, and while this differentiation can be realized either interpretively, looking to the historically specific practices through which social regulation is enacted (as many Constructivists have done in the study of sovereignty), or analytically, developing a set of a priori distinctions to categorize existing practices (as Krasner does), the exclusive focus on the regulation of social relations risks obscuring how a set of relationships and exchanges come to be understood as a unit in need of governance and regulation in the first place. In short, focusing solely on the regulation of interaction and exchange within a social unit obscures the deeply political problem of representing these processes as a bounded and identifiable unit in need of governance, and it is precisely this effort to naturalize the boundaries and principles of political association that nationalist ideology seeks to accomplish. So long as IR theory avoids the question of how social unity is constituted through political action, therefore, it will remain complicit in the practice of methodological nationalism. Though we may acknowledge that nationalist categories of practice have had a deep influence on the categories of analysis we employ in social theory and IR theory in particular, it is not at all clear what particular problems this influence creates for our understandings of political life. What, in other words, is at stake in overcoming the problem of methodological nationalism in the study of international organization? I want to draw our attention to two problems, one theoretical and the other normative, that result from the practice of methodological nationalism. The first problem is one of explanation: without an understanding of the practices through which a political community represents itself as a unity, we risk overlooking a critical dimension in the practice of sovereignty, an oversight that complicates the effort to develop theories capable of explaining the emergence of novel forms of unity in the international system such as supranationalism. The explanatory difficulties that result from a neglect of the practices through which the unity of a polity is represented are most apparent in those studies that focus on cases of normative change or the emergence of new authority relationships in world politics. In order to explain how a new rule or practice of authority is legitimated, these studies must appeal to prior intersubjective beliefs. In Reus-Smit’s (2003) study of the origins of international legal obligation, for example, the legitimacy of legal rules is ultimately rooted in a prior normative commitment to sacral obligation that evolved from the early modern to the modern period. While this study may help us trace the genealogical origins of legal obligation, it must ultimately appeal to a prior, taken-for-granted normative order to explain legitimate rule. This style of argument, what Bially-Mattern (2005, p. 55) calls the appeal to an ever-receding horizon of authority, requires us to take the existence of a normative consensus on the principles of political unity as given, leading to an infinite explanatory regress as we must appeal to a pre-existing normative foundation to explain how a new norm could be accepted as legitimate. By attending to the practices through which social unity is constituted in the first place, that is, showing how a new form of association is the product of a political act of representation rather than the most recent manifestation of a long-term historical process of normative change, we may be able to avoid this unsatisfying theoretical cul-de-sac in our theories of international organization. This explanatory problem of being unable to account fully for the emergence of new forms of social unity is by no means limited to Constructivist analyses. Rationalist approaches to international organization most frequently begin with a specification of the particular cooperation problem that confronts a group of interdependent actors. How this problem is defined has a determinate effect on the governance solution chosen to address it, yet little concern is given to how a relationship is represented as a particular cooperation problem in the first place. These analyses begin, in effect, too late, taking as given the principles and self-representations that define the social unit in need of organization. In so doing, these approaches risk under-specifying the conditions of possibility for the emergence of particular forms of organization in the international system. The near exclusive focus on the regulation of social relations and the relative inattention to the dynamics through which these relations are represented as an object of political intervention in the first place means that these studies risk overlooking a critical first step in the emergence of any governance regime. If we accept that the representation of the principles and interests that constitute a given set of interactions as a domain of governance plays a critical role in determining what forms of organization are possible among a group of actors, failing to account for these practices of representation (practices that, as I argue below, are intimately bound up with the practice of sovereignty) leaves us ill-equipped to explain the emergence of new forms of social unity. A second problem that results from methodological nationalism concerns its political consequences and the normative concerns that stem from it. Without a more focused concern for the political dynamics of constitution in world politics, the production of political unity risks being understood in decidedly apolitical terms, as, for example, the manifestation of overlapping basic interests or reflections of functionally efficient scales of social organization. Yet naturalizing the principles upon which political unity rests in this way is precisely the move that nationalist ideology attempts to accomplish. So long as we continue to understand political association in these ways, therefore, we will continue to reproduce not only the ontological presuppositions of nationalism (and its attendant explanatory limitations) but also the implicit political claims it advances: namely that a particular manifestation of political unity is somehow inevitable and necessary rather than the product of political action and choice. Such a perspective discourages creative political action, constraining our ability to imagine new and more just forms of transnational or supranational organization, and risks legitimating existing (and potentially unjust) political arrangements by explaining their provenance as somehow natural or necessary. Given the transnational and global problems that currently confront humanity, moving beyond the parochial political claims of nationalism seems an important step if IR theory is continue to provide critical and relevant knowledge about international political life. Overcoming Methodological Nationalism Though one may accept the need for IR theory to attend more closely to the dynamics of constitution in world politics, it is not clear what specific conceptual or theoretical developments would enable IR scholars to overcome the problems of methodological nationalism. In an effort to avoid the reduction of sovereignty to its regulative effects and capture the generative dynamics that underlie the constitution of political units, I propose that we rethink sovereignty as the discursive practice of constituent power. I begin with a discussion of constituent power, focusing on the generative, world-making effects that the concept attempts to capture. I then turn to the specific practices through which these effects are produced, arguing that we should understand the practice of constituent power in the modern state as the discursive representation of collective selfhood. In the final section, I contrast this understanding of sovereignty with the predominant, if often only implicit, theory of sovereignty as supreme command that informs most approaches to delegation and supranationalism in IR theory, showing how this effort to rethink sovereignty as the discursive practice of constituent power moves us beyond the limitations of methodological nationalism. Constituent Power The concept of constituent power has been developed most thoroughly in three distinct yet overlapping bodies of thought: (1) it plays an often implicit role in the tradition of political theory that concerns itself with locating the legitimate foundations of the democratic state, a tradition often oriented around what has been termed the paradox of democracy (Nasstrom, 2003; Honig, 2007; Doucet, 2005; Connolly, 1995; the original problem is stated by Rousseau); (2) it occupies a more prominent place in a tradition of radical democratic theory, often building off of the work of Carl Schmitt, that seeks to reconstruct democratic theory on the basis of constituent power (Kalyvas, 2005, 2008; Moufe, 2005), locating both an emanicaptory potential (Negri, 1999; Hardt and Negri, 2004) and a repressive function (Agamben, 1998) in its generative dynamics. (3) Constituent power also occupies an important place in a more recent tradition of legal theory that explicitly develops the concept in the exploration of the relationship between sovereignty, constitutionalism, and legitimate rule (Lindahl, 1997, 2003; Walker, 2003; Lindahl and van Roermund, 2000). While this diverse body of literature offers a multiplicity of perspectives on the concept of constituent power, it does identify a number of features that are central to its practice and that have significance for our effort to rethink sovereignty in a way that avoids the problems of methodological nationalism. Perhaps most significantly, constituent power exhibits generative properties that are absent from many traditional understandings of political power. This generative potential is made manifest through the ability to constitute to new beginnings, to create new laws and principles of rule during constitutional moments, an act often expressed through the practice of self-constitution. Constituent power is most readily apparent during times of profound social transformation, such as revolutions, when large-scale collective action is undertaken to overturn an existing social or political order and to found new principles of legitimate rule (Arendt, 2006). It is also operates during moments of populist mobilization when appeals to “the people” are made in opposition to established structures and institutions of power (Canovan, 1999). During these moments, the revolutionary potential of constituent power is most evident, yet the practice of constituent power is not limited to a bounded historical event; it continues to circulate in the everyday practices of authority that sustain a political community and poses an ongoing challenge to the practice of sovereignty in the modern state. As Nasstrom (2003) observes with reference to the practice of popular sovereignty: “[t]he constitution of the people is not a historical event. It is an ongoing claim that we make (p. 645).” As a generative form of power and authority, constituent power is often contrasted with constituted power which is the power to enforce the established laws, rules and norms that regulate behavior. While the latter practice involves those efforts to legitimate and enforce a particular set of rules with reference to a prior normative framework, the former involves an articulation of the basic principles that ground this normative framework. As Kalyvas (2008) articulates this grounding effect of constituent power: “[i]n all its theoretical expressions, the constituent power has always been placed underneath the civil and legal edifice. The various names used to designate it – ‘the multitude,’ ‘the Community,’ ‘the People,’ ‘the Nation’ – suggest, in the last instance, the utter limit of any politics, a politics that survives the dissolution of governments, the disruption of legal systems, and the collapse of instituted powers (p. 227).” Put somewhat differently, while constituted power is defined by its ability to regulate social relations, constituent power is defined by its ability to constitute these relations in the first place. The practice of constituent power founds the basic principles upon which the legitimacy of the legal rules and norms that regulate the polity ultimately rest; in so doing, it constitutes the generative structure of any political order. Though the foundational, generative effects of constituent power are formal properties common to all practices of sovereignty that underlie any form of political unity (Lindahl, 1997, p. 349), how this power is manifested in political life has varied historically. Aboslutist states, for example, located the ultimate source of state authority in the divine will of God. The monarch was capable of exercising law-making authority because she was seen as the sole representative and even embodiment of this divine will (Kantorowicz, 1997). With the demise of the Absolutists states in the late nineteenth and early twentieth century, the practice of constituent power in the state came to be grounded in the concept of popular sovereignty: the idea that the nation or the people provide the ultimate source of political authority and legitimacy for a polity (for an excellent discussion of the history of this transformation, see Hont, 1994; on popular sovereignty see Yack, 2001). Since at least the end of World War I, sustaining the sovereignty of “the people” has constituted the basic purpose of almost all states in the international system, yet, as we shall see below, it remains unclear how the sovereignty of the people should or even could be expressed. Discursive Practice Deciding on the ontological status of the collective subject of the people has important implications for how we understand the practice of constituent power, that is, how we understand the ways in which constituent power produces the generative, world-making effects discussed above. Carl Schmitt offers perhaps the clearest argument in favor of viewing the subject of “the people” as an actually existing aggregation of individuals capable of directly intervening in the political process of the state to manifest its collective will. As he argues, “[u]nder democracy, the people are the subject of the constitution-making power. The democratic understanding sees every constitution . . . as resting on the concrete political decision of the people capable of political action. Every democratic constitution presupposes such a people capable of action (2008, p. 268; also p. 75).” The idea that we could locate a homogenous group of individuals who constitute, by virtue of their shared cultural, ethnic or racial characteristics, a self-evident political unit, is a claim advanced by nationalist ideology as well. According to nationalist ideology, the challenge posed by constituent power is not how to define the collective subject of the people (as this definition is self-evident) but how to devise mechanisms through which their collective will can guide the everyday political actions of the government. The effort to grant the constituent subject of sovereignty a determinate ontological status to endow it with a degree of facticity that makes its appearance in political life direct and unproblematic, misunderstands how constituent power functions in the doctrine of popular sovereignty. As Yack (2001) notes, popular sovereignty invests final authority in an imagined community, all of a territory’s inhabitants imagined as a collective body, rather than in any institutionally defined flesh and blood majority. As a result, it introduces a distinction between what we might call ‘the people’s two bodies.’ Alongside an image of the people who actually participate in political institutions, it constructs another image of the people as a prepolitical community that establishes these institutions and has the final say on their legitimacy. It is the latter community, not the majority of citizens, that is sovereign in this new doctrine (p. 519). The constituent power of a polity, the collective subject from whom sovereign power ultimately derives, therefore, is always an imagined subject (Anderson, 1991, advances a similar claim). These reflections on the imagined and symbolic status of the constituent subject suggest that the practice of constituent power is best understood, not as an expression of an actually existing collective subject as Schmitt argues, but as a form of discursive representation. All acts of constituent power, all efforts, in other words, to constitute the collective purpose and unity of a political order, represent the sovereign rather than embodying it. As Lindahl (1997) argues: no political actor or actors of a community may be absolute or sovereign. That is to say, only conditioned power is allowed to be present in a political community; the sovereign must always remain absent from the sphere of political reality. Sovereign power must be represented. In other words, sovereign power must be transcendent, not immanent, to a political community . . . Political power must mediate sovereignty; otherwise put, political power must represent an absent or transcendent power (p. 354, emphasis in original).” In modern politics, this act of representing the sovereign is accomplished through the discursive representation of collective selfhood. A set of interactions, exchanges or relations are transformed into an object of governance through the act of representing these interactions as components of a larger collective self. The ultimate, decision-making authority of the polity, therefore, is exercised, not through an organic expression of a homogenous collective will that occurs during moments of mass mobilization, but through the act of representing the sovereign, collective subject of the polity to itself, an act which both re-constitutes the unity of the polity and legitimates the law-making authority of the state. None of this is not to deny that structural pre-conditions are necessary for a particular social unity to emerge. Without a particular density or interactions, for example, the highly integrated social unit of the nation could not exist. Yet without an act of constituent power that symbolically represents these interactions (and not others) as constitutive of an identifiable collective subject, the nation could not exist as a political category of collective action. The act of naming a set of actions as contributing to and falling within the domain of a named social unit endows these actions with a collective purpose that exceeds the particular and more limited aims of the individual act itself, and in situating action within the larger context of a purposeful collective self, this type of discursive practice endows the polity a unity that it would otherwise lack. It is this representational act, the act of representing an individual action as expressive of a larger collective purpose symbolically embodied in an understanding of collective selfhood, which lies at the core of sovereign power. Sovereignty as Constituent Power v. Sovereignty as Supreme Command Rethinking sovereignty as the discursive practice of constituent power signals a significant departure from the conventional understanding of sovereignty as the practice of supreme command. Sovereignty has traditionally been understood not as a generative force with constitutive effects but as a relationship of obligation, as “the command of a superior and the obedience of an inferior (Kalyvas, 2005, p. 225).” As Kalyvas notes, this understanding of sovereignty as supreme command is rooted in Ancient Roman ideas of imperial martial command and is carried forward into the modern era by thinkers such as Bodin, Hobbes and more recently Foucault (pp. 223-225). According to this tradition, sovereignty is premised upon a hierarchical understanding of political obligation that specifies a relationship of rulers and ruled and is concerned above all with ensuring the obedience of the ruled to the groundless and norm-less decisions of the sovereign ruler. The central act of sovereignty is not the creative, generative act of constitution-making, as the concept of constituent power suggests, but the repressive act of command. This understanding of sovereignty as command implicitly informs most approaches to sovereignty and political authority in the study of international relations, particularly in the study of international organization (e.g. Lake, 2003, p. 304). It is perhaps most apparent in principal-agent models of delegation that begin from the assumption that all delegations are made by principals who empower particular agents to act on their behalf. This principal-agent relationship is governed by a contract that specifies the particular competency granted to the agent and ensures the principal’s authority to rescind it. The specific theories that have emerged within this framework vary widely, but, as Hawkins, et al (2006), note, what unites them “under the umbrella of ‘principal-agent theory’ is a focus on the substantive acts of principals in granting conditional authority and designing institutions to control possible opportunism by agents (p. 7).” The concern for understanding the act of granting conditional authority and the efforts to control opportunism is closely tied to an understanding of sovereignty and political authority more broadly as a form of supreme command. Rather than exploring the different self-representations that attend the constitution of supranational problem-solving institutions, the focus remains on how sovereign states reassert their authority over disobedient IOs. The knowledge produced by such a perspective tells us a great deal about the diverse ways in which relations of authority and obligation between states and IOs are regulated, but it says little about the way in which these relationships are constituted as such in the first place (other than that they result from IO opportunism and a lack of oversight on the part of states). None of this is to deny the analytic utility of such a perspective, but to the degree that principal-agent models neglect the generative dynamics of constituent power in the practice of sovereignty, it risks recapitulating the explanatory and normative limitations of methodological nationalism. While Constructivist approaches to international organization have shown a more direct concern for the nature of authority (e.g. Hurd, 2007, p. 60), there often remains an implicit understanding of sovereignty as a relationship of command and obedience, albeit one that departs from principal-agent models in important ways. Barnett and Finnemore’s (2004) study of how the bureaucracies of international organizations are able to draw on the legitimacy of rational-legal authority in modern political life to advance political goals and agendas not sought by the member states offers one of the more systematic Constructivist approaches to practices of delegation in world politics. Similar to principal-agent theory, the focus in this study remains on the opportunistic actions of IOs, actions often taken at the expense of state interests. Yet while the principal-agent model continues to locate sovereignty within the state, in Barnett and Finnemore’s study, IOs are able to act autonomously not simply because they have been granted authority by states but because they are able to draw on the political legitimacy constituted by values that exceed the political boundaries and particular aims of individual states. IOs that exceed their authority, in other words, are able to do so in part because the state cannot retain full control over the principles and values that constitute legitimate authority in modern political life. In de-coupling legitimate political authority from the sovereign state, Barnett and Finnemore take an important step beyond the sovereignty as supreme command model that informs most approaches to international organization. Such a move, however, does not fully avoid the problems of methodological nationalism. While the state is no longer the locus of sovereignty and is thus not fully capable of demanding obedience from IOs, the origins of authority in the modern international system remain obscure. In effect, Barnett and Finnemore locate sovereignty in the abstract principles and norms that circulate within modern political life, but how these principles (and not others) attained the status of legitimate sources of authority is not explained. It is not clear how such an account could be provided, moreover, that avoids the explanatory problems associated with the ever-receding horizon of authority (Bially-Mattern, 2005), wherein an existing norm ultimately derives its legitimacy from an older norm that pre-figures it and whose legitimacy is, in turn, taken for granted. In effect, the ability of a particular body of norms or principles to command obedience is taken as the starting point for Barnett and Finnemore’s analysis of delegation and international organization. In so doing, the analytic focus is drawn to how authority relations are regulated by these norms rather than the practices through which they are constituted. The central shortcoming of the command model of sovereignty that underlies both Rationalist and Constructivist approaches to international organization is that is fails to endow with sovereignty with any generative force capable of having constitutive effects. Because it implicitly takes as given an established relationship of obligation between two actors, ruler and ruled, it is unable to provide an explanation for how this relationship is constituted in the first place. Rethinking sovereignty as constituent power may enable us to develop a theory of political constitution that may capture some of these generative dynamics, drawing our attention away from the moment of regulation in which the sovereign commands obedience and towards the moment of constitution in which the practice of constituent power founds a new relationship of authority. In so doing, it may help us to avoid the explanatory and normative limitations of methodological nationalism. In order to better recognize the advantages of rethinking sovereignty as constituent power for the study of international delegation, it is worth re-visiting the concept of sovereignty costs in light of the above discussion. As noted previously, the concept is meant to capture the loss of political autonomy that often attends the delegation of authority away from the state, yet how we can even conceptualize these costs much less measure them remains unclear. What, precisely, is the cost of losing sovereignty if the result is an increase in institutional efficiency? Though often only implicit in rationalist accounts, we could argue that states have an interest in determining the distribution of material gain as well as the aggregate sum of material gain, and that they consider the trade-off in these two social goods when contemplating different distributions of authority. Delegating authority will thus only be amenable to states when the efficiency gains that result from delegation outweigh the costs suffered in surrendering control over the distribution of wealth. Any consideration of the costs associated with the distribution of material goods, however, cannot be measured strictly in material terms because delegation imposes a cost on the state that is normative. By virtue of surrendering control over distributional decisions when delegating authority, states also diminish their capacity to pursue the collective good of the polity. Indeed, it is because the state pursues a collective good for the polity that maintaining control over distributional decisions is valuable in the first place. It follows that if we want to understand the conditions under which states will be willing to accept limits on their ability to pursue the collective good of the polity, we need to attend to the ways in which this collective good is constituted in the first place. Representing the collective selfhood of the polity as an essential expression of a natural and necessary social unity (as occurs in states that identify the nation through ethnic or racial categories), for example, would seem to pose more significant obstacles to the delegation of authority than would more contingent expressions of political unity. When the polity is understood as essential, grounded in a set of properties that are believed to pre-figure political action, the prospect of compromising the state’s ability to realize and defend the collective purpose of the polity becomes a threat to the integrity of the polity’s collective selfhood. Delegation, in short, is understood in zero-sum terms when sovereignty is practiced through essentialist representations. Delegating decision-making authority beyond the state, therefore, may only be possible when sovereignty is practiced in a mode that recognizes the collective selfhood of the state as politically contingent rather than historically necessary. The deeper and more robust forms of supranationalism that we witness in the EU, for example, may be the result not simply of the European states being touched more intensely by the pressures of complex interdependence (cf. Moravcsik, 1998, p. 5) but because of the constitutive role that the experience of World War II has played in the representation of national collective selfhood in the post-war period. Such representations constitute the unity of the state, not in relation to timeless social categories, but in relation to a particular historical event and the effort to manage the challenges that emanate from it. Developing these claims into testable propositions lies beyond the scope of this paper, but rethinking sovereignty as constituent power offers a conceptual vocabulary that enables us to take the first step towards a more complete understanding of the conditions of possibility for the practice of delegating authority to supranational institutions. Conclusion I have argued that in order to understand the emergence of supranationalism, we must avoid the problem of methodological nationalism in international theory and that doing so requires the re-conceptualization of sovereignty as the discursive practice of constituent power. Understanding sovereignty in this way draws our attention to the practice of discursively representing collective selfhood and may help to better identify the conditions under which states willingly participate in supranational institutions. Understanding sovereignty as the discursive practice of constituent power has implications beyond the more particular explanatory claims associated with supranationalism. Indeed, it has implications for how we understand the very practice of (IOs) international organization itself. Most approaches to international organization understand the practice and politics of international organization as the practice of regulating and managing pre-existing social relations, be it through the monitoring and enforcement of legal contracts or through normative persuasion and socialization. A focus on the discursive practice of constituent power, in contrast, suggests that the practice of international organization is not simply about managing social relations but is also intimately bound-up with the practice of collective world-making as decision-makers articulate new communities and develop new ways of relating to others. Largely missing from the conventional perspective is this creative moment in which decision-makers imagine and articulate new possibilities for the organization of political life. A focus on the discursive practice of constituent power holds the promise of being able to capture some aspect of this creative moment; in so doing, it not only promises to enrich our understandings of what goes on when decision-makers seek to organize International Relations, it also promises to enrich our political imagination, enabling decision-makers and scholars alike to imagine new possibilities for organizing world politics and to potentially recognize the emancipatory potential that resides in previously un-explored forms of organization.

#### Hindmarsch 1NC

#### Centralized systems cause genocide and extinction

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The first usage of the term ‘biopolitics’ that Braun and Gottweis (2004) refer to aligns to my longstanding analysis of the genetic engineering context. Unconnected to the traditional Foucauldian concept of **‘biopolitics’**, it ‘refers to the new public policy area of biotechnology policy which has co-evolved with the development of the life sciences’ to refer to transformations in medicine and health, or in food, agriculture and the environment. Here, biopolitical analysis is predominantly on biotechnology regulation and bioscientific-technological development. In turn, the second usage refers to the historical tradition of Foucauldian inquiry, which describes and analyses two forms of control and administration (the ‘art of government’) that emerged from the sixteenth century onwards. The first form concerns the disciplining, especially through institutionalisation, of individuals, or collections of individuals, for their usefulness (or performance) for integration into systems of **‘efficient and economic controls’** (Foucault 1990 [French version 1976]: 139). The second form is concerned with administering the biological processes and resources (or subjugation and control) of the species body or populations in general: namely their bodies, and reproduction. This is achieved through their productive engagement with the then emerging scientific methods such as, for example, statistics, in what Foucault calls the investment of the body of the population and its valorization. Typically, this area tackles the urban space, the habitat, the natural resources and their distribution, and within this, public health. Scientists and engineers, deemed holders of ‘**expert knowledges’**, carry out this **disciplining and administration** on behalf of the government (Foucault 1977, Rutherford 1999). This aims to ‘**normalize’ the knowledge** of the experts vis-à-vis other knowledges, although this is not a given but is achieved in a relational way. As such, systems of knowledge-power instead **negotiate and mediate society** and its directions. Forms of knowledge-power to ‘administer life’ (govern) and normalize governmentality, Foucault (1990: 143) refers to as ‘bio-power’, applied as a regime of power within the social body, rather from above it. This is carried out through the application of tactical elements (‘discourses’) or ‘discursive practices’: ‘practices of talk, text, writing, cognition, argumentation, and representation generally’ (Clegg 1989: 151). The exercise of power is thus not understood as a ‘single, all-encompassing strategy’ (Foucault 1990: 103), but, as Clegg (1989: 154) recognises, as ‘a more or less stable or shifting network of alliances extended over a shifting terrain of practice and discursively constituted interests. Points of resistance will open up at many points in the network. Their effect will be to fracture alliances, constitute regroupings and reposit strategies’. Such practices applied to the **administration of resources in managing human populations also introduces the notion of the environment and its control**, and thus the Cartesian body-mind or nature-culture dichotomy — which has been described as ‘the drawing apart of the human subject, or “experiencer”, and the world experienced’ (Pratt et al. 2000: 7). Much environmental thought has since ascribed this divide as the main cause of today’s environmental problems (as discussed below). The Cartesian divide paralleled the emergence of bio-power, during the Enlightenment, with logical links extended to the control of human populations through it partitioning and regulation, the focus of Foucault’s inquiry. Yet, in introducing the broader environmental context, my attention is almost immediately drawn to the point in Foucault’s conceptualisation of bio-power of his recognition that the techniques of the administration of life cannot effect total control, that ‘it [life] constantly escapes them’. Thus, even though Foucault’s focus is on human life and its regulation, where ‘escape’ equates to resistance, ‘escape’, in reference to the management of natural resources where the Foucauldian gaze is also upon the health of the people, institutional and/or technological failure of administration **can instead cause environmental breakdown** that instead exposes human health to undue risk and hazard, the opposite of health**.** This, I would posit, is posed by Foucault, although rather opaquely, in The Will To Knowledge (1990: 137), Wars are no longer waged in the name of a sovereign who must be defended; they are waged on behalf of the existence of everyone … the decision that initiates them and the one that **terminates them** are in fact increasingly informed by the naked question of survival … **The atomic situation is now at the end point** of this process: **the power to guarantee an individual’s existence.** The principle underlying the tactics of battle — **that one has to be capable of killing in order to go on living** — **has become the principle that defines the strategy of states**. But the existence in question is no longer the juridical existence of sovereignity; **at stake is the biological existence** of a population. **If genocide is indeed the dream of modern powers**, this is not because of a recent return of the ancient right to kill**; it is because power is situated and exercised at the level of life,** the species, the race, and the large-scale phenomena of population.

#### Beck/Sznaider 1NC

#### Our alt and framework is to investigate methodology before policy recommendations --- rejecting methodological nationalism creates a new research agenda that is critical to understand the world and advance cosmopolitanism.

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Methodological nationalism takes the following premises for granted: it equates societies with nation-state societies and sees states and their governments as the primary focus of social-scientific analysis. It assumes that humanity is naturally divided into a limited number of nations, which organize themselves internally as nation-states and externally set boundaries to distinguish themselves from other nation-states. And it goes further: this outer delimitation as well as the competition between nation-states, represent the most fundamental category of political organization. The premises of the social sciences assume the collapse of social boundaries with state boundaries, believing that social action occurs primarily within and only secondarily across, these divisions:

[Like] stamp collecting . . . social scientists collected distinctive national social forms. Japanese industrial relations, German national character, the American constitution, the British class system – not to mention the more exotic institutions of tribal societies – were the currency of social research. The core disciplines of the social sciences, whose intellectual traditions are reference points for each other and for other fields, were therefore domesticated– in the sense of being preoccupied not with Western and world civilization as wholes but with the ‘domestic’ forms of particular national societies (Shaw 2000: 68).

The critique of methodological nationalism should not be confused with the thesis that the end of the nation-state has arrived. One does not criticize methodological individualism by proclaiming the end of the individual. Nation-states (as all the research shows – see also the different contributions in this volume) will continue to thrive or will be transformed into transnational states. What, then, is the main point of the critique of methodological nationalism? It adopts categories of practice as categories of analysis. The decisive point is that national organization as a structuring principle of societal and political action can no longer serve as the orienting reference point for the social scientific observer. One cannot even understand the re-nationalization or re-ethnification trend in Western or Eastern Europe without a cosmopolitan perspective. In this sense, the social sciences can only respond adequately to the challenge of globalization if they manage to overcome methodological nationalism and to raise empirically and theoretically fundamental questions within specialized fields of research, and thereby elaborate the foundations of a newly formulated cosmopolitan social science. As many authors – including the ones in this volume – criticize, in the growing discourse on cosmopolitanism there is a danger of fusing the ideal with the real. What cosmopolitanism is cannot ultimately be separated from what cosmopolitanism should be. But the same is true of nationalism. The small, but important, difference is that in the case of nationalism the value judgment of the social scientists goes unnoticed because methodological nationalism includes a naturalized conception of nations as real communities. In the case of the cosmopolitan ‘Wertbeziehung’ (Max Weber, value relation), by contrast, this silent commitment to a nation-state centred outlook of sociology appears problematic. In order to unpack the argument in the two cases it is necessary to distinguish between the actor perspective and the observer perspective. From this it follows that a sharp distinction should be made between methodological and normative nationalism. The former is linked to the social-scientific observer perspective, whereas the latter refers to the negotiation perspectives of political actors. In a normative sense, nationalism means that every nation has the right to self-determination within the context of its cultural, political and even geographical boundaries and distinctiveness. Methodological nationalism assumes this normative claim as a socio-ontological given and simultaneously links it to the most important conflict and organization orientations of society and politics. These basic tenets have become the main perceptual grid of the social sciences. Indeed, this social-scientific stance is part of the nation-state's own self-understanding. A national view on society and politics, law, justice, memory and history governs the sociological imagination. To some extent, much of the social sciences has become a prisoner of the nationstate. That this was not always the case is shown in Bryan Turner's paper in this issue (Turner 2006: 133–51). This does not mean, of course, that a cosmopolitan social science can and should ignore different national traditions of law, history, politics and memory. These traditions exist and become part of our cosmopolitan methodology. The comparative analyses of societies, international relations, political theory, and a significant part of history and law all essentially function on the basis of methodological nationalism. This is valid to the extent that the majority of positions in the contemporary debates in social and political science over globalization can be systematically interpreted as transdisciplinary reflexes linked to methodological nationalism. These premises also structure empirical research, for example, in the choice of statistical indicators, which are almost always exclusively national. A refutation of methodological nationalism from a strictly empirical viewpoint is therefore difficult, indeed, almost impossible, because so many statistical categories and research procedures are based on it. It is therefore of historical importance for the future development of the social sciences that this methodological nationalism, as well as the related categories of perception and disciplinary organization, be theoretically, empirically, and organizationally re-assessed and reformed. What is at stake here? Whereas in the case of the nation-state centred perspective there is an historical correspondence between normative and methodological nationalism (and for this reason this correspondence has mainly remained latent), this does not hold for the relationship between normative and methodological cosmopolitanism. In fact, the opposite is true: even the re-nationalization or re-ethnification of minds, cultures and institutions has to be analysed within a cosmopolitan frame of reference. Cosmopolitan social science entails the systematic breaking up of the process through which the national perspective of politics and society, as well as the methodological nationalism of political science, sociology, history, and law, confirm and strengthen each other in their definitions of reality. Thus it also tackles (what had previously been analytically excluded as a sort of conspiracy of silence of conflicting basic convictions) the various developmental versions of de-bounded politics and society, corresponding research questions and programmes, the strategic expansions of the national and international political fields, as well as basic transformations in the domains of state, politics, and society. This paradigmatic de-construction and re-construction of the social sciences from a national to a cosmopolitan outlook can be understood and methodologically justified as a ‘positive problem shift’ (Lakatos 1970), a broadening of horizons for social science research making visible new realities encouraging new research programmes (Back and Lau 2005 and Beck, Banss and Lau 2003: 1–35). Against the background of cosmopolitan social science, it suddenly becomes obvious that it is neither possible to distinguish clearly between the national and the international, nor, correspondingly, to make a convincing contrast between homogeneous units. National spaces have become de-nationalized, so that the national is no longer national, just as the international is no longer international. New realities are arising: a new mapping of space and time, new co-ordinates for the social and the political are emerging which have to be theoretically and empirically researched and elaborated.

### Cp

#### The Executive branch should publicly articulate its legal rationale for its targeted killing policy, including the process and safeguards in place for target selection. The Executive branch should ban signature strikes carried out by Remotely-Piloted Vehicles. The executive branch should establish a limited ex parte and ex ante executive review process for its targeted killing policy

#### The United States Executive should:

* enact a resolution and issue a white paper stating that, in the conduct of its oversight it has reviewed ongoing targeted killing operations and determined that the United States government is conducting such operations in full compliance with relevant laws, including but not limited to the Authorization to Use Military Force of 2001, covert action findings, and the President’s inherent powers under the Constitution
* substantially increase the Central Intelligence Agencies resources at a level necessary to maintain drone-strike and intelligence driven counter-terror operations
* offer all necessary incentives, excluding those that impinge upon counterterrorism operations, to foreign governments, in which the United States conducts counterterror operations, necessary to maintain their support in counterterror operations

#### plan would uniquely decimate Obama and the military’s ability to calm alliances and deter enemies through cyber arms --- Makes terrorism and global nuclear war more likely --- INDEPENDENTLY prevents ability to negotiate north Korean miscalc

WAXMAN 2013 - law professor at Columbia Law School, co-chairs the Roger Hertog Program on Law and National Security (Matthew Waxman, “The Constitutional Power to Threaten War,” August 27, 2013, http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2316777)

As a prescriptive matter, Part II also shows that examination of threatened force and the credibility requirements for its effectiveness calls into question many orthodoxies of the policy advantages and risks attendant to various allocations of legal war powers, including the existing one and proposed reforms.23 Most functional arguments about war powers focus on fighting wars or hostile engagements, but that is not all – or even predominantly – what the United States does with its military power. Much of the time it seeks to avert such clashes while achieving its foreign policy objectives: to bargain, coerce, deter.24 The President’s flexibility to use force in turn affects decision-making about threatening it, with major implications for securing peace or dragging the United States into conflicts. Moreover, constitutional war power allocations affect potential conflicts not only because they may constrain U.S. actions but because they may send signals and shape other states’ (including adversaries’) expectations of U.S. actions.25 That is, most analysis of war-powers law is inward-looking, focused on audiences internal to the U.S. government and polity, but thinking about threatened force prompts us to look outward, at how war-powers law affects external perceptions among adversaries and allies. Here, extant political science and strategic studies offer few clear conclusions, but they point the way toward more sophisticated and realistic policy assessment of legal doctrine and proposed reform. More generally, as explained in Part III, analysis of threatened force and war powers exposes an under-appreciated relationship between constitutional doctrine and grand strategy. Instead of proposing a functionally optimal allocation of legal powers, as legal scholars are often tempted to do, this Article in the end denies the tenability of any such claim. Having identified new spaces of war and peace powers that legal scholars need to take account of in understanding how those powers are really exercised, this Article also highlights the extent to which any normative account of the proper distribution of authority over this area depends on many matters that cannot be predicted in advance or expected to remain constant.26 Instead of proposing a policy-optimal solution, this Article concludes that the allocation of constitutional war powers is – and should be –geopolitically and strategically contingent; the actual and effective balance between presidential and congressional powers over war and peace in practice necessarily depends on fundamental assumptions and shifting policy choices about how best to secure U.S. interests against potential threats.27 I. Constitutional War Powers and Threats of Force Decisions to go to war or to send military forces into hostilities are immensely consequential, so it is no surprise that debates about constitutional war powers occupy so much space. But one of the most common and important ways that the United States uses its military power is by threatening war or force – and the constitutional dimensions of that activity receive almost no scrutiny or even theoretical investigation. A. War Powers Doctrine and Debates The Constitution grants Congress the powers to create military forces and to “declare war,”28 which the Supreme Court early on made clear includes the power to authorize limited uses of force short of full-blown war.29 The Constitution then vests the President with executive power and designates him commander in chief of the armed forces,30 and it has been well-accepted since the Founding that these powers include unilateral authority to repel invasions if the United States is attacked.31 Although there is nearly universal acceptance of these basic starting points, there is little legal agreement about how the Constitution allocates responsibility for the vast bulk of cases in which the United States has actually resorted to force. The United States has declared war or been invaded only a handful of times in its history, but it has used force – sometimes large-scale force – hundreds of other times.32 Views split over questions like when, if ever, the President may use force to deal with aggression against third parties and how much unilateral discretion the President has to use limited force short of full-blown war. For many lawyers and legal scholars, at least one important methodological tool for resolving such questions is to look at historical practice, and especially the extent to which the political branches acquiesced in common practices.33 Interpretation of that historical practice for constitutional purposes again divides legal scholars, but most would agree at least descriptively on some basic parts of that history. In particular, most scholars assess that from the Founding era through World War II, Presidents and Congresses alike recognized through their behavior and statements that except in certain narrow types of contingencies, congressional authorization was required for large-scale military operations against other states and international actors, even as many Presidents pushed and sometimes crossed those boundaries.34 Whatever constitutional constraints on presidential use of force existed prior to World War II, however, most scholars also note that the President asserted much more extensive unilateral powers to use force during and after the Cold War, and many trace the turning point to the 1950 Korean War.35 Congress did not declare war in that instance, nor did it expressly authorize U.S. participation.36 From that point forward, presidents have asserted broad unilateral authority to use force to address threats to U.S. interests, including threats to U.S. allies, and that neither Congress nor courts pushed back much against this expanding power.37 Concerns about expansive presidential war-making authority spiked during the Vietnam War. In the wind-down of that conflict, Congress passed – over President Nixon’s veto – the War Powers Resolution,38 which stated its purpose as to ensure the constitutional Founders’ original vision that the “collective judgment of both the Congress and the President will apply to the introduction of United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, and to the continued use of such forces in hostilities or in such situations.”39 Since then, presidentialists have argued that the President still retains expansive authority to use force abroad to protect American interests,40 and congressionalists argue that this authority is tightly circumscribed.41 These constitutional debates have continued through the first decade of the 21st century. Constitutional scholars split, for example, over President Obama’s power to participate in coalition operations against Libya without congressional authorization in 2011, especially after the War Powers Resolution’s 60-day clock expired.42 Some argue that President Obama’s use of military force without specific congressional authorization in that case reflects the broad constitutional discretion presidents now have to protect American interests, at least short of full-blown “war”, while others argue that it is the latest in a long record of presidential violations of the Constitution and the War Powers Resolution.43 B. Threats of Force and Constitutional Powers These days it is usually taken for granted that – whether or not he can make war unilaterally – the President is constitutionally empowered to threaten the use of force, implicitly or explicitly, through diplomatic means or shows of force. It is never seriously contested whether the President may declare that United States is contemplating military options in response to a crisis, or whether the President may move substantial U.S. military forces to a crisis region or engage in military exercises there. To take the Libya example just mentioned, is there any constitutional limitation on the President’s authority to move U.S. military forces to the Mediterranean region and prepare them very visibly to strike?44 Or his authority to issue an ultimatum to Libyan leaders that they cease their brutal conduct or else face military action? Would it matter whether such threats were explicit versus implicit, whether they were open and public versus secret, or whether they were just a bluff? If not a constitutional obstacle, could it be argued that the War Powers Resolution’s reporting requirements and limits on operations were triggered by a President’s mere ultimatum or threatening military demonstration, insofar as those moves might constitute a “situation where imminent involvement in hostilities is clearly indicated by the circumstances”? These questions simply are not asked (at least not anymore).45 If anything, most lawyers would probably conclude that the President’s constitutional powers to threaten war are not just expansive but largely beyond Congress’s authority to regulate directly. From a constitutional standpoint, to the extent it is considered at all, the President’s power to threaten force is probably regarded to be at least as broad as his power to use it. One way to look at it is that the power to threaten force is a lesser included element of presidential war powers; the power to threaten to use force is simply a secondary question, the answer to which is bounded by the primary issue of the scope of presidential power to actually use it. If one interprets the President’s defensive war powers very broadly, to include dealing with aggression not only directed against U.S. territories but also against third parties,46 then it might seem easy to conclude that the President can also therefore take steps that stop short of actual armed intervention to deter or prevent such aggression. If, however, one interprets the President’s powers narrowly, for example, to include only limited unilateral authority to repel attacks against U.S. territory,47 then one might expect objections to arguably excessive presidential power to include his unilateral threats of armed intervention. Another way of looking at it is that in many cases, threats of war or force might fall within even quite narrow interpretations of the President’s inherent foreign relations powers to conduct diplomacy or his express commander in chief power to control U.S. military forces – or some combination of the two – depending on how a particular threat is communicated. A President’s verbal warning, ultimatum, or declared intention to use military force, for instance, could be seen as merely exercising his role as the “sole organ” of U.S. foreign diplomacy, conveying externally information about U.S. capabilities and intentions.48 A president’s movement of U.S. troops or warships to a crisis region or elevation of their alert level could be seen as merely exercising his dayto- day tactical control over forces under his command.49 Generally it is not seriously contested whether the exercise of these powers alone could so affect the likelihood of hostilities or war as to intrude on Congress’s powers over war and peace.50 We know from historical examples that such unilateral military moves, even those that are ostensibly pure defensive ones, can provoke wars – take, for example, President Polk’s movement of U.S. forces to the contested border with Mexico in 1846, and the resulting skirmishes that led Congress to declare war.51 Coming at the issue from Congress’s Article I powers rather than the President’s Article II powers, the very phrasing of the power “To declare War” puts most naturally all the emphasis on the present tense of U.S. military action, rather than its potentiality. Even as congressionalists advance interpretations of the clause to include not merely declarative authority but primary decision-making authority as to whether or not to wage war or use force abroad, their modern-day interpretations do not include a power to threaten war (except perhaps through the specific act of declaring it). None seriously argues – at least not any more – that the Declare War Clause precludes presidential threats of war. This was not always the case. During the early period of the Republic, there was a powerful view that beyond outright initiation of armed hostilities or declaration of war, more broadly the President also could not unilaterally take actions (putting aside actual military attacks) that would likely or directly risk war,52 provoke a war with another state,53 or change the condition of affairs or relations with another state along the continuum from peace to war.54 To do so, it was often argued, would usurp Congress’s prerogative to control the nation’s state of peace or war.55 During the Quasi-War with France at the end of the 18th century, for example, some members of Congress questioned whether the President, absent congressional authorization, could take actions that visibly signaled an intention to retaliate against French maritime harassment,56 and even some members of President Adams’ cabinet shared doubts.57 Some questions over the President’s power to threaten force arose (eventually) in relation to the Monroe Doctrine, announced in an 1823 presidential address to Congress and which in effect declared to European powers that the United States would oppose any efforts to colonize or reassert control in the Western Hemisphere.58 “Virtually no one questioned [Monroe’s proclamation] at the time. Yet it posed a constitutional difficulty of the first importance.”59 Of course, Monroe did not actually initiate any military hostilities, but his implied threat – without congressional action – risked provoking rather than deterring European aggression and by putting U.S. prestige and credibility on the line it limited Congress’s practical freedom of action if European powers chose to intervene.60 The United States would have had at the time to rely on British naval power to make good on that tacit threat, though a more assertive role for the President in wielding the potential for war or intervention during this period went hand in hand with a more sustained projection of U.S. power beyond its borders, especially in dealing with dangers emanating from Spanish-held Florida territory.61 Monroe’s successor, John Quincy Adams, faced complaints from opposition members of Congress that Monroe’s proclamation had exceeded his constitutional authority and had usurped Congress’s by committing the United States – even in a non-binding way – to resisting European meddling in the hemisphere.62 The question whether the President could unilaterally send militarily-threatening signals was in some respects a mirror image of the issues raised soon after the Constitution was ratified during the 1793 Neutrality Controversy: could President Washington unilaterally declare the United States to be neutral as to the war among European powers. Washington’s politically controversial proclamation declaring the nation “friendly and impartial” in the conflict between France and Great Britain (along with other European states) famously prompted a back-and-forth contest of public letters by Alexander Hamilton and James Madison, writing pseudonymously as “Pacificus” and “Helvidius”, about whether the President had such unilateral power or whether it belonged to Congress.63 Legal historian David Currie points out the irony that the neutrality proclamation was met with stronger and more immediate constitutional scrutiny and criticism than was Monroe’s threat. After all, Washington’s action accorded with the principle that only Congress, representing popular will, should be able to take the country from the baseline state of peace to war, whereas Monroe’s action seemed (at least superficially) to commit it to a war that Congress had not approved.64 Curiously (though for reasons offered below, perhaps not surprisingly) this issue – whether there are constitutional limits on the President’s power to threaten war – has almost vanished completely from legal discussion, and that evaporation occurred even before the dramatic post-war expansion in asserted presidential power to make war. Just prior to World War II, political scientist and presidential powers theorist Edward Corwin remarked that “[o]f course, it may be argued, and has in fact been argued many times, that the President is under constitutional obligation not to incur the risk of war in the prosecution of a diplomatic policy without first consulting Congress and getting its consent.”65 “Nevertheless,” he continued,66 “the supposed principle is clearly a maxim of policy rather than a generalization from consistent practice.” In his 1945 study World Policing and the Constitution, James Grafton Rogers noted: [E]xamples of demonstrations on land and sea made for a variety of purposes and under Presidents of varied temper and in different political climates will suffice to make the point. The Commander-in-Chief under the Constitution can display our military resources and threaten their use whenever he thinks best. The weakness in the diplomatic weapon is the possibility of dissidence at home which may cast doubt on our serious intent. The danger of the weapon is war.67 At least since then, however, the importance to U.S. foreign policy of threatened force has increased dramatically, while legal questions about it have receded further from discussion. In recent decades a few prominent legal scholars have addressed the President’s power to threaten force, though in only brief terms.

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Taylor Reveley noted in his volume on war powers the importance of allocating constitutional responsibility not only for the actual use of force but also “[v]erbal or written threats or assurances about the circumstances in which the United States will take military action …, whether delivered by declarations of American policy, through formal agreements with foreign entities, by the demeanor or words of American officials, or by some other sign of national intent.”68 Beyond recognizing the critical importance of threats and other non-military actions in affecting war and peace, however, Reveley made little effort to address the issue in any detail. Among the few legal scholars attempting to define the limiting doctrinal contours of presidentially threatened force, Louis Henkin wrote in his monumental Foreign Affairs and the Constitution that: Unfortunately, the line between war and lesser uses of force is often elusive, sometimes illusory, and the use of force for foreign policy purposes can almost imperceptibly become a national commitment to war. Even when he does not use military force, the President can incite other nations or otherwise plunge or stumble this country into war, or force the hand of Congress to declare or to acquiesce and cooperate in war. As a matter of constitutional doctrine, however, one can declare with confidence that a President begins to exceed his authority if he willfully or recklessly moves the nation towards war…69 The implication seems to be that the President may not unilaterally threaten force in ways that are dramatically escalatory and could likely lead to war, or perhaps that the President may not unilaterally threaten the use of force that he does not have the authority to initiate unilaterally.70 Jefferson Powell, who generally takes a more expansive view than Henkin of the President’s war powers, argues by contrast that “[t]he ability to warn of, or threaten, the use of military force is an ordinary and essential element in the toolbox of that branch of government empowered to formulate and implement foreign policy.”71 For Powell, the President is constantly taking actions as part of everyday international relations that carry a risk of military escalation, and these are well-accepted as part of the President’s broader authority to manage, if not set, foreign policy. Such brief mentions are in recent times among the rare exceptions to otherwise barren constitutional discussion of presidential powers to threaten force. That the President’s authority to threaten force is so well-accepted these days as to seem self-evident is not just an academic phenomenon. It is also reflected in the legal debates among and inside all three branches of government. In 1989, Michael Reisman observed: Military maneuvers designed to convey commitment to allies or contingent threats to adversaries … are matters of presidential competence. Congress does not appear to view as within its bailiwick many low-profile contemporaneous expressions of gunboat diplomacy, i.e., the physical interposition of some U.S. war-making capacity as communication to an adversary of United States’ intentions and capacities to oppose it.72 This was and remains a correct description but understates the pattern of practice, insofar as even major and high-profile expressions of coercive diplomacy are regarded among all three branches of government as within presidential competence. In Dellums v. Bush – perhaps the most assertive judicial scrutiny of presidential power to use large-scale force abroad since the end of the Cold War – the district court dismissed on ripeness grounds congressmembers’ suit challenging President George H. W. Bush’s intended military operations against Iraq in 1991 and seeking to prevent him from initiating an offensive attack against Iraq without first securing explicit congressional authorization for such action.73 That at the time of the suit the President had openly threatened war – through ultimatums and deployment of several hundred thousand U.S. troops – but had not yet “committed to a definitive course of action” to carry out the threat meant there was no justiciable legal issue, held the court.74 The President’s threat of war did not seem to give the district court legal pause at all; quite the contrary, the mere threat of war was treated by the court as a non-issue entirely.75 There are several reasons why constitutional questions about threatened force have dropped out of legal discussions. First, the more politically salient debate about the President’s unilateral power to use force has probably swallowed up this seemingly secondary issue. As explained below, it is a mistake to view threats as secondary in importance to uses of force, but they do not command the same political attention and their impacts are harder to measure.76 Second, the expansion of American power after World War II, combined with the growth of peacetime military forces and a set of defense alliance commitments (developments that are elaborated below) make at least some threat of force much more common – in the case of defensive alliances and some deterrent policies, virtually constant – and difficult to distinguish from other forms of everyday diplomacy and security policy.77 Besides, for political and diplomatic reasons, presidents rarely threaten war or intervention without at least a little deliberate ambiguity. As historian Marc Trachtenberg puts it: “It often makes sense … to muddy the waters a bit and avoid direct threats.”78 Any legal lines one might try to draw (recall early attempts to restrict the President’s unilateral authority to alter the state of affairs along the peacetime-wartime continuum) have become blurrier and blurrier. In sum, if the constitutional power to threaten war ever posed a serious legal controversy, it does so no more. As the following section explains, however, threats of war and armed force have during most of our history become a greater and greater part of American grand strategy, defined here as long-term policies for using the country’s military and non-military power to achieve national goals. The prominent role of threatened force in U.S. strategy has become the focus of political scientists and other students of security strategy, crises, and responses – but constitutional study has not adjusted accordingly.79 C. Threats of Force and U.S. Grand Strategy While the Korean and Vietnam Wars were generating intense study among lawyers and legal scholars about constitutional authority to wage military actions abroad, during that same period many political scientists and strategists – economists, historians, statesmen, and others who studied international conflict – turned their focus to the role of threatened force as an instrument of foreign policy. The United States was building and sustaining a massive war-fighting apparatus, but its security policy was not oriented primarily around waging or winning wars but around deterring them and using the threat of war – including demonstrative military actions – to advance U.S. security interests. It was the potential of U.S. military might, not its direct application or engagement with the enemy, that would do much of the heavy lifting. U.S. military power would be used to deter the Soviet Union and other hostile states from taking aggressive action. It would be unsheathed to prompt them to back down over disputes. It would reassure allies that they could depend on U.S. help in defending themselves. All this required that U.S. willingness to go to war be credible in the eyes of adversaries and allies alike. Much of the early Cold War study of threatened force concerned nuclear strategy, and especially deterrence or escalation of nuclear war. Works by Albert Wohlstetter, Herman Kahn, and others not only studied but shaped the strategy of nuclear threats, as well as how to use limited applications of force or threats of force to pursue strategic interests in remote parts of the globe without sparking massive conflagrations.80 As the strategic analyst Bernard Brodie wrote in 1946, “Thus far the chief purpose of our military establishment has been to win wars. From now on its chief purpose must be to avert them.”81 Toward that end, U.S. government security and defense planners during this time focused heavily on preserving and improving the credibility of U.S. military threats – while the Soviet Union was doing likewise.82 The Truman administration developed a militarized version of containment strategy against the Soviet empire, emphasizing that stronger military capabilities were necessary to prevent the Soviets from seizing the initiative and to resist its aggressive probes: “it is clear,” according to NSC-68, the government document which encapsulated that strategy, “that a substantial and rapid building up of strength in the free world is necessary to support a firm policy intended to check and to roll back the Kremlin's drive for world domination.”83 The Eisenhower administration’s “New Look” policy and doctrine of “massive retaliation” emphasized making Western collective security both more effective and less costly by placing greater reliance on deterrent threats – including threatened escalation to general or nuclear war. As his Secretary of State John Foster Dulles explained, “[t]here is no local defense which alone will contain the mighty landpower of the Communist world. Local defenses must be reinforced by the further deterrent of massive retaliatory power.”84 As described in Evan Thomas’s recent book, Ike’s Bluff, Eisenhower managed to convince Soviet leaders that he was ready to use nuclear weapons to check their advance in Europe and elsewhere. In part due to concerns that threats of massive retaliation might be insufficiently credible in Soviet eyes (especially with respect to U.S. interests perceived as peripheral), the Kennedy administration in 1961 shifted toward a strategy of “flexible response,” which relied on the development of a wider spectrum of military options that could quickly and efficiently deliver varying degrees of force in response to foreign aggression.85 Throughout these periods, the President often resorted to discrete, limited uses of force to demonstrate U.S. willingness to escalate. For example, in 1961 the Kennedy administration (mostly successfully in the short-run) deployed intervention-ready military force immediately off the coast of the Dominican Republic to compel its government's ouster,86 and that same year it used military exercises and shows of force in ending the Berlin crisis;87 in 1964, the Johnson administration unsuccessfully used air strikes on North Vietnamese targets following the Tonkin Gulf incidents, failing to deter what it viewed as further North Vietnamese aggression.88 The point here is not the shifting details of U.S. strategy after World War II – during this era of dramatic expansion in asserted presidential war powers – but the central role of credible threats of war in it, as well as the interrelationship of plans for using force and credible threats to do so. Also during this period, the United States abandoned its long-standing aversion to “entangling alliances,”89 and committed to a network of mutual defense treaties with dependent allies. Besides the global collective security arrangement enshrined in the UN Charter, the United States committed soon after World War II to mutual defense pacts with, for example, groups of states in Western Europe (the North Atlantic Treaty Organization)90 and Asia (the Southeast Asia Treaty Organization,91 as well as a bilateral defense agreement with the Republic of Korea,92 Japan,93 and the Republic of China,94 among others). These alliance commitments were part of a U.S. effort to “extend” deterrence of Communist bloc aggression far beyond its own borders.95 “Extended deterrence” was also critical to reassuring these U.S. allies that their security needs would be met, in some instances to head off their own dangerous rearmament.96 Among the leading academic works on strategy of the 1960s and 70s were those of Thomas Schelling, who developed the theoretical structure of coercion theory, arguing that rational states routinely use the threat of military force – the manipulation of an adversary’s perceptions of future risks and costs with military threats – as a significant component of their diplomacy.97 Schelling distinguished between deterrence (the use of threats to dissuade an adversary from taking undesired action) and compellence (the use of threats to persuade an adversary to behave a certain way), and he distinguished both forms of coercion from brute force: “[B]rute force succeeds when it is used, whereas the power to hurt is most successful when held in reserve. It is the threat of damage to come that can make someone yield of comply. It is latent violence that can influence someone’s choice.”98 Alexander George, David Hall, and William Simons then led the way in taking a more empirical approach, reviewing case studies to draw insights about the success and failure of U.S. coercive threats, analyzing contextual variables and their effects on parties’ reactions to threats during crises. Among their goals was to generate lessons informed by history for successful strategies that combine diplomatic efforts with threats or demonstrations of force, recognizing that the United States was relying heavily on threatened force in addressing security crises. Coercive diplomacy – if successful – offered ways to do so with minimal actual application of military force.99 One of the most influential studies that followed was Force Without War: U.S. Armed Forces as a Political Instrument, a Brookings Institution study led by Barry Blechman and Stephen Kaplan and published in 1977.100 They studied “political uses of force”, defined as actions by U.S. military forces “as part of a deliberate attempt by the national authorities to influence, or to be prepared to influence, specific behavior of individuals in another nation without engaging in a continued contest of violence.”101 Blechman and Kaplan’s work, including their large data set and collected case studies, was important for showing the many ways that threatened force could support U.S. security policy. Besides deterrence and compellence, threats of force were used to assure allies (thereby, for example, avoiding their own drive toward militarization of policies or crises) and to induce third parties to behave certain ways (such as contributing to diplomatic resolution of crises). The record of success in relying on threatened force has been quite mixed, they showed. Blechman and Kaplan’s work, and that of others who built upon it through the end of the Cold War and the period that has followed,102 helped understand the factors that correlated with successful threats or demonstrations of force without resort or escalation to war, especially the importance of credible signals.103 After the Cold War, the United States continued to rely on coercive force – threatened force to deter or compel behavior by other actors – as a central pillar of its grand strategy. During the 1990s, the United States wielded coercive power with varied results against rogue actors in many cases that, without the overlay of superpower enmities, were considered secondary or peripheral, not vital, interests: Iraq, Somalia, Haiti, Bosnia, and elsewhere. For analysts of U.S. national security policy, a major puzzle was reconciling the fact that the United States possessed overwhelming military superiority in raw terms over any rivals with its difficult time during this era in compelling changes in their behavior.104 As Daniel Byman and I wrote about that decade in our study of threats of force and American foreign policy: U.S. conventional and nuclear forces dwarf those of any adversaries, and the U.S. economy remains the largest and most robust in the world. Because of these overwhelming advantages, the United States can threaten any conceivable adversary with little danger of a major defeat or even significant retaliation. Yet coercion remains difficult. Despite the United States’ lopsided edge in raw strength, regional foes persist in defying the threats and ultimatums brought by the United States and its allies. In confrontations with Somali militants, Serb nationalists, and an Iraqi dictator, the U.S. and allied record or coercion has been mixed over recent years…. Despite its mixed record of success, however, coercion will remain a critical element of U.S. foreign policy.105 One important factor that seemed to undermine the effectiveness of U.S. coercive threats during this period was that many adversaries perceived the United States as still afflicted with “Vietnam Syndrome,” unwilling to make good on its military threats and see military operations through.106 Since the turn of the 21st Century, major U.S. security challenges have included non-state terrorist threats, the proliferation of nuclear and other weapons of mass destruction (WMD), and rapidly changing power balances in East Asia, and the United States has accordingly been reorienting but retaining its strategic reliance on threatened force. The Bush Administration’s “preemption doctrine” was premised on the idea that some dangerous actors – including terrorist organizations and some states seeking WMD arsenals – are undeterrable, so the United States might have to strike them first rather than waiting to be struck.107 On one hand, this was a move away from reliance on threatened force: “[t]he inability to deter a potential attacker, the immediacy of today’s threats, and the magnitude of potential harm that could be caused by our adversaries’ choice of weapons, do not permit” a reactive posture.108 Yet the very enunciation of such a policy – that “[t]o forestall or prevent such hostile acts by our adversaries, the United States will, if necessary, act preemptively”109 – was intended to persuade those adversaries to alter their policies that the United States regarded as destabilizing and threatening. Although the Obama administration pulled back from this rhetoric and placed greater emphasis on international institutions, it has continued to rely on threatened force as a key pillar of its strategy with regard to deterring threats (such as aggressive Iranian moves), intervening in humanitarian crises (as in Libya), and reassuring allies.110 With regard to East Asia, for example, the credible threat of U.S. military force is a significant element of U.S. strategy for deterring Chinese and North Korean aggression as well as reassuring other Asian powers of U.S. protection, to avert a destabilizing arms race.111 D. The Disconnect Between Constitutional Discourse and Strategy There is a major disconnect between the decades of work by strategists and many political scientists on American security policy and practice since the Second World War and legal analysis and scholarship of constitutional war powers during that period. Lawyers and strategists have been relying on not only distinct languages but distinct logics of military force – in short, when it comes to using U.S. military power, lawyers think in terms of “going to war” while strategists focus on potential war and processes leading to it. These framings manifest in differing theoretical starting points for considering how exercises of U.S. military might affect war and peace, and they skew the empirical insights and normative prescriptions about Presidential power often drawn from their analyses. 1. Lawyers’ Misframing Lawyers’ focus on actual uses of force – especially engagements with enemy military forces – as constitutionally salient, rather than including threats of force in their understanding of modern presidential powers tilts analysis toward a one-dimensional strategic logic, rather than a more complex and multi-dimensional and dynamic logic in which the credible will to use force is as important as the capacity to do so. As discussed above, early American constitutional thinkers and practitioners generally wanted to slow down with institutional checks decisions to go to war, because they thought that would make war less likely. “To invoke a more contemporary image,” wrote John Hart Ely of their vision, “it takes more than one key to launch a missile: It should take quite a number to start a war.”112 They also viewed the exercise of military power as generally a ratchet of hostilities, whereby as the intensity of authorized or deployed force increased, so generally did the state of hostilities between the United States and other parties move along a continuum from peace to war.113 Echoes of this logic still reverberate in modern congressionalist legal scholarship: the more flexibly the President can use military force, the more likely it is that the United States will find itself in wars; better, therefore, to clog decisions to make war with legislative checks.114 Modern presidentialist legal scholars usually respond that rapid action is a virtue, not a vice, in exercising military force.115 Especially as a superpower with global interests and facing global threats, presidential discretion to take rapid military action – endowed with what Alexander Hamilton called “[d]ecision, activity, secrecy, and dispatch”116 – best protects American interests. In either case the emphasis tends overwhelmingly to be placed on actual military engagements with adversaries. Strategists and many political scientists, by contrast, view some of the most significant use of military power as starting well before armed forces clash – and including important cases in which they never actually do. Coercive diplomacy and strategies of threatened force, they recognize, often involve a set of moves and countermoves by opposing sides and third parties before or even without the violent engagement of opposing forces. It is often the parties’ perceptions of anticipated actions and costs, not the actual carrying through of violence, that have the greatest impact on the course of events and resolution or escalation of crises. Instead of a ratchet of escalating hostilities, the flexing of military muscle can increase as well as decrease actual hostilities, inflame as well as stabilize relations with rivals or enemies. Moreover, those effects are determined not just by U.S. moves but by the responses of other parties to them – or even to anticipated U.S. moves and countermoves.117 Indeed, as Schelling observed, strategies of brinkmanship sometimes operate by “the deliberate creation of a recognizable risk of war, a risk that one does not completely control.”118 This insight – that effective strategies of threatened force involve not only great uncertainty about the adversary’s responses but also sometimes involve intentionally creating risk of inadvertent escalation119 – poses a difficult challenge for any effort to cabin legally the President’s power to threaten force in terms of likelihood of war or some due standard of care.120 2. Lawyers’ Selection Problems Methodologically, a lawyerly focus on actual uses of force – a list of which would then commonly be used to consider which ones were or were not authorized by Congress – vastly undercounts the instances in which presidents wield U.S. military might. It is already recognized by some legal scholars that studying actual uses of force risks ignoring instances in which President contemplated force but refrained from using it, whether because of political, congressional, or other constraints.121 The point here is a different one: that some of the most significant (and, in many instances, successful) presidential decisions to threaten force do not show up in legal studies of presidential war powers that consider actual deployment or engagement of U.S. military forces as the relevant data set. Moreover, some actual uses of force, whether authorized by Congress or not, were preceded by threats of force; in some cases these threats may have failed on their own to resolve the crisis, and in other cases they may have precipitated escalation. To the extent that lawyers are interested in understanding from historical practice what war powers the political branches thought they had and how well that understanding worked, they are excluding important cases. Consider, as an illustration of this difference in methodological starting point, that for the period of 1946-1975 (during which the exercise of unilateral Presidential war powers had its most rapid expansion), the Congressional Research Service compilation of instances in which the United States has utilized military forces abroad in situations of military conflict or potential conflict to protect U.S. citizens or promote U.S. interests – which is often relied upon by legal scholars studying war powers – lists only about two dozen incidents.122 For the same time period, the Blechman and Kaplan study of political uses of force (usually threats) – which is often relied upon by political scientists studying U.S. security strategy – includes dozens more data-point incidents, because they divide up many military crises into several discrete policy decisions, because many crises were resolved with threat-backed diplomacy, and because many uses of force were preceded by overt or implicit threats of force.123 Among the most significant incidents studied by Blechman and Kaplan but not included in the Congressional Research Service compilation at all are the 1958-59 and 1961 crises over Berlin and the 1973 Middle East War, during which U.S. Presidents signaled threats of superpower war, and in the latter case signaled particularly a willingness to resort to nuclear weapons.124 Because the presidents did not in the end carry out these threats, these cases lack the sort of authoritative legal justifications or reactions that accompany actual uses of force. It is therefore difficult to assess how the executive branch and congress understood the scope of the President’s war powers in these cases, but historical inquiry would probably show the executive branch’s interpretation to be very broad, even to include full-scale war and even where the main U.S. interest at stake was the very credibility of U.S. defense commitments undergirding its grand strategy, not simply the interests specific to divided Germany and the Middle East region.

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Of course, one might argue that because the threatened military actions were never carried out in these cases, it is impossible to know if the President would have sought congressional authorization or how Congress would have reacted to the use of force; nonetheless, it is easy to see that in crises like these a threat by the President to use force, having put U.S. credibility on the line in addition to whatever other foreign policy stakes were at issues, would have put Congress in a bind. 3. Lawyers’ Mis-Assessment Empirically, analysis of and insights gleaned from any particular incident – which might then be used to evaluate the functional merits of presidential powers – looks very different if one focuses predominantly on the actual use of force instead of considering also the role of threatened force. Take for example, the Cuban Missile Crisis – perhaps the Cold War’s most dangerous event. To the rare extent that they consider domestic legal issues of this crisis at all, lawyers interested in the constitutionality of President Kennedy’s actions generally ask only whether he was empowered to initiate the naval quarantine of Cuba, because that is the concrete military action Kennedy took that was readily observable and that resulted in actual engagement with Soviet forces or vessels – as it happens, very minimal engagement.125 To strategists who study the crisis, however, the naval quarantine is not in itself the key presidential action; after all, as Kennedy and his advisers realized, a quarantine alone could not remove the missiles that were already in Cuba. The most consequential presidential actions were threats of military or even nuclear escalation, signaled through various means including putting U.S. strategic bombers on highest alert.126 The quarantine itself was significant not for its direct military effects but because of its communicative impact in showing U.S. resolve. If one is focused, as lawyers often are, on presidential military action that actually engaged the enemy in combat or nearly did, it is easy to dismiss this case as not very constitutionally significant. If one focuses on it, as strategists and political scientists often do, on nuclear brinkmanship, it is arguably the most significant historical exercise of unilateral presidential powers to affect war and peace.127 Considering again the 1991 Gulf War, most legal scholars would dismiss this instance as constitutionally a pretty uninteresting military conflict: the President claimed unilateral authority to use force, but he eventually sought and obtained congressional authorization for what was ultimately – at least in the short-run – a quite successful war. For the most part this case is therefore neither celebrated nor decried much by either side of legal war powers debates,128 though some congressionalist scholars highlight the correlation of congressional authorization for this war and a successful outcome.129 Political scientists look at the case differently, though. They often study this event not as a successful war but as failed coercive diplomacy, in that the United States first threatened war through a set of dramatically escalating steps that ultimately failed to persuade Saddam Hussein to withdraw from Kuwait.130 Some political scientists even see U.S. legal debate about military actions as an important part of this story, assessing that adversaries pay attention to congressional arguments and moves in evaluating U.S. resolve (an issue taken up in greater detail below) and that congressional opposition to Bush’s initial unilateralism in this case undermined the credibility of U.S. threats.131 Whether one sees the Gulf War as a case of (successful) war, as lawyers usually do, or (unsuccessful) threatened war, as political scientists usually do, colors how one evaluates the outcome and the credit one might attach to some factors such as vocal congressional opposition to initially-unilateral presidential moves. Notice also that legal analysis of Presidential authority to use force is sometimes thought to turn partly on the U.S. security interests at stake, as though those interests are purely contextual and exogenous to U.S. decision-making and grand strategy. In justifying President Obama’s 2011 use of force against the Libyan government, for example, the Justice Department’s Office of Legal Counsel concluded that the President had such legal authority “because he could reasonably determine that such use of force was in the national interest,” and it then went on to detail the U.S. security and foreign policy interests.132 The interests at stake in crises like these, however, are altered dramatically if the President threatens force: doing so puts the credibility of U.S. threats at stake, which is important not only with respect to resolving the crisis at hand but with respect to other potential adversaries watching U.S. actions.133 The President’s power to threaten force means that he may unilaterally alter the costs and benefits of actually using force through his prior actions.134 The U.S. security interests in carrying through on threats are partly endogenous to the strategy embarked upon to address crises (consider, for example, that once President George H.W. Bush placed hundred of thousands of U.S. troops in the Persian Gulf region and issued an ultimatum to Saddam Hussein in 1990, the credibility of U.S. threats and assurances to regional allies were put on the line).135 Moreover, interests at stake in any one crisis cannot simply be disaggregated from broader U.S. grand strategy: if the United States generally relies heavily on threats of force to shape the behavior of other actors, then its demonstrated willingness or unwillingness to carry out a threat and the outcomes of that action affect its credibility in the eyes of other adversaries and allies, too.136 It is remarkable, though in the end not surprising, that the executive branch does not generally cite these credibility interests in justifying its unilateral uses of force. It does cite when relevant the U.S. interest in sustaining the credibility of its formal alliance commitments or U.N. Security Council resolutions, as reasons supporting the President’s constitutional authority to use force.137 The executive branch generally refrains from citing the similar interests in sustaining the credibility of the President’s own threats of force, however, probably in part because doing so would so nakedly expose the degree to which the President’s prior unilateral strategic decisions would tie Congress’s hands on the matter. \* \* \* In sum, lawyers’ focus on actual uses of force – usually in terms of armed clashes with an enemy or the placement of troops into hostile environments – does not account for much vaster ways that President’s wield U.S. military power and it skews the claims legal scholars make about the allocation of war powers between the political branches. A more complete account of constitutional war powers should recognize the significant role of threatened force in American foreign policy. II. Democratic Checks on Threatened Force The previous Parts of this Article showed that, especially since the end of World War II, the United States has relied heavily on strategies of threatened force in wielding its military might – for which credible signals are a necessary element – and that the President is not very constrained legally in any formal sense in threatening war. Drawing on recent political science scholarship, this Part takes some of the major questions often asked by students of constitutional war powers with respect to the actual use of force and reframes them in terms of threatened force. First, as a descriptive matter, in the absence of formal legal checks on the President’s power to threaten war, is the President nevertheless informally but significantly constrained by democratic institutions and processes, and what role does Congress play in that constraint? Second, as a normative matter, what are the strategic merits and drawbacks of this arrangement of democratic institutions and constraints with regard to strategies of threatened force? Third, as a prescriptive matter, although it is not really plausible that Congress or courts would ever erect direct legal barriers to the President’s power to threaten war, how might legal reform proposals to more strongly and formally constrain the President’s power to use force indirectly impact his power to threaten it effectively? For reasons discussed below, I do not consider whether Congress could legislatively restrict directly the President’s power to threaten force or war; in short, I set that issue aside because assuming that were constitutionally permissible, even ardent congressionalists have exhibited no interest in doing so, and instead have focused on legally controlling the actual use of force. Political science insights that bear on these questions emerge from several directions. One is from studies of Congress’ influence on use of force decisions, which usually assume that Congress’s formal legislative powers play only a limited role in this area, and the effects of this influence on presidential decision-making about threatened force. Another is international relations literature on international bargaining138 as well as literature on the theory of democratic peace, the notion that democracies rarely, if ever, go to war with one another.139 In attempting to explain the near-absence of military conflicts between democracies, political scientists have examined how particular features of democratic governments – electoral accountability, the institutionalized mobilization of political opponents, and the diffusion of decision-making authority regarding the use of force among executive and legislative branches – affect decision-making about war.140 These and other studies, in turn, have led some political scientists (especially those with a rational choice theory orientation) to focus on how those features affect the credibility of signals about force that governments send to adversaries in crises.141 My purpose in addressing these questions is to begin painting a more complete and detailed picture of the way war powers operate, or could operate, than one sees when looking only at actual wars and use of force. This is not intended to be a comprehensive account but an effort to synthesize some strands of scholarship from other fields regarding threatened force to inform legal discourse about how war powers function in practice and the strategic implications of reform. The answers to these questions also bear on raging debates among legal scholars on the nature of American executive power and its constraint by law. Initially they seem to support the views of those legal scholars who have long believed that in practice law no longer seriously binds the President with respect to war-making.142 That view has been taken even further recently by Eric Posner and Adrian Vermeule, who argue that “[l]aw does little constraint the modern executive” at all, but also observe that “politics and public opinion” operate effectively to cabin executive powers.143 The arguments offered here, however, do more to support the position of those legal scholars who describe a more complex relationship between law and politics, including that law is constitutive of the processes of political struggle.144 That law helps constitute the processes of political struggles is true of any area of public policy, though, and what is special here is the added importance of foreign audiences – including adversaries and allies, alike – observing and reacting to those politics, too. Democratic Constraints on the Power to the Threaten Force Whereas most lawyers usually begin their analysis of the President’s and Congress’s war powers by focusing on their formal legal authorities, political scientists usually take for granted these days that the President is – in practice – the dominant branch with respect to military crises and that Congress wields its formal legislative powers in this area rarely or in only very limited ways. A major school of thought, however, is that congressional members nevertheless wield significant influence over decisions about force, and that this influence extends to threatened force, so that Presidents generally refrain from threats that would provoke strong congressional opposition. Even without any serious prospect for legislatively blocking the President’s threatened actions, Congress under certain conditions can loom large enough to force Presidents to adjust their policies; even when it cannot, congressional members can oblige the President expend lots of political capital. As Jon Pevehouse and William Howell explain: When members of Congress vocally oppose a use of force, they undermine the president’s ability to convince foreign states that he will see a fight through to the end. Sensing hesitation on the part of the United States, allies may be reluctant to contribute to a military campaign, and adversaries are likely to fight harder and longer when conflict erupts— thereby raising the costs of the military campaign, decreasing the president’s ability to negotiate a satisfactory resolution, and increasing the probability that American lives are lost along the way. Facing a limited band of allies willing to participate in a military venture and an enemy emboldened by domestic critics, presidents may choose to curtail, and even abandon, those military operations that do not involve vital strategic interests. 145 This statement also highlights the important point, alluded to earlier, that force and threatened force are not neatly separable categories. Often limited uses of force are intended as signals of resolve to escalate, and most conflicts involve bargaining in which the threat of future violence – rather than what Schelling calls “brute force”146 – is used to try to extract concessions. The formal participation of political opponents in legislative bodies provides them with a forum for registering dissent to presidential policies of force through such mechanisms floor statements, committee oversight hearings, resolution votes, and funding decisions.147 These official actions prevent the President “from monopolizing the nation’s political discourse” on decisions regarding military actions can thereby make it difficult for the President to depart too far from congressional preferences.148 Members of the political opposition in Congress also have access to resources for gathering policy relevant information from the government that informs their policy preferences. Their active participation in specialized legislative committees similarly gives opponent party members access to fact-finding resources and forums for registering informed dissent from decisions within the committee’s purview.149 As a result, legislative institutions within democracies can enable political opponents to have a more immediate and informed impact on executive’s decisions regarding force than can opponents among the general public. Moreover, studies suggest that Congress can actively shape media coverage and public support for a president’s foreign policy engagements.150 In short, these findings among political scientists suggest that, even without having to pass legislation or formally approve of actions, Congress often operates as an important check on threatened force by providing the president’s political opponents with a forum for registering dissent from the executive’s decisions regarding force in ways that attach domestic political costs to contemplated military actions or even the threats to use force. Under this logic, Presidents, anticipating dissent, will be more selective in issuing¶ threats in the first place, making only those commitments that would not incite¶ widespread political opposition should the threat be carried through.151 Political¶ opponents within a legislature also have few electoral incentives to collude in an¶ executive’s bluff, and they are capable of expressing opposition to a threatened use of¶ force in ways that could expose the bluff to a threatened adversary.152 This again narrows¶ the President’s range of viable policy options for brandishing military force. Counter-intuitively, given the President’s seemingly unlimited and unchallenged¶ constitutional power to threaten war, it may in some cases be easier for members of¶ Congress to influence presidential decisions to threaten military action than presidential¶ war decisions once U.S. forces are already engaged in hostilities. It is widely believed¶ that once U.S. armed forces are fighting, congress members’ hands are often tied: policy¶ opposition at that stage risks being portrayed as undermining our troops in the field.153¶ Perhaps, it could be argued, the President takes this phenomenon into account and¶ therefore discounts political opposition to threatened force; he can assume that such¶ opposition will dissipate if he carries it through. Even if that is true, before that point¶ occurs, however, members of Congress may have communicated messages domestically¶ and communicated signals abroad that the President will find difficult to counter.154 The bottom line is that a body of recent political science, while confirming the¶ President’s dominant position in setting policy in this area, also reveals that policymaking¶ with respect to threats of force is significantly shaped by domestic politics and¶ that Congress is institutionally positioned to play a powerful role in influencing those¶ politics, even without exercising its formal legislative powers. Given the centrality of¶ threatened force to U.S. foreign policy strategy and security crises, this suggests that the¶ practical war powers situation is not so imbalanced toward the President as many assume. B. Democratic Institutions and the Credibility of Threats A central question among constitutional war powers scholars is whether robust¶ checks – especially congressional ones – on presidential use of force lead to “sound”¶ policy decision-making. Congressionalists typically argue that legislative control over¶ war decisions promotes more thorough deliberation, including more accurate weighing of¶ consequences and gauging of political support of military action.155 Presidentialists¶ usually counter that the executive branch has better information and therefore better¶ ability to discern the dangers of action or inaction, and that quick and decisive military¶ moves are often required to deal with security crises.156 If we are interested in these sorts of functional arguments, then reframing the¶ inquiry to include threatened force prompts critical questions whether such checks also¶ contribute to or detract from effective deterrence and coercive diplomacy and therefore¶ positively or negatively affect the likelihood of achieving aims without resort to war.¶ Here, recent political science provides some reason for optimism, though the scholarship¶ in this area is neither yet well developed nor conclusive. To be sure, “soundness” of policy with respect to force is heavily laden with¶ normative assumptions about war and the appropriate role for the United States in the¶ broader international security system, so it is difficult to assess the merits and¶ disadvantages of constitutional allocations in the abstract. That said, whatever their¶ specific assumptions about appropriate uses of force in mind, constitutional war powers¶ scholars usually evaluate the policy advantages and dangers of decision-making¶ allocations narrowly in terms of the costs and outcomes of actual military engagements¶ with adversaries. The importance of credibility to strategies of threatened force adds important new¶ dimensions to this debate. On the one hand, one might intuitively expect that robust democratic checks would generally be ill-suited for coercive threats and negotiations –¶ that institutional centralization and secrecy of decision-making might better equip nondemocracies¶ to wield threats of force. As Quincy Wright speculated in 1944, autocracies¶ “can use war efficiently and threats of war even more efficiently” than democracies,157¶ especially the American democracy in which vocal public and congressional opposition¶ may undermine threats.158 Moreover, proponents of democratic checks on war powers¶ usually assume that careful deliberation is a virtue in preventing unnecessary wars, but¶ strategists of deterrence and coercion observe that perceived irrationality is sometimes¶ important in conveying threats: “don’t test me, because I might just be crazy enough to¶ do it!”159 On the other hand, some political scientists have recently called into question this¶ view and concluded that the institutionalization of political contestation and some¶ diffusion of decision-making power in democracies of the kind described in the previous¶ section make threats to use force rare but especially credible and effective in resolving¶ international crises without actual resort to armed conflict. In other words, recent¶ arguments in effect turn some old claims about the strategic disabilities of democracies¶ on their heads: whereas it used to be generally thought that democracies were ineffective¶ in wielding threats because they are poor at keeping secrets and their decision-making is¶ constrained by internal political pressures, a current wave of political science accepts this¶ basic description but argues that these democratic features are really strategic virtues.160 Rationalist models of crisis bargaining between states assume that because war is¶ risky and costly, states will be better off if they can resolve their disputes through¶ bargaining rather than by enduring the costs and uncertainties of armed conflict.161¶ Effective bargaining during such disputes – that which resolves the crisis without a resort¶ to force – depends largely on states’ perceptions of their adversary’s capacity to wage an¶ effective military campaign and its willingness to resort to force to obtain a favorable¶ outcome. A state targeted with a threat of force, for example, will be less willing to resist¶ the adversary’s demands if it believes that the adversary intends to wage and is capable of¶ waging an effective military campaign to achieve its ends. In other words, if a state¶ perceives that the threat from the adversary is credible, that state has less incentive to¶ resist such demands if doing so will escalate into armed conflict. The accuracy of such perceptions, however, is often compromised by¶ informational asymmetries that arise from private information about an adversary’s¶ relative military capabilities and resolve that prevents other states from correctly¶ assessing another states’ intentions, as well as by the incentives states have to¶ misrepresent their willingness to fight – that is, to bluff.162 Informational asymmetries¶ increase the potential for misperception and thereby make war more likely; war,¶ consequentially, can be thought of in these cases as a “bargaining failure.”163 Some political scientists have argued in recent decades – contrary to previously common wisdom – that features and constraints of democracies make them better suited than non-democracies to credibly signal their resolve when they threaten force. To bolster their bargaining position, states will seek to generate credible signals of their resolve by taking actions that can enhance the credibility of such threats, such as mobilizing military forces or making “hand-tying” commitments from which leaders cannot back down without suffering considerable political costs domestically.164 These domestic audience costs, according to some political scientists, are especially high for leaders in democratic states, where they may bear these costs at the polls.165 Given the potentially high domestic political and electoral repercussions democratic leaders face from backing down from a public threat, they have considerable incentives to refrain from bluffing. An adversary that understands these political vulnerabilities is thereby more likely to perceive the threats a democratic leader does issue as highly credible, in turn making it more likely that the adversary will yield.166 Other scholars have recently pointed to the special role of legislative bodies in signaling with regard to threatened force. This is especially interesting from the perspective of constitutional powers debates, because it posits a distinct role for Congress – and, again, one that does not necessarily rely on Congress’s ability to pass binding legislation that formally confines the President. Kenneth Schultz, for instance, argues that the open nature of competition within democratic societies ensures that the interplay of opposing parties in legislative bodies over the use of force is observable not just to their domestic publics but to foreign actors; this inherent transparency within democracies – magnified by legislative processes – provides more information to adversaries regarding the unity of domestic opponents around a government’s military and foreign policy decisions.167 Political opposition parties can undermine the credibility of some threats by the President to use force if they publicly voice their opposition in committee hearings, public statements, or through other institutional mechanisms. Furthermore, legislative processes – such as debates and hearings – make it difficult to conceal or misrepresent preferences about war and peace. Faced with such institutional constraints, Presidents will incline to be more selective about making such threats and avoid being undermined in that way.168 This restraining effect on the ability of governments to issue threats simultaneously makes those threats that the government issues more credible, if an observer assumes that the President would not be issuing it if he anticipated strong political opposition. Especially when members of the opposition party publicly support an executive’s threat to use force during a crisis, their visible support lends additional credibility to the government’s threat by demonstrating that political conditions domestically favor the use of force should it be necessary.169 In some cases, Congress may communicate greater willingness than the president to use force, for instance through non-binding resolutions.170 Such powerful signals of resolve should in theory make adversaries more likely to back down. The credibility-enhancing effects of legislative constraints on threats are subject to dispute. Some studies question the assumptions underpinning theories of audience costs – specifically the idea that democratic leaders suffer domestic political costs to failing to make good on their threats, and therefore that their threats are especially credible171 – and others question whether the empirical data supports claims that democracies have credibility advantages in making threats.172 Other scholars dispute the likelihood that leaders will really be punished politically for backing down, especially if the threat was not explicit and unambiguous or if they have good policy reasons for doing so.173 Additionally, even if transparency in democratic institutions allows domestic dissent from threats of force to be visible to foreign audiences, it is not clear that adversaries would interpret these mechanisms as political scientists expect in their models of strategic interaction, in light of various common problems of misperception in international relations.174 These disputes are not just between competing theoretical models but also over the links between any of the models and real-world political behavior by states. At this point there remains a dearth of good historical evidence as to how foreign leaders interpret political maneuvers within Congress regarding threatened force. Nevertheless, at the very least, strands of recent political science scholarship cast significant doubt on the intuition that democratic checks are inherently disadvantageous to strategies of threatened force. Quite the contrary, they suggest that legislative checks – or, indeed, even the signaling functions that Congress is institutionally situated to play with respect to foreign audiences interpreting U.S. government moves – can be harnessed in some circumstances to support such strategies. C. Legal Reform and Strategies of Threatened Force Among legal scholars of war powers, the ultimate prescriptive question is whether the President should be constrained more formally and strongly than he currently is by legislative checks, especially a more robust and effective mandatory requirement of congressional authorization to use force. Calls for reform usually take the form of narrowing and better enforcement (by all three branches of government) of purported constitutional requirements for congressional authorization of presidential uses of force or revising and enforcing the War Powers Resolutions or other framework legislation requiring express congressional authorization for such actions.175

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As applied to strategies of threatened force, generally under these proposals the President would lack authority to make good on them unilaterally (except in whatever narrow circumstances for which he retains his own unilateral authority, such as deterring imminent attacks on the United States). Whereas legal scholars are consumed with the internal effects of war powers law, such as whether and when it constrains U.S. government decision-making, the analysis contained in the previous section shifts attention externally to whether and when U.S. law might influence decision-making by adversaries, allies, and other international actors. In prescriptive terms, if the President’s power to use force is linked to his ability to threaten it effectively, then any consideration of war powers reform on policy outcomes and longterm interests should include the important secondary effects on deterrent and coercive strategies – and how U.S. legal doctrine is perceived and understood abroad.176 Would stronger requirements for congressional authorization to use force reduce a president’s opportunities for bluffing, and if so would this improve U.S. coercive diplomacy by making ensuing threats more credible? Or would it undermine diplomacy by taking some threats off the table as viable policy options? Would stronger formal legislative powers with respect to force have significant marginal effects on the signaling effects of dissent within Congress, beyond those effects already resulting from open political discourse? These are difficult questions, but the analysis and evidence above helps generate some initial hypotheses and avenues for further research and analysis. One might ask at this point why, though, having exposed as a hole in war powers legal discourse the tendency to overlook threatened force, this Article does not take up whether Congress should assert some direct legislative control of threats – perhaps statutorily limiting the President’s authority to make them or establishing procedural conditions like presidential reporting requirements to Congress. This Article puts such a notion aside for several reasons. First, for reasons alluded to briefly above, such limits would be very constitutionally suspect and difficult to enforce.177 Second, even the most ardent war-power congressionalists do not contemplate such direct limits on the President’s power to threaten; they are not a realistic option for reform. Instead, this Article focuses on the more plausible – and much more discussed – possibility of strengthening Congress’s power over the ultimate decision whether to use force, but augments the usual debate over that question with appreciation for the importance of credible threats. A claim previously advanced from a presidentialist perspective is that stronger legislative checks on war powers is harmful to coercive and deterrent strategies, because it establishes easily-visible impediments to the President’s authority to follow through on threats. This was a common policy argument during the War Powers Resolution debates in the early 1970s. Eugene Rostow, an advocate inside and outside the government for executive primacy, remarked during consideration of legislative drafts that any serious restrictions on presidential use of force would mean in practice that “no President could make a credible threat to use force as an instrument of deterrent diplomacy, even to head off explosive confrontations.”178 He continued: In the tense and cautious diplomacy of our present relations with the Soviet Union, as they have developed over the last twenty-five years, the authority of the President to set clear and silent limits in advance is perhaps the *most* important of all the powers in our constitutional armory to prevent confrontations that could carry nuclear implications. … [I]t is the diplomatic power the President needs most under the circumstance of modern life—the power to make a credible threat to use force in order to prevent a confrontation which might escalate.179 In his veto statement on the War Powers Resolution, President Nixon echoed these concerns, arguing that the law would undermine the credibility of U.S. deterrent and coercive threats in the eyes of both adversaries and allies – they would know that presidential authority to use force would expire after 60 days, so absent strong congressional support they could assume U.S. withdrawal at that point.180 In short, those who oppose tying the president’s hands with mandatory congressional authorization requirements to use force sometimes argue that doing so incidentally and dangerously ties his hands in threatening it. A critical assumption here is that presidential flexibility, preserved in legal doctrine, enhances the credibility of presidential threats to escalate.

#### Korean war goes nuclear

STRATFOR ‘10 (International Think Tank, “North Korea, South Korea: The Military Balance on the Peninsula,” http://www.stratfor.com/analysis/20100526\_north\_korea\_south\_korea\_military\_balance\_peninsula, May 26, 2010)

So the real issue is the potential for escalation — or an accident that could precipitate escalation — that would be beyond the control of Pyongyang or Seoul. With both sides on high alert, both adhering to their own national (and contradictory) definitions of where disputed boundaries lie and with rules of engagement loosened, the potential for sudden and rapid escalation is quite real. Indeed, North Korea’s navy, though sizable on paper, is largely a hollow shell of old, laid-up vessels. What remains are small fast attack craft and submarines — mostly Sang-O “Shark” class boats and midget submersibles. These vessels are best employed in the cluttered littoral environment to bring asymmetric tactics to bear — not unlike those Iran has prepared for use in the Strait of Hormuz. These kinds of vessels and tactics — including, especially, the deployment of naval mines — are poorly controlled when dispersed in a crisis and are often impossible to recall. For nearly 40 years, tensions on the Korean Peninsula were managed within the context of the wider Cold War. During that time it was feared that a second Korean War could all too easily escalate into and a thermonuclear World War III, so both Pyongyang and Seoul were being heavily managed from their respective corners. In fact, USFK was long designed to ensure that South Korea could not independently provoke that war and drag the Americans into it, which for much of the Cold War period was of far greater concern to Washington than North Korea attacking southward. Today, those constraints no longer exist. There are certainly still constraints — neither the United States nor China wants war on the peninsula. But current tensions are quickly escalating to a level unprecedented in the post-Cold War period, and the constraints that do exist have never been tested in the way they might be if the situation escalates much further.

### Patent

#### Patent reform will pass- its top of the docket and PC is key

Hattern, 3-5 – The Hill Correspondent

[Julian, "Congress gets out club for patent ‘trolls’," The Hill, 3-5-14, thehill.com/blogs/hillicon-valley/technology/199954-lawmakers-look-to-push-patent-troll-bill, accessed 3-13-14]

Proponents of a bill to prevent patent “trolls” from harassing businesses are increasingly optimistic their legislation will become law this year. Lawmakers and a wide swath of different industries have aligned behind the push for a crackdown on the so-called trolls, which sue companies for patent license violations. Supporters of the reform effort claim the lawsuits are often frivolous, but nonetheless force businesses into settlements to avoid lengthy and costly court cases. Plaintiffs in the suits argue they are merely trying to protect their intellectual property and preserve inventors’ ability to innovate. With campaign politics gumming up the works on Capitol Hill, the patent crackdown could be one of the few bills to make it to President Obama’s desk before November, supporters say. “I think that members on both sides of the aisle recognize that this is a big problem affecting people being employed in their district, investments in their district,” said Beth Provenzano, a senior director for government relations at the National Retail Federation. “I think that this does stand a good chance, even in the election year.” The Senate Judiciary Committee, the focus of the patent reform fight, will look to take action on legislation this month, Chairman Patrick Leahy (D-Vt.) said on Tuesday. Sen. Mike Lee (R-Utah) on Wednesday said he hoped the full chamber would vote on the bill in the coming months. In addition to the retailers trade group, associations for restaurants, financial institutions and major tech companies such as Google have pushed for the chamber to approve legislation. The troublesome lawsuits can cost millions, they say, and need to be stopped immediately. Patent-rights holders skeptical of reform claim that bill goes too far and warn it could make it difficult for inventors and universities to profit from their creations. In December, the House overwhelmingly passed the Innovation Act, which would reform much of the patent lawsuit process. Lee and Leahy are pushing a companion bill, the Patent Transparency and Improvements Act, in the Senate. Obama backed the House bill and called for action in his State of the Union address. Supporters hope the president’s backing will help push legislation across the finish line in the Senate. “It meant a lot in the Senate to have the president weigh in like that,” Lee said at an event Tuesday in Washington. “To have it brought up by the president in some very public settings has been very helpful to help focus the public attention on the fact that this is hurting a lot of people.” Obama’s support also created momentum in the House, and convinced Democratic lawmakers who might not have been focused on the issue to hop on board, according to Rep. Jared Polis (D-Colo.).

#### **Plan destroys Obama**

Loomis 7 Dr. Andrew J. Loomis is a Visiting Fellow at the Center for a New American Security, and Department of Government at Georgetown University, “Leveraging legitimacy in the crafting of U.S. foreign policy”, March 2, 2007, pg 36-37, http://citation.allacademic.com//meta/p\_mla\_apa\_research\_citation/1/7/9/4/8/pages179487/p179487-36.php

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

#### Patent reform is critical to the pharmaceutical industry

Eli Lilly, October 28, 2010, In Defense of Patent Reform, <http://lillypad.lilly.com/public-policy/in-defense-of-patent-protection>: DA: 1/22/11

A common concern expressed about the pharmaceutical industry is that we do not do enough to ensure that patients have access to our medicines or that we’re withholding medicines that can help alleviate suffering, improve the quality of life and, in some cases, cure disease.  Some even accuse the industry of exploiting patent laws so that we can retain the rights of production and charge more for additional years than we would in a world without patent protection. Patent laws are in place for many reasons, perhaps most importantly so that innovating companies have a fair period of time to recoup the enormous investment required to develop breakthrough products. Without this, innovators and the investors who fund innovation, would be easy prey for copy-cat manufacturers. That is why the U.S. Congress – - and all 100 + member countries of the World Trade Organization – - have established a 20-year term as the basic protection period for patents covering the full gamut of products or their components including planes, trains, and automobiles and, yes, medicines. The biopharma sector faces particular challenges with respect to a patent term in that it often takes a dozen or more years of efforts and, on average, $1.3 billion to bring a new medicine from the laboratory through clinical trials and FDA approval.  By the time a patient may benefit from the new medicine, much of its patent life can have expired.  Even though the 1984 Hatch-Waxman law allows up to five years of patent term restoration, many new drug products reach the market with about only 12 or so years of patent protection – far less than the effective patent lives of many other product classes. We believe in investing in the medicines of the future.  As each approved medicine reaches patients, employees are diligently working on the next medicines that will improve the lives of future generations.  Developing these new medicines is expensive, time consuming and often frustrating.  For every new drug that comes to market, pharmaceutical companies have been working with 5,000 other molecules that failed at some level of testing.  Many times, a new medicine will not make it to market at all.  Only about 2 to 3 of 10 FDA-approved drugs even recoup their cost of development.  Yet, the cost of development must be paid for both these relatively few medically and commercially successful products and the overwhelming majority of drug candidates that fail along the way.   In recent years, Lilly has invested over $4 billion annually (approximately 20% of revenues) in our search for breakthrough medicines.   Without strong intellectual property protection, including patent rights, this simply would not be possible. Pharmaceutical companies continue to invest in innovation not only because it is good for business, but it is what patients expect. If we want to continue to have breakthrough products, we need patent protection and incentives to invest in intellectual property

#### Loss of pharma profits deters companies from using R&D to help solve biowarfare

Bandow 3

(Doug, senior fellow at the Cato Institute, Policy Analysis no 475, “Demonizing Drugmakers: The Political Assault on the Pharmaceutical Industry, May 8, http://www.cato.org/pubs/pas/pa475.pdf)

Such highly visible efforts to weaken patent rights for short-term gains undermine the incentive to create additional treatments and develop drugs to combat other potentially lethal diseases. This is particularly curious behavior when the U. S. government is otherwise working with private drugmakers to develop new and improved anthrax vaccines, when pharmaceutical companies are ransacking their shelves for compounds that might be effective against new diseases, and when researchers are attempting to develop new means to detect and treat anthrax, smallpox, and other potential bioterrorist weapons. 192 Nancy Bradish Myers, an analyst with Lehman Brothers, warned: “If the federal government is going to threaten to break valuable patent rights at the first sign of a crisis, it will likely serve as a significant deterrent to other drug companies who would like to do the ‘right thing’ and use their R&D capabilities to help the government fight bioterrorism. ”193 A better alternative is for the government to negotiate a discount, just like any other bulk buyer (and perhaps include certain legal liability protections), in building reasonable public stockpiles.

#### Extinction

STEINBRUNER ’97 - Brookings senior fellow and chair in international security, vice chair of the committee on international security and arms control of the National Academy of Sciences (John D. Steinbruner, Winter 1997, Foreign Policy, “Biological weapons: a plague upon all houses,” n109 p85(12), infotrac)

Although human pathogens are often lumped with nuclear explosives and lethal chemicals as potential weapons of mass destruction, there is an obvious, fundamentally important difference: Pathogens are alive, weapons are not. Nuclear and chemical weapons do not reproduce themselves and do not independently engage in adaptive behavior; pathogens do both of these things. That deceptively simple observation has immense implications. The use of a manufactured weapon is a singular event. Most of the damage occurs immediately. The aftereffects, whatever they may be, decay rapidly over time and distance in a reasonably predictable manner. Even before a nuclear warhead is detonated, for instance, it is possible to estimate the extent of the subsequent damage and the likely level of radioactive fallout. Such predictability is an essential component for tactical military planning. The use of a pathogen, by contrast, is an extended process whose scope and timing cannot be precisely controlled. For most potential biological agents, the predominant drawback is that they would not act swiftly or decisively enough to be an effective weapon. But for a few pathogens - ones most likely to have a decisive effect and therefore the ones most likely to be contemplated for deliberately hostile use - the risk runs in the other direction. A lethal pathogen that could efficiently spread from one victim to another would be capable of initiating an intensifying cascade of disease that might ultimately threaten the entire world population. The 1918 influenza epidemic demonstrated the potential for a global contagion of this sort but not necessarily its outer limit.

## Solvency

#### Syria proves no group think ---- status quo solves

Corn, 13 -- Mother Jones' Washington Bureau chief

[David, "Obama, Syria, and Congress: Why Did He Go There?" Mother Jones, 9-6-13, www.motherjones.com/politics/2013/09/why-obama-sought-congressional-authorization-syria, accessed 9-21-13, mss]

Given all these swirling and complicated political dynamics, why did Obama grant Congress the right to hold him hostage? Some cynics have suggested that he might be seeking a way out of the corner he red-lined himself into. The polls show a strike would likely be highly unpopular among American voters, and experts of various ideological bents have raised serious questions about the efficacy and impact of a limited US military assault designed to deter Assad from the further use of chemical weapons. If Congress doesn't green light the endeavor, Obama can say he gave it a shot and retreat. Others have slammed Obama for not having the spine to go it alone, speculating he felt the need for political cover. But there's an alternative explanation: He's doing the right thing—or what he believes is the right thing. A former senior Obama adviser who still works with the White House says, "Look at this. Is there any other explanation, other than he thinks this is what he ought to do?" Meaning that Obama, the former law professor, is paying heed to the constitutional notion that the president shares war-making responsibility with Congress. Though this question has long been a source of unresolved conflict between presidents and legislators—and Obama did not seek congressional approval for the military action in Libya and has ordered drone strikes without official Capitol Hill backing—he does appear to be sympathetic to the idea that a president does not possess unhindered and unchecked war-making authority. During the 2008 campaign, he declared, "The president does not have power under the Constitution to unilaterally authorize a military attack in a situation that does not involve stopping an actual or imminent threat to the nation."

#### Obama circumvents the plan- he’s specifically rejected it

**Byman and Wittes 7-17**-13 [Daniel Byman is a professor in the Security Studies Program at Georgetown University and the Research Director of the Saban Center for Middle East Policy at Brookings, Benjamin Wittes is a Senior Fellow in Governance Studies at the Brookings Institution, the Editor in Chief of the Lawfare blog and a member of the Hoover Institution’s Task Force on National Security and Law, “Tools and Tradeoffs: Confronting U.S. Citizen Terrorist Suspects Abroad,” <http://www.brookings.edu/~/media/research/files/reports/2013/07/23%20us%20citizen%20terrorist%20suspects%20awlaki%20jihad%20byman%20wittes/toolsandtradeoffs.pdf>]

Still, the Obama administration has specifically reserved the authority to conduct lethal operations against American citizens, and it has specifically eschewed the necessity of judicial process before doing so. Obama put it bluntly: “[W]hen a U.S. citizen goes abroad ¶ to wage war against America—and is actively plotting to kill U.S. citizens; and when ¶ neither the United States, nor our partners are in a position to capture him before he ¶ carries out a plot—his citizenship should no more serve as a shield than a sniper shooting ¶ down on an innocent crowd should be protected from a swat team.”84¶ Because it has only been done once, it is hard to write categorically about the rules for ¶ killing an American overseas. The Awlaki killing clearly involved a great deal of review at ¶ all levels of the U.S. government. A great many analysts scrubbed the intelligence, and ¶ the Justice Department’s Office of Legal Counsel wrote an opinion on the legality of the ¶ strike before it took place. Reports have varied as to how personally involved President ¶ Obama is in reviewing the intelligence and authorizing specific strikes. But there’s little ¶ ambiguity in Awlaki’s case, where the President not only knew about it, he followed the ¶ intelligence personally. Obama not only approved the strike, but actively pushed for it.85¶ At the same time, no judge signed off on the strike, and while the congressional intelligence committees were presumably kept abreast, legal oversight of the killing was limited ¶ to the executive branch. ¶ In his National Defense University speech, Obama seemed to flirt with the idea of imposing judicial review on future such strikes, saying that he had “asked my Administration to ¶ review proposals to extend oversight of lethal actions outside of warzones that go beyond ¶ our reporting to Congress.” But his embrace was less than fulsome. While “[e]ach option has virtues in theory,” he said, there are “difficulties in practice. For example, the establishment of a special court to evaluate and authorize lethal action has the benefit of ¶ bringing a third branch of government into the process, but raises serious constitutional ¶ issues about presidential and judicial authority.” He worried that establishing an independent oversight board within the executive branch would “introduce a layer of bureaucracy ¶ into national-security decision-making, without inspiring additional public confidence in ¶ the process.” He promised nothing more than to “actively engag[e] Congress to explore ¶ these—and other—options for increased oversight.”86

#### Plan is modeled on the FISA court- includes appointment process

Adelsberg, AFF author ‘12 [Samuel, J.D., Yale Law School, “Bouncing the Executive's Blank Check: Judicial Review and the Targeting of Citizens,” Harvard Law & Policy Review, Summer, 6 Harv. L. & Pol'y Rev. 437, Lexis]

The CTRC would function in a similar manner to the FISC, thereby¶ providing the targeted killing analysis with neutral and detached oversight.¶ Were the executive branch to target a citizen, it would need to present its¶ reasoning to a CTRC judge. This judge would be a Senate-confirmed Article III judge with prior national security expertise to appreciate the military¶ concerns brought about by this added level of process. The CTRC judges¶ would issue opinions to establish standards and to guide future decisions.¶ Barring opposition from the executive branch, redacted versions of these¶ opinions would be released to the public. The CTRC, like the FISC, would place the judge at the core of the model. The CTRC judge single-handedly¶ stands in the way of unchecked executive power to target citizens. Therefore, it is vital that the CTRC not be just a rubber stamp for executive action, a charge that has been levied on the FISC in light of its high approval rate.56¶ A high approval rate alone, however, does not demonstrate excessive judicial acquiescence, for the mere existence of this mechanism of oversight¶ would serve to filter out weaker requests from executive officials. To help ensure that the CTRC does not become a rubber stamp, an¶ expert bar of federal and military defense counsel should be formed to represent the interests of the citizen being targeted. These individuals would¶ be approved by the Chief Justice of the Supreme Court, much like the judges on the FISC, and would have relevant experience either as former military¶ lawyers, court martial judges, or attorneys with detainee litigation experience. These lawyers would be appointed to represent the targeted citizens as¶ guardians ad litem, a procedure normally reserved for the representation of¶ minors or incompetents. Although there would be no client consultation or¶ instructions, the lawyers would proceed with the assumption that the¶ targeted citizen prefers life. These attorneys would need to be approved for¶ security clearance and would be given access to the government’s intelligence. The government would be required to turn over to the accused’s defense attorney any exculpatory intelligence regarding the targeted citizen.

#### That means the court is corrupted- causes nepotism and poor oversight

**Klein 7-2**-13 [Ezra, policy analyst for MSNBC, was named Blogger of the Year by both The Week magazine and the Sidney Hillman foundation, was an associate editor at The American Prospect and a columnist at Newsweek, “Chief Justice Roberts Is Awesome Power Behind FISA Court,” <http://www.bloomberg.com/news/2013-07-02/chief-justice-roberts-is-awesome-power-behind-fisa-court.html>]

Chief justice of the U.S. is a pretty big job. You lead the Supreme Court conferences where cases are discussed and voted on. You preside over oral arguments. When in the majority, you decide who writes the opinion. You get a cool robe that you can decorate with gold stripes.¶ Oh, and one more thing: You have exclusive, unaccountable, lifetime power to shape the surveillance state. To use its surveillance powers -- tapping phones or reading e-mails -- the federal government must ask permission of the court set up by the Foreign Intelligence Surveillance Act. A FISA judge can deny the request or force the government to limit the scope of its investigation. It’s the only plausible check in the system. Whether it actually checks government surveillance power or acts as a rubber stamp is up to whichever FISA judge presides that day.¶ The 11 FISA judges, chosen from throughout the federal bench for seven-year terms, are all appointed by the chief justice. In fact, every FISA judge currently serving was appointed by Chief Justice John Roberts, who will continue making such appointments until he retires or dies. FISA judges don’t need confirmation -- by Congress or anyone else.¶ No other part of U.S. law works this way. The chief justice can’t choose the judges who rule on health law, or preside over labor cases, or decide software patents. But when it comes to surveillance, the composition of the bench is entirely in his hands and so, as a result, is the extent to which the National Security Agency and the Federal Bureau of Investigation can spy on citizens.¶ “It really is up to these FISA judges to decide what the law means and what the NSA and FBI gets to do,” said Julian Sanchez, a privacy scholar at the Cato Institute. “So Roberts is single handedly choosing the people who get to decide how much surveillance we’re subject to.”¶ Thin Record¶ There’s little evidence that this is a power Roberts particularly wants. Tom Clancy, a professor at the University of Mississippi School of Law, has analyzed Roberts’s record on surveillance issues and been impressed mostly by how little interest in them Roberts displays. The chief justice doesn’t push the Supreme Court to take cases related to surveillance powers, and when such cases do come up, he tends to let another justice write the opinion. “He does not have much of a record in this area at all,” Clancy said.¶ To the degree Roberts’s views can be divined, he leans toward giving the government the authority it says it needs. “He’s been very state oriented,” Clancy said. “He’s done very little writing in the area, but to the extent he has, almost without exception, he’s come down in favor of the police.”¶ Roberts’s nominations to the FISA court are almost exclusively Republican. One of his first appointees, for instance, was Federal District Judge Roger Vinson of Florida, who not only struck down the Affordable Care Act’s individual mandate, but struck down the rest of the law, too. (The Supreme Court disagreed.) Vinson’s term expired in May, but the partisan tilt on the court continues: Only one of the 11 members is a Democrat.¶ Critics contend the FISA court is too compromised to conduct genuine oversight. It meets in secret, and the presiding judge hears only the government’s argument before issuing a decision that can’t be appealed or even reviewed by the public. “Like any other group that meets in secret behind closed doors with only one constituency appearing before them, they’re subject to capture and bias,” said Elizabeth Goitein, co-director of the Brennan Center for Justice’s Liberty and National Security Program.¶ Startling Success¶ A Reuters investigation found that from 2001 to 2012, FISA judges approved 20,909 surveillance and property search warrants while rejecting only 10. Almost 1,000 of the approved requests required modification, and 26 were withdrawn by the government before a ruling. That’s a startling win rate for the government.¶ Perhaps the federal government is simply very judicious in invoking its surveillance authority. But it’s also possible that empowering the chief justice -- especially one with an expansive view of state police powers -- to appoint every FISA judge has led to a tilted court. That’s probable even if the chief justice has been conscientious in his selections.¶ Harvard Law School professor and Bloomberg View columnist Cass R. Sunstein has found that judges are more ideologically rigid when their fellow judges are from the same party, and more moderate when fellow judges are from the other party. “Federal judges (no less than the rest of us) are subject to group polarization,” he wrote.¶ The FISA court is composed of federal judges. All are appointed by the same man. All but one hail from the same political party. And unlike judges in normal courts, FISA judges don’t hear opposing testimony or feel pressure from colleagues or the public to moderate their rulings. Under these circumstances, group polarization is almost a certainty. “There’s the real possibility that these judges become more extreme over time, even when they had only a mild bias to begin with,” Cato’s Sanchez said.¶ Just as the likelihood of polarization in the FISA court is more pronounced than in normal courts, the stakes are also higher. If trial judges are unduly biased, their rulings can be overturned on appeal. But FISA judges decide the momentous questions of who the government may spy on and how. Their power is awesome, and their word is final. And, as the great legal scholar Kanye West said, no one man should have all that power.

#### No solvency- judge shortage

**Demirijan ’13** [Karoun Demirjian, Washington correspondent for the Las Vegas Sun, “Senate logjam on judicial confirmations creates judge shortage in Nevada,” <http://www.lasvegassun.com/news/2013/feb/18/senate-logjam-judicial-confirmations-creates-judge/>]

This past week, the U.S. Senate confirmed its first federal district court judge of the 113th Congress.¶ One judge down. Just 69 more vacancies — including three in Nevada — to go.¶ For the past few years, political and procedural standoffs have stymied President Barack Obama’s attempts to get dozens of his nominees’ bids approved in the Senate, leaving dozens of gaping holes on benches across the country.¶ But in few states has the situation reached such a fever pitch as it has in Nevada, where three of the state’s seven seats on the federal bench have become vacant in the past year.¶ Seasoned lawyers say it’s the most troubling federal court crisis they’ve seen in Nevada in decades. And, they warn, it’s a crisis with real consequences.

#### Courts aren’t equipped for the aff

**Byman and Wittes 7-17**-13 [Daniel Byman is a professor in the Security Studies Program at Georgetown University and the Research Director of the Saban Center for Middle East Policy at Brookings, Benjamin Wittes is a Senior Fellow in Governance Studies at the Brookings Institution, the Editor in Chief of the Lawfare blog and a member of the Hoover Institution’s Task Force on National Security and Law, “Tools and Tradeoffs: Confronting U.S. Citizen Terrorist Suspects Abroad,” <http://www.brookings.edu/~/media/research/files/reports/2013/07/23%20us%20citizen%20terrorist%20suspects%20awlaki%20jihad%20byman%20wittes/toolsandtradeoffs.pdf>]

If the United States were ever to target a larger number of its citizens abroad, the problem ¶ of the legal and oversight framework in which it does so would emerge acutely. The courts, ¶ so far, have shown no interest in involving themselves in sorting out who can be killed ¶ and under what circumstances. Prior to the Awlaki strike, his father, Nasser Awlaki, filed suit—with the aid of the American Civil Liberties Union and the Center for Constitutional Rights—in an effort to preclude the targeting of his son. A district court in Washington dismissed the case, on grounds that he lacked standing to bring it (in other words, ¶ the father could not claim to represent the son), and that targeting is a political question ¶ in which the judiciary has no role. Judge John D. Bates—the same Judge Bates that ruled ¶ in the Abu Ali case—was fully aware of the oddity of the case and the oddity of declining ¶ to hear it. In dismissing the matter, he wrote that “Stark, and perplexing, questions readily ¶ come to mind.” Asked Judge Bates: ¶ How is it that judicial approval is required when the United States decides to ¶ target a U.S. citizen overseas for electronic surveillance, but that, according to ¶ defendants, judicial scrutiny is prohibited when the United States decides to ¶ target a U.S. citizen overseas for death? Can a U.S. citizen—himself or through ¶ another—use the U.S. judicial system to vindicate his constitutional rights while ¶ simultaneously evading U.S. law enforcement authorities, calling for “jihad ¶ against the West,” and engaging in operational planning for an organization that ¶ has already carried out numerous terrorist attacks against the United States? ¶ There were other questions too—all of them interesting. Can the courts really make realtime targeting decisions? Are they really positioned to weigh the benefits and costs of ¶ possible diplomatic and military responses, and ultimately decide whether, and under ¶ what circumstances, the use of military force against such threats is justified? Would the ¶ United States really litigate these questions, thereby disclosing in advance to the prospective target “the precise standards under which [the United States] will take that military ¶ action”? Ultimately, however, Judge Bates avoided all of the questions. “No matter how ¶ interesting and no matter how important this case may be . . . we cannot address it unless ¶ we have jurisdiction.”123 At least for now, the courts—though fully aware of the significance of their hands off ¶ approach—show no sign of insinuating themselves into the process.¶ Because the courts appear determined to avoid entering the debate over the parameters of ¶ when, how, and where an American abroad can be killed in the name of counterterrorism, ¶ Congress becomes the only plausible external source for the imposition of restraint on ¶ the Executive Branch. Congressional intervention, however, seems highly unlikely as long ¶ as drone strikes remain as popular—and as apparently effective—as they are. If Obama, ¶ derided as a Marxist and crypto-Muslim by his foes, asserts the right to use drone strikes ¶ against Americans, any other likely administration will as well. Not surprisingly, in the ¶ 2012 election Governor Mitt Romney also endorsed drone strikes “entirely” and stated ¶ that “we should continue to use it to go after the people who represent a threat to this ¶ nation and to our friends.”124

## Norms

#### Zero chance that U.S. self-restraint causes any other country to give up their plans for drones

Max Boot 11, the Jeane J. Kirkpatrick Senior Fellow in National Security Studies at the Council on Foreign Relations, 10/9/11, “We Cannot Afford to Stop Drone Strikes,” Commentary Magazine, <http://www.commentarymagazine.com/2011/10/09/drone-arms-race/>

The New York Times engages in some scare-mongering today about a drone ams race. Scott Shane notes correctly other nations such as China are building their own drones and in the future U.S. forces could be attacked by them–our forces will not have a monopoly on their use forever. Fair enough, but he goes further, suggesting our current use of drones to target terrorists will backfire:

If China, for instance, sends killer drones into Kazakhstan to hunt minority Uighur Muslims it accuses of plotting terrorism, what will the United States say? What if India uses remotely controlled craft to hit terrorism suspects in Kashmir, or Russia sends drones after militants in the Caucasus? American officials who protest will likely find their own example thrown back at them.

“The problem is that we’re creating an international norm” — asserting the right to strike preemptively against those we suspect of planning attacks, argues Dennis M. Gormley, a senior research fellow at the University of Pittsburgh and author of Missile Contagion, who has called for tougher export controls on American drone technology. “The copycatting is what I worry about most.”

This is a familiar trope of liberal critics who are always claiming we should forego “X” weapons system or capability, otherwise our enemies will adopt it too. We have heard this with regard to ballistic missile defense, ballistic missiles, nuclear weapons, chemical and biological weapons, land mines, exploding bullets, and other fearsome weapons. Some have even suggested the U.S. should abjure the first use of nuclear weapons–and cut down our own arsenal–to encourage similar restraint from Iran.

The argument falls apart rather quickly because it is founded on a false premise: that other nations will follow our example. In point of fact, Iran is hell-bent on getting nuclear weapons no matter what we do; China is hell-bent on getting drones; and so forth. Whether and under what circumstances they will use those weapons remains an open question–but there is little reason to think self-restraint on our part will be matched by equal self-restraint on theirs. Is Pakistan avoiding nuking India because we haven’t used nuclear weapons since 1945? Hardly. The reason is that India has a powerful nuclear deterrent to use against Pakistan. If there is one lesson of history it is a strong deterrent is a better upholder of peace than is unilateral disarmament–which is what the New York Times implicitly suggests.

Imagine if we did refrain from drone strikes against al-Qaeda–what would be the consequence? If we were to stop the strikes, would China really decide to take a softer line on Uighurs or Russia on Chechen separatists? That seems unlikely given the viciousness those states already employ in their battles against ethnic separatists–which at least in Russia’s case already includes the suspected assassination of Chechen leaders abroad. What’s the difference between sending a hit team and sending a drone?

While a decision on our part to stop drone strikes would be unlikely to alter Russian or Chinese thinking, it would have one immediate consequence: al-Qaeda would be strengthened and could regenerate the ability to attack our homeland. Drone strikes are the only effective weapon we have to combat terrorist groups in places like Pakistan or Yemen where we don’t have a lot of boots on the ground or a lot of cooperation from local authorities. We cannot afford to give them up in the vain hope it will encourage disarmament on the part of dictatorial states.

#### Existing norms solve and precedent isn’t key

Anderson, professor of international law – American University, ‘13

(Kenneth, "The Case for Drones", https://www.commentarymagazine.com/articles/the-case-for-drones/)

The objection to civilian deaths draws out a related criticism: Why should the United States be able to conduct these drone strikes in Pakistan or in Yemen, countries that are not at war with America? What gives the United States the moral right to take its troubles to other places and inflict damage by waging war? Why should innocent Pakistanis suffer because the United States has trouble with terrorists? The answer is simply that like it or not, the terrorists are in these parts of Pakistan, and it is the terrorists that have brought trouble to the country. The U.S. has adopted a moral and legal standard with regard to where it will conduct drone strikes against terrorist groups. It will seek consent of the government, as it has long done with Pakistan, even if that is contested and much less certain than it once was. But there will be no safe havens. If al-Qaeda or its affiliated groups take haven somewhere and the government is unwilling or unable to address that threat, America’s very long-standing view of international law permits it to take forcible action against the threat, sovereignty and territorial integrity notwithstanding. This is not to say that the United States could or would use drones anywhere it wished. Places that have the rule of law and the ability to respond to terrorists on their territory are different from weakly governed or ungoverned places. There won’t be drones over Paris or London—this canard is popular among campaigners and the media but ought to be put to rest. But the vast, weakly governed spaces, where states are often threatened by Islamist insurgency, such as Mali or Yemen, are a different case altogether. This critique often leads, however, to the further objection that the American use of drones is essentially laying the groundwork for others to do the same. Steve Coll wrote in the New Yorker: “America’s drone campaign is also creating an ominous global precedent. Ten years or less from now, China will likely be able to field armed drones. How might its Politburo apply Obama’s doctrines to Tibetan activists holding meetings in Nepal?” The United States, it is claimed, is arrogantly exerting its momentary technological advantage to do what it likes. It will be sorry when other states follow suit. But the United States does not use drones in this fashion and has claimed no special status for drones. The U.S. government uses drone warfare in a far more limited way, legally and morally, and **entirely within the bounds of** international law. The problem with China (or Russia) using drones is that they might not use them in the same way as the United States. The drone itself is a tool. How it is used and against whom—these are moral questions. If China behaves malignantly, drones will not be responsible. Its leaders will be.

#### Drone prolif doesn’t escalate or cause terrorism

**Singh ’12** [Joseph Singh is a researcher at the Center for a New American Security, an independent and non-partisan organization that focuses on researching and analyzing national security and defense policies, also a research assistant at the Institute for Near East and Gulf Military Analysis (INEGMA) North America, is a War and Peace Fellow at the Dickey Center, a global research organization, “Betting Against a Drone Arms Race,” 8-13-12, <http://nation.time.com/2012/08/13/betting-against-a-drone-arms-race/>]

Bold predictions of a coming drones arms race are all the rage since the uptake in their deployment under the Obama Administration. Noel Sharkey, for example, argues in an August 3 op-ed for the Guardian that rapidly developing drone technology — coupled with minimal military risk — portends an era in which states will become increasingly aggressive in their use of drones.¶ As drones develop the ability to fly completely autonomously, Sharkey predicts a proliferation of their use that will set dangerous precedents, seemingly inviting hostile nations to use drones against one another. Yet, the narrow applications of current drone technology coupled with what we know about state behavior in the international system lend no credence to these ominous warnings.¶ Indeed, critics seem overly-focused on the domestic implications of drone use.¶ In a June piece for the Financial Times, Michael Ignatieff writes that “virtual technologies make it easier for democracies to wage war because they eliminate the risk of blood sacrifice that once forced democratic peoples to be prudent.”¶ Significant public support for the Obama Administration’s increasing deployment of drones would also seem to legitimate this claim. Yet, there remain equally serious diplomatic and political costs that emanate from beyond a fickle electorate, which will prevent the likes of the increased drone aggression predicted by both Ignatieff and Sharkey.¶ Most recently, the serious diplomatic scuffle instigated by Syria’s downing a Turkish reconnaissance plane in June illustrated the very serious risks of operating any aircraft in foreign territory.¶ States launching drones must still weigh the diplomatic and political costs of their actions, which make the calculation surrounding their use no fundamentally different to any other aerial engagement.¶ This recent bout also illustrated a salient point regarding drone technology: most states maintain at least minimal air defenses that can quickly detect and take down drones, as the U.S. discovered when it employed drones at the onset of the Iraq invasion, while Saddam Hussein’s surface-to-air missiles were still active.¶ What the U.S. also learned, however, was that drones constitute an effective military tool in an extremely narrow strategic context. They are well-suited either in direct support of a broader military campaign, or to conduct targeted killing operations against a technologically unsophisticated enemy.¶ In a nutshell, then, the very contexts in which we have seen drones deployed. Northern Pakistan, along with a few other regions in the world, remain conducive to drone usage given a lack of air defenses, poor media coverage, and difficulties in accessing the region.¶ Non-state actors, on the other hand, have even more **reasons to steer clear** of drones:¶ – First, they are wildly expensive. At $15 million, the average weaponized drone is less costly than an F-16 fighter jet, yet much pricier than the significantly cheaper, yet equally damaging options terrorist groups could pursue.¶ – Those alternatives would also be relatively more difficult to trace back to an organization than an unmanned aerial vehicle, with all the technical and logistical planning its operation would pose.¶ – Weaponized drones are not easily deployable. Most require runways in order to be launched, which means that any non-state actor would likely require state sponsorship to operate a drone. Such sponsorship is unlikely given the political and diplomatic consequences the sponsoring state would certainly face.¶ – Finally, drones require an extensive team of on-the-ground experts to ensure their successful operation. According to the U.S. Air Force, 168 individuals are needed to operate a Predator drone, including a pilot, maintenance personnel and surveillance analysts.¶ In short, the doomsday drone scenario Ignatieff and Sharkey predict results from an excessive focus on rapidly-evolving military technology.

Instead, we must return to **what we know about state behavior** in an anarchistic international order. Nations will confront the same principles of deterrence, for example, when deciding to launch a targeted killing operation regardless of whether they conduct it through a drone or a covert amphibious assault team.

Drones may make waging war more domestically palatable, but they don’t change the very serious risks of retaliation for an attacking state. Any state otherwise deterred from using force abroad will not significantly increase its power projection on account of acquiring drones.

What’s more, the very states whose use of drones could threaten U.S. security – countries like China – are not democratic, which means that the possible political ramifications of the low risk of casualties resulting from drone use are irrelevant. For all their military benefits, putting drones into play requires an ability to meet the political and security risks associated with their use.

Despite these realities, there remain a host of defensible arguments one could employ to discredit the Obama drone strategy. The legal justification for targeted killings in areas not internationally recognized as war zones is uncertain at best.

Further, the short-term gains yielded by targeted killing operations in Pakistan, Somalia and Yemen, while debilitating to Al Qaeda leadership in the short-term, may serve to destroy already tenacious bilateral relations in the region and radicalize local populations.

Yet, the past decade’s experience with drones bears no evidence of impending instability in the global strategic landscape. Conflict may not be any less likely in the era of drones, but the nature of 21st Century warfare remains fundamentally unaltered despite their arrival in large numbers.

### AT: China – Offense

#### China won’t use drones aggressively- rationality checks

**Erickson and Strange 5-29**-13 [Andrew Erickson is an associate professor at the Naval War College and an Associate in Research at Harvard University's Fairbank Centre, Austin Strange is a researcher at the Naval War College's China Maritime Studies Institute, “China has drones. Now how will it use them?” <http://www.nationmultimedia.com/opinion/China-has-drones-Now-how-will-it-use-them-30207095.html>]

Drones, able to dispatch death remotely, without human eyes on their targets or a pilot's life at stake, make people uncomfortable - even when they belong to democratic governments that presumably have some limits on using them for ill. (On May 23, in a major speech, US President Barack Obama laid out what some of those limits are.) An even more alarming prospect is that unmanned aircraft will be acquired and deployed by authoritarian regimes, with fewer checks on their use of lethal force.¶ Those worried about exactly that tend to point their fingers at China. In March, after details emerged that China had considered taking out a drug trafficker in Myanmar with a drone strike, a CNN blog post warned, "Today, it's Myanmar. Tomorrow, it could very well be some other place in Asia or beyond." Around the same time, a National Journal article entitled "When the Whole World Has Drones" teased out some of the consequences of Beijing's drone programme, asking, "What happens if China arms one of its remote-piloted planes and strikes Philippine or Indian trawlers in the South China Sea?"¶ Indeed, the time to fret about when China and other authoritarian countries will acquire drones is over: they have them. The question now is when and how they will use them. But as with its other, less exotic military capabilities, Beijing has cleared only a technological hurdle - and its behaviour will continue to be constrained by politics.¶ China has been developing a drone capacity for over half a century, starting with its reverse engineering of Soviet Lavochkin La-17C target drones that it had received from Moscow in the late 1950s. Today, Beijing's opacity makes it difficult to gauge the exact scale of the programme, but according to Ian Easton, an analyst at the Project 2049 Institute, an American think-tank devoted to Asia-Pacific security matters, by 2011 China's air force alone had over 280 combat drones. In other words, its fleet of unmanned aerial vehicles is already bigger and more sophisticated than all but the United States'; in this relatively new field Beijing is less of a newcomer and more of a fast follower. And the force will only become more effective: the Lijian ("sharp sword" in Chinese), a combat drone in the final stages of development, will make China one of the very few states that have or are building a stealth drone capacity.¶ This impressive arsenal may tempt China to pull the trigger. The fact that a Chinese official acknowledged that Beijing had considered using drones to eliminate the Myanmar drug trafficker, Naw Kham, makes clear that it would not be out of the question for China to launch a drone strike in a security operation against a non-state actor. Meanwhile, as China's territorial disputes with its neighbours have escalated, there is a chance that Beijing would introduce unmanned aircraft, especially since India, the Philippines and Vietnam distantly trail China in drone funding and capacity, and would find it difficult to compete. Beijing is already using drones to photograph the Senkaku/Diaoyu islands it disputes with Japan, as the retired Chinese major-general Peng Guangqian revealed earlier this year, and to keep an eye on movements near the North Korean border.¶ Beijing, however, is unlikely to use its drones lightly. It already faces tremendous criticism from much of the international community for its perceived brazenness in continental and maritime sovereignty disputes. With its leaders attempting to allay notions that China's rise poses a threat to the region, injecting drones conspicuously into these disputes would prove counterproductive. China also fears setting a precedent for the use of drones in East Asian hotspots that the United States could eventually exploit. For now, Beijing is showing that it understands these risks, and to date it has limited its use of drones in these areas to surveillance, according to recent public statements from China's Defence Ministry.¶ What about using drones outside of Chinese-claimed areas? That China did not, in fact, launch a drone strike on the Myanmar drug criminal underscores its caution. According to Liu Yuejin, the director of the anti-drug bureau in China's Ministry of Public Security, Beijing considered using a drone carrying a 20-kilogram TNT payload to bomb Kham's mountain redoubt in northeast Myanmar. Kham had already evaded capture three times, so a drone strike may have seemed to be the best option. The authorities apparently had at least two plans for capturing Kham. The method they ultimately chose was to send Chinese police forces to lead a transnational investigation that ended in April 2012 with Kham's capture near the Myanmar-Laos border. The ultimate decision to refrain from the strike may reflect both a fear of political reproach and a lack of confidence in untested drones, systems, and operators.¶ The restrictive position that Beijing takes on sovereignty in international forums will further constrain its use of drones. China is not likely to publicly deploy drones for precision strikes or in other military assignments without first having been granted a credible mandate to do so. The gold standard of such an authorisation is a resolution passed by the UN Security Council, the stamp of approval that has permitted Chinese humanitarian interventions in Africa and anti-piracy operations in the Gulf of Aden. China might consider using drones abroad with some sort of regional authorisation, such as a country giving Beijing explicit permission to launch a drone strike within its territory. But even with the endorsement of the international community or specific states, China would have to weigh any benefits of a drone strike abroad against the potential for mishaps and perceptions that it was infringing on other countries' sovereignty - something Beijing regularly decries when others do it. The limitations on China's drone use are reflected in the country's academic literature on the topic. The bulk of Chinese drone research is dedicated to scientific and technological topics related to design and performance. The articles that do discuss potential applications primarily point to major combat scenarios -such as a conflagration with Taiwan or the need to attack a US aircraft carrier - which would presumably involve far more than just drones. Chinese researchers have thought a great deal about the utility of drones for domestic surveillance and law enforcement, as well as for non-combat-related tasks near China's contentious borders. Few scholars, however, have publicly considered the use of drone strikes overseas.¶ Yet there is a reason why the United States has employed drones extensively despite domestic and international criticism: it is much easier and cheaper to kill terrorists from above than to try to root them out through long and expensive counterinsurgency campaigns. Some similar challenges loom on China's horizon. Within China, Beijing often considers protests and violence in the restive border regions, such as Xinjiang and Tibet, to constitute terrorism. It would presumably consider ordering precision strikes to suppress any future violence there. Even if such strikes are operationally prudent, China's leaders understand that they would damage the country's image abroad, but they prioritise internal stability above all else. Domestic surveillance by drones is a different issue; there should be few barriers to its application in what is already one of the world's most heavily policed societies. China might also be willing to use stealth drones in foreign airspace without authorisation if the risk of detection were low enough; it already deploys intelligence-gathering ships in the exclusive economic zones of Japan and the United States, as well as in the Indian Ocean.¶ Still, although China enjoys a rapidly expanding and cutting-edge drone fleet, it is bound by the same rules of the game as the rest of the military's tools. Beyond surveillance, the other non-lethal military actions that China can take with its drones are to facilitate communications within the Chinese military, support electronic warfare by intercepting electronic communications and jamming enemy systems, and help identify targets for Chinese precision strike weapons, such as missiles. Beijing's overarching approach remains one of caution - something Washington must bear in mind with its own drone programme.

#### (blue) Chinese can effectively use soft power now, which is uniquely effective- US model fails

**Hölkemeyer 12-6**-13 [Patricia Rodríguez Hölkemeyer, research professor and deputy director of the School of Political Science at the University of Costa Rica, Honorary Member of the Academy Research Center of Central Private, “China's forthcoming soft power as a natural result of international events,” <http://www.china.org.cn/china/Chinese_dream_dialogue/2013-12/06/content_30822607.htm>]

On the other side, Deng'saphorism that China should never strive to attain global hegemony has been widely respected by its leaders and reformers. Nevertheless, today circumstances have changed. China's ancient thinkers rejected the idea of searching for hegemony through stratagems, and favored instead the accomplishment of what Mencius and Xuzi called humane authority. Nevertheless, at the present moment China does not need to strive for the attainment of a leading role because the present world circumstances are catapulting her to become a world superpower. What are the present world circumstances that have put China in the position to have a say in international affairs without having to strive for hegemony? Why is the Western 'presumptive paradigm' (Rodrik)for development failing contrastingly to the pragmatic and experimental learning paradigm of the Chinese reformers that Joshua Cooper Ramo dubbed the Beijing Consensus? The ex-ante presumption of knowledge, a characteristic of the Western countries and global institutions, very probably will be ceding its place to a Deweyian pragmatic change of paradigm, according to which, even the mere conception of what is the best form of democracy is fallible and contextual. ¶ Very probably, the paradigm of 'arrogance' will be giving place to a paradigm based on what the political scientist, Karl Deutsch, once called 'humility'. Deutsch defined its opposite "arrogance" as the posture of permitting oneself the luxury of not to learn (because it is supposed that one has already learned everything), while he defines 'humility' as the attitude of the political leader who is always open to learning from others. The West has forgotten that the concept of feedback (learning form the other) is the biggest bite to the tree of knowledge that humanity has undertaken in the last two thousand years (Bateson). A new concept of democracy has to take into consideration this advancement as the Chinese reform process has done. Western countries' presumptive frame of mind has been slowly losing momentum. The present circumstances provide a clear indication that one of the most cared institutions, the Western multiparty democracy system, has been losing its ability to learn, and thus, its capacity to offer creative solutions to its own and the world's problems. As a former US Ambassador to China said two years ago, the willingness of Chinese leaders to learn from their errors and adapt to new circumstances "differs sharply from what one encounters in Washington, where there's such concern over our inability to correct the problems that are making our political system — in the eyes of many Americans — increasingly dysfunctional."¶ The US has to enhance its learning capacity if it wants to lead in world affairs in cooperation with the newly emerging superpower. The West has to acknowledge that the so called American values are not universal, that harmony implies unity in diversity, that the concept of democracy is fallible and mutable, and that hegemony has to cede to a well gained humane authority, not only abroad but domestically.¶ Since W. W. II, the US attained the soft power that China lacked. Nevertheless, the US insistence in the maintenance of an hegemonic international order applying the smart power (a new concept of Joseph Nye) stratagems, has culminated in the observed failure of the misnamed Arab Spring, even if the application of smart power (instigation through political activism, and the posterior use of military power if necessary) was partially successful in the so called Color Revolutions (Rodríguez-Hölkemeyer, 2013).¶ Given the present circumstances (as the effects of 9/11, the global financial crisis, the formation of the G20, the global rejection of US espionage stratagems, the failure of the Pivot to the East policy due to the attention the US had to devote to the failed Arab Spring, to an ailing Europe, and to its own domestic financial and political problems) China's possibilities to acquire soft power and to exert its positive influence way the international governing institutions and in international relations, are now real. The world needs a new international relations paradigm, other than the Western style democracy promotion policy through political activism (see the book of the present US Ambassador to Russia, Michael McFaul, Advancing Democracy Abroad)orchestrated by organized minorities (NGOs) who want to impose the so called 'American values' in countries with different historical paths, culture and aspirations. The new paradigm will have to be founded in ethics, wisdom, cooperation, confidence-building, and on the recognition that knowledge is fallible and hypothetical, and that with globalization world circumstances and interactions are prone to change. This new paradigm has already been successfully tested in the 35 years of China's own economic and institutional reform process and diplomatic practice. This adaptive and learning-prone attitude of the Chinese leaders, even to the point of adapting (not adopting) western suggestions and institutions when necessary, is the underlying cause of the success of the admirable and unique Chinese development path. As Mencius and Xuzi's observations suggest that a country cannot exert international influence if its own house is not in order.¶ In sum, the present article states that now China possesses a substantive experiential wisdom to start a very productive dialogue with the World. Especially in a moment when it is beginning to be clear to many in the World, that to strive for maintaining a hegemonic world order (Mearsheimer) by means of dubious stratagemsis --according to Lao Tzu thought—the kind of response when intentions are going against the natural course of events.

#### US influence trades off with China’s- competing narratives

**Dynon ’13** [Nicholas, PhD candidate at Macquarie University and is coordinator of the Line 21 project, an online resource on Chinese public diplomacy, has served diplomatic postings in Shanghai, Beijing and the Fiji Islands, worked in Australia’s Parliament House as a departmental liaison officer to the Immigration Minister, holds postgraduate degrees from the ANU and the University of Sydney, “Soft Power: A U.S.-China Battleground?” June 19, <http://thediplomat.com/2013/06/soft-power-a-u-s-china-battleground/>]

Strip away the ostensibly benign surface of public diplomacy, cultural exchanges and language instruction, and it becomes clear that the U.S. and China are engaged in a soft power conflagration – a protracted cultural cold war. On one side bristles incumbent Western values hegemon, the U.S. On the other is China, one of the non-Western civilizations that Samuel Huntington noted back in 1993 “increasingly have the desire, the will and the resources to shape the world in non-Western ways.”¶ But to shape the world in non-Western ways means engaging in a soft power battlespace against an incumbent who already holds the high ground. Liu comments that in regions deeply influenced by Western cultures, political systems and values, the “latecomer” China is considered a “dissident force." Under such circumstances, “it is rather difficult for China to attract Western countries with its own political and cultural charisma, let alone to replace their positions.”¶ According to this and similar viewpoints, China’s difficulty in projecting soft power across the world is in part due to the way the U.S. leverages its own soft power. Wu Jianmin, the former president of China’s Foreign Affairs University, puts the point well when explaining that U.S. soft power is driven by the imperative of “maintaining US hegemony in changing the world, of letting the world listen to the United States.”¶ Thus, the state of global post-colonial, post-communist ideational hegemony is such that large swathes of the earth’s population see the world through lenses supplied by the West. Through these lenses, perceptions of China are dominated by such concepts as the “China threat theory,” which portrays China as a malevolent superpower upstart.¶ But it’s actually inside China’s borders where the soft power struggle between China and the U.S. is most prominent.¶ Official pronouncements from Chinese leaders have long played up the notion that Western culture is an aggressive threat to China’s own cultural sovereignty. It has thus taken myriad internal measures to ensure the country’s post-Mao reforms remain an exercise in modernization without “westernization.” Since the 1990s, for example, ideological doctrine has been increasingly infused with a new cultural nationalism, and the Party’s previously archaic propaganda system has been massively overhauled and working harder than ever.¶ Especially after the June 4th crackdown and the collapse of the Soviet Union, China’s leaders under Jiang Zemin began addressing the cultural battlespace with renewed vigor. Resolutions launched in 1996 called for the Party to “carry forward the cream of our traditional culture, prevent and eliminate the spread of cultural garbage, [and] resist the conspiracy by hostile forces to ‘Westernize’ and ‘split’ our country….” Hu Jintao trumpeted the same theme in early 2012 when he warned that international hostile forces are intensifying the strategic plot of Westernising and dividing China … Ideological and cultural fields are the focal areas of their long-term infiltration.”

#### Chinese soft power restrains aggression- solves regional stability

**Huang ’13** [Chin-Hao Huang, Ph.D. Candidate and a Russell Endowed Fellow in the Political Science and International Relations (POIR) Program at the University of Southern California (USC). Until 2009, he was a researcher at the Stockholm International Peace Research Institute (SIPRI) in Sweden. He specializes in international security and comparative politics, especially with regard to China and Asia, and he has testified before the Congressional U.S.-China Economic and Security Review Commission on Chinese foreign and security policy, “China’s Soft Power in East Asia,” <http://dornsife.usc.edu/assets/sites/451/docs/Huang_FINAL_China_Soft_Power_and_Status.pdf>]

China’s authoritarian regime is thus the biggest obstacle to its efforts to construct and project soft ¶ power. At the same time, if the government decides to take a different tack—a more constructive ¶ approach that embraces multilateralism—**Chinese soft power could be a positive force multiplier that contributes to peace and stability in the region**. A widely read and cited article published in ¶ Liaowang, a leading CCP publication on foreign affairs, reveals that there are prospects for China being socialized into a less disruptive power that complies with regional and global norms: ¶ Compared with past practices, China’s diplomacy has indeed displayed a new face. If China’s diplomacy before the 1980s stressed safeguarding of national ¶ security, and its emphasis from the 1980s to early this century is on the creation ¶ of an excellent environment for economic development, then the focus at ¶ present is to take a more active part in international affairs and play the role that a responsible power should on the basis of satisfying the security and ¶ development interests.47 The newly minted leadership in Beijing provides China with an opportunity to reset its soft-power approach and the direction of its foreign policy more generally. If the new leadership pursues a ¶ different course, Washington should seize on this opportunity to craft an effective response to ¶ better manage U.S.-China relations and provide for greater stability in the Asia-Pacific region. For example, strengthening regional alliances and existing security and economic architectures could help restrain China’s more bellicose tendencies. At the same time, Washington should be cognizant of the frustrations that are bound to occur in bilateral relations if Beijing continues to define national interest in narrow, self-interested terms. The U.S. should engage more deeply with regional partners to persuade and incentivize China to take on a responsible great-power role commensurate with regional expectations.¶ • The U.S. pivot to the region could be further complemented with an increase in soft-power promotion, including increasing the level of support for Fulbright and other educational exchanges that forge closer professional and interpersonal ties between the U.S. and the Asia-Pacific. Washington should also encourage philanthropy, development assistance, and intellectual engagement by think tanks and civil society organizations that address issues such as public health and facilitate capacity-building projects. China’s rising economic, political, and military power is the most geopolitically significant¶ development of this century. Yet while the breadth of China’s growing power is widely¶ understood, a fulsome understanding of the dynamics of this rise requires a more¶ systematic assessment of the depth of China’s power. Specifically, the strategic, economic,¶ and political implications of China’s soft-power efforts in the region require in-depth analysis.¶ The concept of “soft power” was originally developed by Harvard University professor Joseph Nye¶ to describe the ability of a state to attract and co-opt rather than to coerce, use force, or give money¶ as a means of persuasion.1 The term is now widely used by analysts and statesmen. As originally¶ defined by Nye, soft power involves the ability of an actor to set agendas and attract support on the¶ basis of its values, culture, policies, and institutions. In this sense, he considers soft power to often¶ be beyond the control of the state, and generally includes nonmilitary tools of national power—such¶ as diplomacy and state-led economic development programs—as examples of hard power.¶ Partially due to the obvious pull of China’s economic might, several analysts have broadened Nye’s¶ original definition of soft power to include, as Joshua Kurlantzick observes, “anything outside the¶ military and security realm, including not only popular culture and public diplomacy but also more¶ coercive economic and diplomatic levers like aid and investment and participation in multilateral¶ organizations.”2 This broader definition of soft power has been exhaustively discussed in China¶ as an element of a nation’s “comprehensive national power” (zonghe guoli), and some Chinese¶ commentators argue that it is an area where the People’s Republic of China (PRC) may enjoy some¶ advantages vis-à-vis the United States. These strategists advocate spreading appreciation of Chinese¶ culture and values through educational and exchange programs such as the Confucius Institutes.¶ This approach would draw on the attractiveness of China’s developmental model and assistance¶ programs (including economic aid and investment) in order to assuage neighboring countries’¶ concerns about China’s growing hard power.3 China’s soft-power efforts in East Asia—enabled by its active use of coercive economic and social¶ levers such as aid, investment, and public diplomacy—have already accrued numerous benefits for the PRC. Some view the failure of the United States to provide immediate assistance to East and¶ Southeast Asian states during the 1997 Asian financial crisis and China’s widely publicized refusal¶ to devalue its currency at the time (which would have forced other Asian states to follow suit) as a turning point, causing some in Asia to question which great power was more reliable.4 China also uses economic aid, and the withdrawal thereof, as a tool of national power, as seen in China’s considerable aid efforts in Southeast Asia, as well as in its suspension of $200 million in aid to¶ Vietnam in 2006 after Hanoi invited Taiwan to attend that year’s Asia-Pacific Economic Cooperation¶ (APEC) summit.5

#### This is an external nuclear war impact from the 1AC- draws in the US

**Eland 12-10**-13 [Ivan Eland,PhD in Public Policy from George Washington University, Senior Fellow and Director of the Center on Peace & Liberty at The Independent Institute, has been Director of Defense Policy Studies at the Cato Institute, and he spent 15 years working for Congress on national security issues, including Principal Defense Analyst at the Congressional Budget Office, has served as Evaluator-in-Charge for the U.S. General Accounting Office, “Stay Out of Petty Island Disputes in East Asia,” <http://www.huffingtonpost.com/ivan-eland/stay-out-of-petty-island-_b_4414811.html>]

One of the most dangerous international disputes that the United States could get dragged into has little importance to U.S. security -- the disputes nations have over small islands (some really rocks rising out of the sea) in East Asia. Although any war over these islands would rank right up there with the absurd Falkland Islands war of 1982 between Britain and Argentina over remote, windswept sheep pastures near Antarctica, any conflict in East Asia always has the potential to escalate to nuclear war. And unlike the Falklands war, the United States might be right in the atomic crosshairs.¶ Of the two antagonists in the Falklands War, only Britain had nuclear weapons, thus limiting the possibility of nuclear escalation. And although it is true that of the more numerous East Asian contenders, only China has such weapons, the United States has formal alliance commitments to defend three of the countries in competition with China over the islands -- the Philippines, Japan, and South Korea -- and an informal alliance with Taiwan. Unbeknownst to most Americans, those outdated alliances left over from the Cold War implicitly still commit the United States to sacrifice Seattle or Los Angeles to save Manila, Tokyo, Seoul, or Taipei, should one of these countries get into a shooting war with China. Though a questionable tradeoff even during the Cold War, it is even less so today. The "security" for America in this implicit pledge has always rested on avoiding a faraway war in the first place using a tenuous nuclear deterrent against China or any other potentially aggressive power. The deterrent is tenuous, because friends and foes alike might wonder what rational set of U.S. leaders would make this ridiculously bad tradeoff if all else failed. ¶ Of course these East Asian nations are not quarreling because the islands or stone outcroppings are intrinsically valuable, but because primarily they, depending on the particular dispute involved, are in waters that have natural riches -- fisheries or oil or gas resources. ¶ In one dispute, the Senkaku or Diaoyu dispute -- depending on whether the Japanese or Chinese are describing it, respectively -- the United States just interjected itself, in response to the Chinese expansion of its air defense zone over the islands, by flying B-52 bombers through this air space to support its ally Japan. The United States is now taking the nonsensical position that it is neutral in the island kerfuffle, even though it took this bold action and pledged to defend Japan if a war ensues. Predictably and understandably, China believes that the United States has chosen sides in the quarrel.¶ Then to match China, South Korea extended its own air defense zone -- so that it now overlaps that of both China and Japan. But that said, as a legacy of World War II, South Korea seems to get along better with China, its largest trading partner, than it does with Japan. Also, South Korea and Japan have a dispute over the Dokdo or Takeshima Islands, depending on who is describing them, in the Sea of Japan. Because the United States has a formal defense alliance with each of those nations and stations forces in both, which would it support if Japan and South Korea went to war over the dispute? It's anyone's guess.

#### Strong Chinese soft power solves failed states

**Hsiung ’13** [James C. Hsiung, Ph.D. from Columbia University, is Professor of Politics at New York University, where he teaches comparative politics of China and Japan, international relations of Asia, international law, and international governance, “Soft Power, Geoeconomics, & Empathy In China’s New Diplomacy,” <http://aacs.ccny.cuny.edu/2013conference/Papers/Hsiung%20James%20Chieh%202.pdf>]

Most U.S. observers, including the media, usually gloat over the strategic rivalry between the ¶ two countries in the developing world. But, Mitchell maintains that U.S. and Chinese interests ¶ “overlap substantially.” Both countries share a realization that poverty and poor governance ¶ breed instability, crime, and terrorism in the developing countries. Both have an interest in ¶ “empowering developing nations to meet their domestic challenges and in forestalling the ¶ emergence of failed or failing states,” which could be the breeding grounds for terrorism, ¶ infectious diseases, and international crime.57 In full agreement with Mitchell’s assessment, I ¶ would add two comments of my own. One, I know for a fact that China, as Mitchell suggests, ¶ does show a keen awareness of the danger posed by failed states to international peace and security, and, moreover, to human rights. A case in point is in regard to Somalia, where for two ¶ decades there has been no central government. Under conditions of this domestic anarchy, ¶ warlords have taken over; and the ceaseless in-fights have created chaos, misery, and ¶ massacres of helpless civilians. In U.N. discussions of the right of the world community to ¶ intervene in failed states like Somalia, China is known generally in support of the right of ¶ humanitarian intervention, known as the R2P (for “right to protect”), but at the same time it ¶ has urged that the state’s capability of protecting the people (and human rights) be ¶ strengthened, by installing, in the Somalia case, an effective central government.58 Conceivably, ¶ China could have done more to help the developing nations, especially in failing states, if its ¶ attention were not distracted by what it perceives as a soft-power denial problem that it must ¶ contend with.

#### Failed states cause extinction- triggers every impact

**Brown ‘09** [Lester R, President of the Earth Policy Institute, MA in agricultural economics from the University of Maryland, founder of the Worldwatch Institute, former international analyst at the USDA Foreign Agricultural Service, was appointed Administrator of the department's International Agricultural Development Service, “Could Food Shortages Bring Down Civilization?” May, http://biomass.age.uiuc.edu/images/c/cd/FoodShortageBrown.pdf]

The Problem of Failed States¶ Even a cursory look at the vital signs of our current world order lends unwelcome support to my conclusion. And those of us in the environmental field are well into our third de­­cade of charting trends of environmental decline without seeing any significant effort to reverse a single one.¶ In six of the past nine years world grain production has fallen short of consumption, forcing a steady drawdown in stocks. When the 2008 harvest began, world carryover stocks of grain (the amount in the bin when the new harvest begins) were at 62 days of consumption, a near record low. In response, world grain prices in the spring and summer of last year climbed to the highest level ever.¶ As demand for food rises faster than supplies are growing, the resulting food-price inflation puts severe stress on the governments of countries already teetering on the edge of chaos. Unable to buy grain or grow their own, hungry people take to the streets. Indeed, even before the steep climb in grain prices in 2008, the number of failing states was expanding [Purchase the digital edition to see related sidebar]. Many of their problems stem from a failure to slow the growth of their populations. But if the food situation continues to deteriorate, entire nations will break down at an ever increasing rate. We have entered a new era in geopolitics. In the 20th century the main threat to international security was superpower conflict; today it is failing states. It is not the concentration of power but its absence that puts us at risk.¶ States fail when national governments can no longer provide personal security, food security and basic social services such as education and health care. They often lose control of part or all of their territory. When governments lose their monopoly on power, law and order begin to disintegrate. After a point, countries can become so dangerous that food relief workers are no longer safe and their programs are halted; in Somalia and Afghanistan, deteriorating conditions have already put such programs in jeopardy.¶ Failing states are of international concern because they are a source of terrorists, drugs, weapons and refugees, threatening political stability everywhere. Somalia, number one on the 2008 list of failing states, has become a base for piracy. Iraq, number five, is a hotbed for terrorist training. Afghanistan, number seven, is the world's leading supplier of heroin. Following the massive genocide of 1994 in Rwanda, refugees from that troubled state, thousands of armed soldiers among them, helped to destabilize neighboring Democratic Republic of the Congo (number six).¶ Our global civilization depends on a functioning network of politically healthy nation-states to control the spread of infectious disease, to manage the international monetary system, to control international terrorism and to reach scores of other common goals. If the system for controlling infectious diseases - such as polio, SARS or avian flu - breaks down, humanity will be in trouble. Once states fail, no one assumes responsibility for their debt to outside lenders. If enough states disintegrate, their fall will threaten the stability of global civilization itself.¶ A New Kind of Food Shortage¶ The surge in world grain prices in 2007 and 2008 - and the threat they pose to food security - has a different, more troubling quality than the increases of the past. During the second half of the 20th century, grain prices rose dramatically several times. In 1972, for instance, the Soviets, recognizing their poor harvest early, quietly cornered the world wheat market. As a result, wheat prices elsewhere more than doubled, pulling rice and corn prices up with them. But this and other price shocks were event-driven - drought in the Soviet Union, a monsoon failure in India, crop-shrinking heat in the U.S. Corn Belt. And the rises were short-lived: prices typically returned to normal with the next harvest.¶ In contrast, the recent surge in world grain prices is trend-driven, making it unlikely to reverse without a reversal in the trends themselves. On the demand side, those trends include the ongoing addition of more than 70 million people a year; a growing number of people wanting to move up the food chain to consume highly grain-intensive livestock products [see "The Greenhouse Hamburger," by Nathan Fiala; Scientific American, February 2009]; and the massive diversion of U.S. grain to ethanol-fuel distilleries.

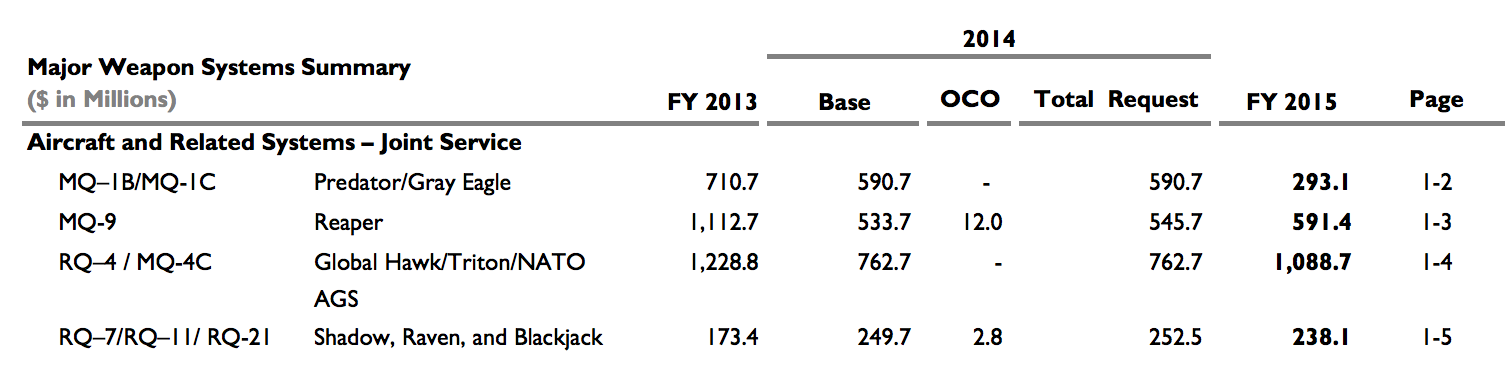
## Saudi

### Rollback - 1NC

#### No drone rollback now, this is future-predictive

**Mead 3-4**-14 [Derek, editor-in-chief for Motherboard, “The Military's Budget for New Drones Is Bigger in 2015,” http://motherboard.vice.com/read/the-militarys-2015-budget-features-more-money-for-new-drones]

While the military prepares for another year of belt tightening, some key drone programs will get more funding support in 2015. According to a budget released by the Pentagon today, the military has increased acquisitions budgets for half of its drone programs as compared to 2014, while research and development budgets have also been boosted. ¶ So while the defense budget as a whole remains relatively flat as compared to 2014, the armed forces continue to expand their drone fleets, and have also introduced money-saving plans to retire some traditional aircraft programs in favor of expand drone roles.¶ According to the Pentagon's acquisitions budget request, a larger MQ-9 Reaper budget means 12 new attack drones for the Air Force, while the RQ-4 Global Hawk program has seen the largest funding leap over 2014. The MQ-1 Predator, and RQ–7/RQ–11/ RQ-2 Shadow, Raven, and Blackjack platforms have had their acquisitions budgets cut, but overall, the Pentagon requested a $59.7 million increase in its drone-purchasing budget for 2015:



Research and development budgets show similar trends. The Global Hawk reconnaissance platform, which has had extra pressure put on it with the planned retirement of the U-2 spy plane, will get twice as much money from the Air Force for R&D, up to $244.5 million in 2015 from $120 million in 2014 and a similar boost from $375 million to $498 million from the Navy. ¶ As DoDBuzz notes, the Global Hawk has had trouble flying in inclement weather, which may explain why the Navy, which has to deal with whatever the sea whips up, is spending more money developing the platform. The same article explains that the decision to save money by retiring legacy platforms like the U-2 and A-10 Warthog means a smaller Air Force, which may mean a reversal to previous drone cuts.¶ The purchase by the Air Force of 12 new MQ-9 Reapers, which previously replaced all the F-16s of the 174th Attack Wing, is a sign that the military believes in drones' future. Meanwhile, the Air Force is expected to reduce personnel from 503,400 to 483,000.¶ Of course, the Air Force also expects to buy 26 of the 34 total F-35 Joint Strike Fighters acquired by the military next year, so manned aircraft aren't completely on the chopping block. But old ones are: The Defense Department states in its budget overview that it expects to use drones to help fill gaps in capability created by the retirement of other aircraft.¶ Confirming previous reports that the Army will retire one of its favorite scout helicopters, the overview states that "the Kiowa Warrior will be divested, and the armed aerial scout mission will be assumed by the AH-64 Apache teamed with unmanned aerial vehicles." The report also notes that UAVs have helped fill gaps found across forces as each branch shrinks where it can.¶ “With our leadership's stern warnings about sequestration appearing to fall mostly on deaf ears in the Congress last year, one of secretary Hagel's top priorities is to prepare the department for an era when defense budgets could be significantly lower than expected, wanted or needed,” acting Deputy Defense Secretary Christine Fox said in a speech today, reflecting the Defense Department's general frustrations with the endless budget fights of the last couple years.¶ Cuts are certainly to be expected as the US find itself without wars in Iraq and Afghanistan. Also, just as robots are coming for everyone else's jobs, so they will come for soldiers'. So in the face of such broad cuts, the growth of investment in some UAV platforms, as well as the expansion of some of their roles, is a nice peek into the drone future.

#### The plan snowballs against drones- shifts Court enforcement

Barnes, 12 -- J.D. Candidate, Boston University School of Law

[Beau, “Reauthorizing the ‘War on Terror’: The Legal and Policy Implications of the AUMF’s Coming Obsolescence,” Military Law Review, Vol 211, 2012, http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2150874, accessed 8-21-13, mss]

**The scope of** the **AUMF is** also **important for** any **future judicial opinion** that might rely in part on Justice Jackson’s Steel Seizure concurrence.23 Support from Congress places the President’s actions in Jackson’s first zone, where executive power is at its zenith, because it “includes all that [the president]~~he~~ possesses in [their]~~his~~ own right plus all that Congress can delegate.”24 Express or **implied congressional disapproval, discernible by identifying the outer limits of** the **AUMF’s authorization, would place the President’s “power . . . at its lowest ebb**.”25 In this third zone, executive claims “must be scrutinized with caution, for what is at stake is the equilibrium established by our constitutional system.”26 Indeed, Jackson specifically rejected an overly powerful executive, observing that the Framers did not intend to fashion the President into an American monarch.27 Jackson’s concurrence has become the **most significant guidepost** in debates over the constitutionality of executive action in the realm of national security and foreign relations.28 Indeed, some have argued that it was given “the status of law”29 by then-Associate Justice William Rehnquist in Dames & Moore v. Regan.30 Speaking for the Court, Rehnquist applied Jackson’s tripartite framework to an executive order settling pending U.S. claims against Iran, noting that “[t]he parties and the lower courts . . . have all agreed that much relevant analysis is contained in [Youngstown].”31 More recently, Chief Justice John Roberts declared that “Justice Jackson’s familiar tripartite scheme provides the accepted framework for evaluating executive action in [the area of foreign relations law].”32 Should a future court adjudicate the nature or extent of the President’s authority to engage in military actions against terrorists, an applicable statute would confer upon such executive action “the strongest of presumptions and the widest latitude of judicial interpretation.”33 The AUMF therefore exercises a profound legal influence on the future of the United States’ struggle against terrorism, and its precise scope, authorization, and continuing vitality matter a great deal.

### A2 oil

#### Empirically proven, no impact to shocks

**Jaffe 8.** [ Amy Myers Jaffe is the Wallace S. Wilson Fellow for Energy Studies at the James A. Baker III Institute for Public Policy at Rice University, “ Opportunity, not War,” Survival | vol. 50 no. 4 | August–September 2008 | pp. 61–82 ]

We’ve heard the argument before: scarcity of future oil supplies is a danger to the global international system and will create international conflict, death and destruction. In 1982, noted historian and oil-policy guru Daniel Yergin wrote that the energy question was ‘a question about the future of Western society’, noting that ‘stagnation and unemployment and depression tested democratic systems in the years between World War I and World War II’ and asserting that if there wasn’t sufficient oil to drive economic growth, the ‘possibilities are unpleasant to contemplate’.1 His words proved typical prose foreboding the top of a commodity cycle. A year later, oil prices began a four-year collapse to $12 a barrel. That oil is a cyclical industry is not in question. Since 1861, oil markets have experienced more than eight boom-and-bust cycles. In 1939, the US Department of the Interior announced that only 13 years of oil reserves remained in the United States. In more recent history, Middle East wars or revolutions produced oil price booms in 1956, 1973, 1979, 1990 and 2003. Each time, analysts rushed to warn of doomsday scenarios **but markets responded and oil use was curtailed** both **by market forces and government intervention** rather than by war and massive global instability. The question Nader Elhefnawy raises in ‘The Impending Oil Shock’ is whether this time will be different.

#### There is no causal relationship between the economy and conflict—the best study proves.

**Brandt and Ulfelder ‘11** (\*Patrick T. Brandt, Ph.D. in Political Science from Indiana University, is an Assistant Professor of Political Science in the School of Social Science at the University of Texas at Dallas. \*\*Jay Ulfelder, Ph.D. in political science from Stanford University, is an American political scientist whose research interests include democratization, civil unrest, and violent conflict, April, 2011, “Economic Growth and Political Instability,” Social Science Research Network)

These statements anticipating political fallout from the global economic crisis of 2008–2010 reflect a widely held view that economic growth has rapid and profound effects on countries’ political stability. When economies grow at a healthy clip, citizens are presumed to be too busy and too content to engage in protest or rebellion, and governments are thought to be flush with revenues they can use to enhance their own stability by producing public goods or rewarding cronies, depending on the type of regime they inhabit. When growth slows, however, citizens and cronies alike are presumed to grow frustrated with their governments, and the leaders at the receiving end of that frustration are thought to lack the financial resources to respond effectively. The expected result is an increase in the risks of social unrest, civil war, coup attempts, and regime breakdown. Although it is pervasive, the assumption that countries’ economic growth rates strongly affect their political stability **has not been subjected to** a great deal of careful **empirical analysis, and evidence from social science research** to date **does not** unambiguously **support it.** Theoretical models of civil wars, coups d’etat, and transitions to and from democracy often specify slow economic growth as an important cause or catalyst of those events, but empirical studies on the effects of economic growth on these phenomena have produced mixed results. Meanwhile, the effects of economic growth on the occurrence or incidence of social unrest seem to have **hardly** been **studied in recent years**, as empirical analysis of contentious collective action has concentrated on political opportunity structures and dynamics of protest and repression. This paper helps fill that gap by rigorously re-examining the effects of short-term variations in economic growth on the occurrence of several forms of political instability in countries worldwide over the past few decades. In this paper, we do not seek to develop and test new theories of political instability. Instead, we aim to subject a hypothesis common to many prior theories of political instability to more careful empirical scrutiny. The goal is to provide a detailed empirical characterization of the relationship between economic growth and political instability in a broad sense. In effect, we describe the conventional wisdom as seen in the data. We do so with statistical models that use smoothing splines and multiple lags to allow for nonlinear and dynamic effects from economic growth on political stability. We also do so with an instrumented measure of growth that explicitly accounts for endogeneity in the relationship between political instability and economic growth. To our knowledge, **ours is the first statistical study** of this relationship to simultaneously address the possibility of **nonlinearity and** problems of **endogeneity**. As such, we believe this paper offers what is probably the most rigorous general **evaluation** of this argument **to date**. As the results show, some of our findings are surprising. Consistent with conventional assumptions, we find that social unrest and civil violence are more likely to occur and democratic regimes are more susceptible to coup attempts around periods of slow economic growth. At the same time, our analysis shows no significant relationship between variation in growth and the risk of civil-war onset, and results from our analysis of regime changes contradict the widely accepted claim that economic crises cause transitions from autocracy to democracy. While we would hardly pretend to have the last word on any of these relationships, our findings do suggest that the relationship between economic growth and political stability is **neither as uniform nor as strong as** the **conventional wisdom**(s) **presume**(s). We think **these findings** also help **explain why the** global **recession** of 2008–2010 **has failed** thus far to **produce** the wave of coups and regime failures that some observers had anticipated, in spite of the expected and apparent uptick in social **unrest** associated with the crisis.

### A2 That Dollar Shit

#### No abandoning the dollar – no other currency is sufficient to risk it

Geoffrey Pike (writer for Wealth Daily) November 4, 2013 “Will the U.S. Dollar Lose its Reserve Status?”

http://www.wealthdaily.com/articles/will-the-us-dollar-lose-its-reserve-status/4774In the

The first question we have to ask is: What, if anything, would replace the dollar as the world's reserve currency?¶ Is there another currency that might take its place?¶ The Euro¶ Ten years ago, it would have seemed likely that the euro could compete with the dollar — and possibly even replace it as the world’s reserve currency.¶ But times can change quickly...¶ Today we see countries in the European Union struggling with major debt, sky-high unemployment, and economies in shambles. In some places, like Greece, things are really bad. People are literally struggling just to put food on the table.¶ The only plan that anyone seems to have is to inflate the euro to make the debt less burdensome. And since countries like Greece, Italy, and Spain can’t do their own inflating, it is a real possibility at this point that they may simply leave the European Union.¶ We don’t even know if there will be a European Union ten years from now. And if that's the case, the euro could vanish with it.¶ Regardless of whether all of this happens, the chances of seeing the euro serve as a reserve currency are remote at best right now.¶ The Yen¶ The Japanese yen would have seemed like a good candidate to compete with the dollar.¶ Again, things change quickly.¶ Japan now has a debt-to-GDP ratio of about 250%. This is absolutely unheard of, and the only reason it hasn’t all blown up yet is because the Japanese people themselves continue to buy their government’s debt. Now, I don’t know if this is some kind of patriotism or national honor thing, or if it is just plain foolishness on the part of investors — but it isn’t going to end well.¶ While the Bank of Japan was relatively tame in the past, we have seen a major policy change just in the last year. The Japanese government is determined to get its price inflation rate up and is directing the central bank to engage in major monetary inflation.¶ With an aging population and massive debt, I don’t see how the Japanese yen can be taken seriously, let alone possibly act as the world’s reserve currency...¶ The Yuan¶ The Chinese yuan (sometimes known as the renminbi) is frequently thrown around now as a possible replacement of the dollar.¶ There is certainly no question that China has come a long way in the last three decades.... In fact, China might be the best example of the greatest number of people escaping poverty in the shortest period of time.¶ With that said, the country is still ruled by communists, even if in name only. At the very least, they are mercantilists. They believe they need to continually devalue their own currency so that it doesn’t appreciate against the dollar. They do this for their exporting sector. This provides cheaper prices for Americans by keeping the value of the yuan down. It is a subsidy to Americans at the expense of the Chinese people.¶ While it does help the exporters in China, it also hurts the hundreds of millions of Chinese who would otherwise have cheaper consumer goods in their own country.¶ In addition to all of this, it is important to realize that the Chinese currency is still not a free-floating currency; it cannot be traded on the open market like other major currencies.¶ For this reason alone, the yuan cannot serve as a reserve currency.¶ Other Currencies¶ There are a handful of other countries that may have more attractive currencies than the United States...¶ The Swiss franc, for example, has typically been strong — but even that has been tainted in the last few years.¶ Regardless of whether we are talking about Switzerland, Singapore, or some other small country, they are simply too small to have their currency serve as a major currency of the world. Their overall economies just aren't large enough.¶ You can also forget about currencies from countries such as Canada, New Zealand, Australia, and even Britain: All of these countries and their currencies have similar problems, and the economies are much smaller in size when compared to the U.S.¶ And of course, you can forget about any other major countries like India or Brazil, where the economies are still living in the third world and the historical record of their currencies is completely unstable.¶ Other Possibilities¶ You might be wondering in the first place: Why do we need a reserve currency of the world?¶ We live in a digital age, and most of the major currencies are freely floating. If Japan wants to buy oil from Saudi Arabia, why do they need U.S. dollars for their transaction? They can simply convert from one currency to another without using the dollar as a middleman. If Saudi Arabia doesn’t want Japanese yen, they can quickly convert it back into their own currency, or whatever other currency they prefer to use.¶ There is a possibility of having a basket of currencies, but you still have all of the problems mentioned above.¶ So again, why does everyone need a middleman?¶ Another possibility is that countries start using some kind of commodity or basket of commodities. The most likely candidate would be gold, which has a historical record of being used as money for thousands of years.¶ I believe that if a major country started backing its currency with gold, the rest of the world would quickly start using that currency more and more for trade and investment. Unfortunately, that seems unlikely — at least in the near future.¶ What to Expect¶ It's important to understand that you won't just wake up one day to find the U.S. dollar has lost its status as reserve currency.¶ This isn’t an official designation. In today’s world, it's not as if a committee meets and decides on what is going to be used by everyone else...¶ If anything, the dollar will lose its status subtly over time. It is already starting to happen in many cases, where countries realize they don’t need to use the dollar as a middleman.¶ Over time, Americans will lose their subsidy for inexpensive consumer goods. This will be good for people in foreign countries trying to escape poverty.¶ Right now, though, there is still a widespread mercantilist mindset. Virtually every country or region is trying to devalue its currency. It's a race to the bottom.¶ I would not recommend investing on the basis of the dollar losing it reserve currency status, at least to another fiat currency...¶ What other currency are you going to invest in? Every major currency seems like a terrible choice right now.¶

#### No impact to unipolarity ---- Be skeptical of their claims—no studies prove stability theory

**Montiero, 12** - Assistant Professor of Political Science at Yale University (Nuno, “Unrest Assured: Why Unipolarity is Not Peaceful” International Security, Winter, http://www.mitpressjournals.org/doi/pdf/10.1162/ISEC\_a\_00064)

In contrast, the question of unipolar peacefulness has received virtually no attention. Although the past decade has witnessed a resurgence of security studies, with much scholarship on such conflict-generating issues as terrorism, preventive war, military occupation, insurgency, and nuclear proliferation, no one has systematically connected any of them to unipolarity. This silence is unjustified. The first two decades of the unipolar era have been anything but peaceful. U.S. forces have been deployed in four interstate wars: Kuwait in 1991, Kosovo in 1999, Afghanistan from 2001 to the present, and Iraq between 2003 and 2010. 22 In all, the United States has been at war for thirteen of the twenty-two years since the end of the Cold War. 23 Put another way, the first two decades of unipolarity, which make up less than 10 percent of U.S. history, account for more than 25 percent of the nation’s total time at war. 24 And yet, the theoretical consensus continues to be that unipolarity encourages peace. Why? To date, scholars do not have a theory of how unipolar systems operate. 25 The debate on whether, when, and how unipolarity will end (i.e., the debate on durability) has all but monopolized our attention.

# Block

### Heg – Wrong Theory

#### Their assumption of hegemony accelerates paranoid imperial violence – their obsession manufactures threats and conceals the US’ role in enemy construction – the alternative makes visible power relationships that enable endless warfare

McClintock 9 (Anne, Simone de Beauvoir Professor of English and Women’s and Gender Studies at the University of Wisconsin, Madison, "Paranoid Empire: Specters from Guantánamo and Abu Ghraib," Muse)

By now it is fair to say that the United States has come to be dominated by two grand and dangerous hallucinations: the promise of **benign US globalization** and the permanent threat of the “war on terror.” I have come to feel that we cannot understand the extravagance of the violence to which the US government has committed itself after 9/11—two countries invaded, thousands of innocent people imprisoned, killed, and tortured—unless we grasp a defining feature of our moment, that is, a deep and disturbing doubleness with respect to power. Taking shape, as it now does, around **fantasies of global omnipotence** (Operation Infinite Justice, the War to End All Evil) **coinciding with nightmares of impending attack**, the United States has entered the domain of **paranoia**: dream world and catastrophe. For it is only in paranoia that one finds simultaneously and in such condensed form both **deliriums of absolute power and forebodings of perpetual threat.** Hence the spectral and nightmarish quality of the “war on terror,” a limitless war against a limitless threat, a war vaunted by the US administration to encompass all of space and persisting without end. But the war on terror is not a real war, for “terror” is not an identifiable enemy nor a strategic, real-world target. The war on terror is what William Gibson calls elsewhere “a consensual hallucination,”[4](http://muse.jhu.edu.go.libproxy.wfubmc.edu/journals/small_axe/v013/13.1.mcclintock.html#f4) and the US government can fling its military might against ghostly apparitions and hallucinate a victory over all evil only at the cost of catastrophic self-delusion and the infliction of great calamities elsewhere. [End Page 51] I have come to feel that we **urgently need to make visible** (the better politically to challenge) those established but **concealed circuits of imperial violence** that now animate the war on terror. We need, as urgently, to illuminate the continuities that connect those circuits of imperial violence abroad with the vast, internal shadowlands of prisons and supermaxes—the modern “slave-ships on the middle passage to nowhere”—that have come to characterize the United States as a super-carceral state.[5](http://muse.jhu.edu.go.libproxy.wfubmc.edu/journals/small_axe/v013/13.1.mcclintock.html#f5) Can we, the uneasy heirs of empire, now speak only of national things? If a long-established but primarily covert US imperialism has, since 9/11, manifested itself more aggressively as an overt empire, does the terrain and object of intellectual inquiry, as well as the claims of political responsibility, not also extend beyond that useful fiction of the “exceptional nation” to embrace the shadowlands of empire? If so, how can we theorize the phantasmagoric, imperial violence that has come so dreadfully to constitute our kinship with the ordinary, but which also at the same moment renders extraordinary the ordinary bodies of ordinary people, an imperial violence which in **collusion** with a complicit corporate media would **render itself invisible**, casting **states of emergency** into fitful shadow and fleshly bodies into specters? For imperialism is not something that happens elsewhere, an offshore fact to be deplored but as easily ignored. Rather, the force of empire comes to **reconfigure**, from within, the nature and violence of the nation-state itself, giving rise to perplexing questions: Who under an empire are “we,” the people? And who are the ghosted, ordinary people beyond the nation-state who, in turn, constitute “us”? We now inhabit a crisis of violence and the visible. How do we insist on seeing the violence that the imperial state attempts to render **invisible**, while also seeing the ordinary people afflicted by that violence? For to allow the spectral, disfigured people (especially those under torture) obliged to inhabit the haunted no-places and penumbra of empire to be made visible as ordinary people is to forfeit the long-held US claim of moral and cultural exceptionalism, the traditional self-identity of the United States as the **uniquely superior, universal standard-bearer of moral authority, a tenacious, national mythology of originary innocence now in tatters**. The deeper question, however, is not only how to see but also how to theorize and oppose the violence without becoming beguiled by the seductions of spectacle alone.[6](http://muse.jhu.edu.go.libproxy.wfubmc.edu/journals/small_axe/v013/13.1.mcclintock.html#f6) Perhaps in the labyrinths of torture we must also find a way to speak with ghosts, for specters disturb the authority of vision and the hauntings of popular memory disrupt the great forgettings of official history. [End Page 52] Paranoia Even the paranoid have enemies. —Donald Rumsfeld Why paranoia? Can we fully understand the proliferating circuits of imperial violence—the very eclipsing of which gives to our moment its uncanny, phantasmagoric cast—without understanding the **pervasive presence of the paranoia** that has come, quite violently, to manifest itself across the political and cultural spectrum as a defining feature of our time? By paranoia, I mean not simply Hofstadter’s famous identification of the US state’s tendency toward conspiracy theories.[7](http://muse.jhu.edu.go.libproxy.wfubmc.edu/journals/small_axe/v013/13.1.mcclintock.html#f7) Rather, I conceive of paranoia as an **inherent contradiction** with respect to power: a **double-sided phantasm** that **oscillates precariously between deliriums of grandeur and nightmares of perpetual threat**, a deep and dangerous doubleness with respect to power that is held in unstable tension, but which, if suddenly destabilized (as after 9/11), can produce **pyrotechnic displays of violence**. The pertinence of understanding paranoia, I argue, lies in its peculiarly intimate and peculiarly dangerous relation to violence.[8](http://muse.jhu.edu.go.libproxy.wfubmc.edu/journals/small_axe/v013/13.1.mcclintock.html#f8) Let me be clear: I do not see paranoia as a primary, structural cause of US imperialism nor as its structuring identity. Nor do I see the US war on terror as animated by some collective, psychic agency, submerged mind, or Hegelian “cunning of reason,” nor by what Susan Faludi calls a national “terror dream.”[9](http://muse.jhu.edu.go.libproxy.wfubmc.edu/journals/small_axe/v013/13.1.mcclintock.html#f9) Nor am I interested in evoking paranoia as a kind of psychological diagnosis of the imperial nation-state. Nations do not have “psyches” or an “unconscious”; only people do. Rather, a social entity such as an organization, state, or empire can be spoken of as “paranoid” if the dominant powers governing that entity cohere as a collective community around **contradictory cultural narratives, self-mythologies, practices, and identities that oscillate between delusions of inherent superiority and omnipotence,** and phantasms of threat and engulfment. The term paranoia is analytically useful here, then, not as a description of a collective national psyche, nor as a description of a universal pathology, but rather as an **analytically strategic concept**, a way of seeing and being **attentive to contradictions within power**, a way of making visible (the better politically to oppose) the contradictory **flashpoints of violence** that the state tries to conceal. [End Page 53] Paranoia is in this sense what I call a hinge phenomenon, articulated between the ordinary person and society, between psychodynamics and socio-political history. Paranoia is in that sense dialectical rather than binary, for its violence **erupts from the force** of its multiple, **cascading contradictions**: the intimate memories of wounds, defeats, and humiliations condensing with cultural fantasies of aggrandizement and revenge, in such a way as to be productive at times of **unspeakable violence**. For how else can we understand such debauches of cruelty?

### Inoguchi 2009

#### Alt solves the terminal impacts better – avoids the DAs

**Inoguchi, 2009** [Takashi, a Japanese academic researcher of foreign affairs and international and global relationships of states. He is also a [professor emeritus](http://en.wikipedia.org/wiki/Professor_emeritus) of [University of Tokyo](http://en.wikipedia.org/wiki/University_of_Tokyo). He is the president of University of Niigata Prefecture since April 2009 “Cosmopolitanism as a Potential New Framework” http://www.mtholyoke.edu/~syrin22e/peaceconflict/cosmopolitan.html]

The failings of international attempts at peacekeeping in the status quo can be summed up as follows:

1. Realist theory continues to dominate international policy formation, placing emphasis on the sovereign state as the ultimate guarantor of international peace and security, and viewing power as the ultimate goal of state action.
2. Current international institutions are insufficient to deal with international and subnational conflict crises, partially because they were originally conceptualized and realized under a realist framework.
3. Recent attempts to reform international peacekeeping methodologies have fallen short of sufficient transformation due to the persistent failure of policymakers to address the underlying shortcomings of the realist framework.

A fourth and final consideration to respect when formulating a new solution to the problem of international conflict management is, naturally, the ethical critiques posed by those who oppose international preventive diplomacy and intervention in their contemporary incarnations. The evolution of international theoretical thought suggests a shift toward a …possible cosmopolitan future, that is as a component of a broader and emancipatory theoretical framework centred on the idea of collective human security [8]. The cosmopolitan framework primarily advocates moral and social unity with all other human beings; that is to say, it regards the global population as sharing certain common interests, rather than being primarily fragmented into disparate and arbitrary nation-states which compete against each other. The cosmopolitan identity requires “the identification of oneself as part of the human family […] an extension of the sense of kinship many already feel for their nation, hometown, and family” [8]. In a cosmopolitan worldview, individual security is inherently and inexorably associated with the security of the wider globe; a threat to one is a threat to all. The cosmopolitan framework was partially affirmed in 2000 with the adoption of Security Council Resolution 1296, which “confirmed that the deliberate targeting of civilians in armed conflict and the denial of humanitarian access to civilian populations in war zones constituted a threat to international peace and security” [9], but the realist framework remains.

A cosmopolitan approach to peacekeeping would answer many criticisms leveled at the realist peacekeeping apparatus, and represents the most viable solution to the problem of a future humanitarian crisis. While it is potentially difficult to envision a truly cosmopolitan system of international human security, it would certainly demonstrate certain identifiable characteristics. Cosmopolitan international society would certainly demonstrate “international engagement and use of force in containing conflict” [11], motivated by collective “international norms about individual and group rights” [11]. Rather than existing as the establishment of a wholly homogenous international community, cosmopolitanism “celebrates diversity and multiculturalism, and implies a variety of polities” [9], and represents “a post-Westphalian direction for international politics, which transcends the state-centricity of peacekeeping” [9]. It recognizes that the borders of states artificially fragment the larger human community, and additionally, due to its establishment of a singular international opinion with regards to human rights and peace, provides the theoretical framework for instituting an objective system of evaluating preventive diplomacy and humanitarian intervention.

In this sense, cosmopolitanism represents a viable solution to the limitations of the realist framework, and may additionally answer the philosophical criticisms of contemporary humanitarian intervention. While it remains perhaps legitimate to say that the implementation of cosmopolitanism upon the globe represents an imposition of values, cosmopolitanism certainly solves the problem of neocolonialism by individual states while acting to ensure human security. It responds to the criticism of the ethic of compassion in that cosmopolitanism by definition does not sponsor the “otherization” of human beings; instead, the truly cosmopolitan global citizen is motivated not by “pity” or “arrogance” but by solidarity. Even where cosmopolitanism fails to improve upon realism in terms of ethical critiques of peacekeeping, real human lives are ultimately more valuable than philosophical considerations.

It is therefore much more useful for international relations scholars and policymakers to adopt a cosmopolitan theoretical framework when considering the future of our planet and its inhabitants. Movement toward cosmopolitanism will ultimately represent a solution to the conundrum of contemporary human security.

#### Nationalism causes extinction

HOLLANDER ‘3 – professor of Latin American history and women's studies at California State University (Nancy, "A Psychoanalytic Perspective on the Politics of Terror:In the Aftermath of 9/11" www.estadosgerais.org/mundial\_rj/download/FLeitor\_NHollander\_ingl.pdf)

In this sense, then, 9-11 has symbolically constituted a relief in the sense of a decrease in the persecutory anxiety provoked by living in a culture undergoing a deterioration from within. The implosion reflects the economic and social trends I described briefly above and has been manifest in many related symptoms, including the erosion of family and community, the corruption of government in league with the wealthy and powerful, the abandonment of working people by profit-driven corporations going international, urban plight, a drug-addicted youth, a violence addicted media reflecting and motivating an escalating real-world violence, the corrosion of civic participation by a decadent democracy, a spiritually bereft culture held prisoner to the almighty consumer ethic, racial discrimination, misogyny, gaybashing, growing numbers of families joining the homeless, and environmental devastation. Was this not lived as a kind of societal suicide--an ongoing assault, an aggressive attack—against life and emotional well-being waged from within against the societal self? In this sense, 9/11 permitted a respite from the sense of internal decay by inadvertently stimulating a renewed vitality via a reconfiguration of political and psychological forces: tensions within this country—between the “haves-mores” and “have-lesses,” as well as between the defenders and critics of the status quo, yielded to a wave of nationalism in which a united people--Americans all--stood as one against external aggression. At the same time, the generosity, solidarity and selfsacrifice expressed by Americans toward one another reaffirmed our sense of ourselves as capable of achieving the “positive” depressive position sentiments of love and empathy. Fractured social relations were symbolically repaired. The enemy- -the threat to our integrity as a nation and, in D. W. Winnicott’s terms, to our sense of going on being--was no longer the web of complex internal forces so difficult to understand and change, but a simple and identifiable enemy from outside of us, clearly marked by their difference, their foreignness and their uncanny and unfathomable “uncivilized” pre-modern character. The societal relief came with the projection of aggressive impulses onto an easily dehumanized external enemy, where they could be justifiably attacked and destroyed. This country’s response to 9/11, then, in part demonstrates how persecutory anxiety is more easily dealt with in individuals and in groups when it is experienced as being provoked from the outside rather than from internal sources. As Hanna Segal9 has argued (IJP, 1987), groups often tend to be narcissistic, self-idealizing, and paranoid in relation to other groups and to shield themselves from knowledge about the reality of their own aggression, which of necessity is projected into an enemy-- real or imagined--so that it can be demeaned, held in contempt and then attacked. In this regard, 9/11 permitted a new discourse to arise about what is fundamentally wrong in the world: indeed, the anti-terrorism rhetoric and policies of the U.S. government functioned for a period to overshadow the anti-globalization movement that has identified the fundamental global conflict to be between on the one hand the U.S. and other governments in the First World, transnational corporations, and powerful international financial institutions, and on the other, workers’ struggles, human rights organizations and environmental movements throughout the world. The new discourse presents the fundamental conflict in the world as one between civilization and fundamentalist terrorism. But this “civilization” is a wolf in sheep’s clothing, and those who claim to represent it reveal the kind of splitting. Segal describes: a hyperbolic idealization of themselves and their culture and a projection of all that is bad, including the consequences of the terrorist underbelly of decades long U.S. foreign policy in the Middle East and Asia, onto the denigrated other, who must be annihilated. The U.S. government, tainted for years by its ties to powerful transnational corporate interests, has recreated itself as the nationalistic defender of the American people. In the process, patriotism has kidnapped citizens’ grief and mourning and militarism has high jacked people’s fears and anxieties, converting them into a passive consensus for an increasingly authoritarian government’s domestic and foreign policies. The defensive significance of this new discourse has to do with another theme related to death anxiety as well: the threat of species annihilation that people have lived with since the U.S. dropped atomic bombs on Hiroshima and Nagasaki. Segal argues that the leaders of the U.S. as well as other countries with nuclear capabilities, have disavowed their own aggressive motivations as they developed10 weapons of mass destruction. The distortion of language throughout the Cold War, such as “deterrence,” “flexible response,” Mutual Assured Destruction”, “rational nuclear war,” “Strategic Defense Initiative” has served to deny the aggressive nature of the arms race (p. 8) and “to disguise from ourselves and others the horror of a nuclear war and our own part in making it possible or more likely” (pp. 8-9). Although the policy makers’ destructiveness can be hidden from their respective populations and justified for “national security” reasons, Segal believes that such denial only increases reliance on projective mechanisms and stimulates paranoia.

### Alt – Path Dependencies

#### 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

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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.

#### United front against imperialism solves- BUT reformist politics collapse revolutionary movements

Brown, 12 -- RAIM co-editor

[Nikolai, Revolutionary Anti-Imperialist Movement, "U.S. ramps up militarism amid Obama re-election, people’s war and united front will prevail," 12-11-12, anti-imperialism.com/2012/12/11/u-s-ramps-up-militarism-amid-obama-re-election-peoples-war-and-united-front-will-previal/, accessed 9-3-13, mss]

U.S. ramps up militarism amid Obama re-election, people’s war and united front will prevail Amid re-election victory, Barack Obama is leading the U.S. “forward” to increase aggression against the world’s people. More a sign of weakness than strength, U.S. militarism can be defeated by people’s wars and a united front against imperialism. A struggle must be waged in the ideological realm as well. First Worldism, social-chauvinism, and opportunism must be combated. U.S. imperialism marches world-wide Obama informed Congress in mid-September of plans to send combat-ready troops to Libya and Yemen “to protect U.S. lives and property.” The move is not unprecedented. In 1801 Thomas Jefferson used similar pretenses to launch the U.S.’s first foreign intervention, carried out against the ‘Barbary’ state centered in Tripoli. In the wake of the 2011 overthrow of Qaddafi, the U.S. recently promised eight million dollars in “counter-terrorism” aid to Libya. Yet, because Jihadists formed a crucial part of the U.S. backed coalition to overthrow the Libyan state and have since secured for themselves prominent positions of authority, U.S. officials are not sure who to give the cash to. Meanwhile, on the Arabian Peninsula, an ensuing U.S. military presence in Yemen is part of a larger strategy which includes drone warfare. (1) (2) Rebuking statements made throughout 2012 up to the election, the Obama administration announced plans for a sustained troop presence in Afghanistan. An “enduring” U.S. military force of around 10,000 troops will remain in the country ostensibly to combat approximately 100 suspected Al Qaeda members. (3) Obama has been silent over the Ugandan and Rwandan-sponsored conflict in the Democratic Republic of Congo. The approximately 3,000-5,500 fighters of the M23 militia have been organized together since April of 2012 and by November captured strategic portions in the eastern region of the central African country. Shamus Cooke, in an article reposted at Libya360, summarized an important factor in the situation: “The Democratic Republic of the Congo is home to 80 percent of the world’s cobalt, an extremely precious mineral needed to construct many modern technologies, including weaponry, cell phones, and computers. The DRC is possibly the most mineral/resource rich country in the world — overflowing with everything from diamonds to oil — though its people are among the world’s poorest, due to generations of corporate plunder of its wealth.” (4) M23 fighters are backed by US-supported governments in neighboring states, and the conflict has the markings of a U.S. covert operation aimed at looting the Congo’s remaining resources. The DRC is not the only place the U.S. is running covert operations. Obama recently publicly warned Syrian President Assad against using chemical weapons against Western-backed rebel forces. Obama’s warning is part of an emerging narrative, one which may be used as a pretext for direct foreign intervention, in which the Syrian government is plotting imminent attacks with supposed stockpiles of chemical weapons. Meanwhile in Turkey, NATO is deploying missiles near the Syrian border in preparation for a future conflict. (5) Behind the scenes, the U.S. is launching a new spy service. The Defense Intelligence Agency, the military’s version of the CIA, is being overhauled and rebranded as the Defense Clandestine Service. The revamped agency will be under the nominal direction of the Department of Defense and involved in assessing “emerging threats.” (6) The CIA is also in the news again. Former UK diplomat Craig Murray and Ecuadorian President Rafael Correa recently alleged that CIA drug money is being used in efforts to topple the social-democratic Ecuadorian government. The allegations coincide with reports from 2007 of a CIA airplane loaded with four tons of cocaine crashing in the Yucatan. (7) (8) World-wide resistance needed Despite these and other acts of imperialist militarism, the United States is far from invincible. Its increasing reliance on armed blackmail is a sign of long-term weakness, not strength. Thrown into financial crisis by the mechanisms of its parasitic economy, the U.S. is seeking a resolution by imposing even harsher neo-colonial conditions onto Third World peoples and ratcheting up inter-imperialist rivalry against Russian and Chinese capital. Commenting on the struggle of the Chinese masses against Japan’s 1937 invasion and occupation, Mao Zedong noted how the strengths and weaknesses of the opposing forces were not absolute values. Instead they were subject to change over the course of class struggle. Japanese imperialism, which appeared strong during its invasion and occupation of China, was defeated by a Communist-led united front. (9) Though U.S. imperialism appears strong today, it too is surmountable. Lin Biao, a field marshal in the Chinese People’s Liberation Army and prominent Maoist during the Cultural Revolution, noted that U.S.-led imperialism has set itself against the people of the world, specifically those in the Third World. This has made it possible to construct a broad, global, proletarian-led united front against imperialism. (10) Imperialism has other weaknesses as well. By maintaining national oppression within its own borders, U.S. imperialism has created inside itself potential allies of Third World-centered proletarian revolution. Likewise, imperialism, especially late imperialism like that of the U.S., is capitalism in its most decadent phase. It is characterized by increasing irrationality, militarism, and reaction. Under these conditions, proletarian revolution becomes not simply possible but necessary for the liberation of humanity at large. Imperialism is also marked by the increasingly parasitic relationship of First World economies to Third World ones. Imperialism has created within the First World a class of property-less petty-bourgeoisie. This class has both an ideological function and an economic one. On one hand, imperialism compensates ‘its’ workers above the value of their labor to create a mass base of support, and to sow social-chauvinism, opportunism, and confusion in proletarian movements. On the other hand, by paying ‘its’ workers in part with surplus, the imperialist bourgeoisie ‘invests’ value into its workers that can later be realized elsewhere in the First World. Economically speaking, the property-less petty-bourgeoisie is a functional expression of the concentration and accumulation of capital in the First World at the expense of the Third World. (11) This is why Lin’s summary of contemporary class struggle is significant. The proletarian-led united front against imperialism is strategically designed to change the balance of power in global class relations. First Worldism and opportunism against revolution Along with the need to build, consolidate and extent the united front against imperialism, First Worldism and opportunism must be combated within proletarian movements as well. First Worldism is the ‘left-wing’ ideological expression of the First World property-less petty-bourgeoisie. It expresses politics through the eyes of the First World property-less petty-bourgeoisie while simultaneous denying the existence of this class. By universalizing the property-less petty-bourgeoisie as a central progressive agent, First Worldism thereby misconstrues the notions of the proletariat, class struggle, and socialism. It is one of the most damaging and prevalent forms of social-chauvinism today. (12) Opportunism pursues short-term, narrow goals at the expense of the broader revolutionary interests of the proletariat as a whole.. Opportunism poses in ‘left-wing’ garb while supporting the basic aspects of imperialism. Not surprising, First Worldism and opportunism often go hand and hand. One must look no further than the ‘Communist’ Party-USA to see a clear example of First Worldism and opportunism coming together to support imperialism. In both 2008 and 2012, the ‘C’PUSA campaigned for Obama and other “progressive” Democrats. Their rationale is simple: Republican politicians represent a “far-right onslaught” against the interests of working people in the U.S. Regardless of whether this sentiment has any basis in truth, it demonstrates how First Worldist opportunism serve imperialism, in this case providing ‘Communist’ cover and support for the imperialist militarism carried out by Democrats. The ‘C’PUSA is merely one example of First Worldist opportunism. (13) Amy Goodman, host of Democracy Now!, made a salient point when she credited Obama’s re-election to “social movements.” Ostensibly referring to Occupy Wall Sreet and other First Worldist reform movements, Goodman noted how they joined together and secured Obama’s victory over Republican contender Mitt Romney. (14) This raises an important point about the First World property-less petty-bourgeoisie. While Goodman makes the short-sighted assessment that Obama’s electoral victory was carried through by the support of “grassroots activists,” it is more significant to note that imperialist militarism derives much-needed legitimacy and support from the willingness of the ‘left-wing’ in the U.S. to trade any semblance of internationalism for minor social and economic reforms for their own further benefit. **Without the** direct endorsements and implicit **ideological support U.S. imperialism receives from ‘its’ ‘left-wing’** (which is bought and paid for through super-wages supplied via the exploitation of the Third World**), it would not be at such ease to carry out global aggression under the banner of ‘democracy,’** ‘progress,’ and ‘human rights.’ First Worldism promotes opportunism and sets back proletarian revolution in other ways. If, as assumed by First Worldists, the First World property-less-petty bourgeoisie is the model of the modern proletariat, and if Amerikan workers receive high wages because of high productivity and historic class struggle (and not due to its historic unity with ‘their’ imperialists and corresponding relationship within developing class structures), then the logical route of class struggle around the world is for similar reforms. If First Worldists are correct and First World workers are an exploited proletariat, Third World people would be wisely advised to struggle for reforms to their own countries so that they may be exploited under terms similar to First World workers. For this reason, spreading First Worldist confusion regarding modern global class dynamics is tantamount to promoting opportunism and reformism. Groups waging people’s war who uphold First Worldism shoot themselves in the foot by doing so. There is still work to be done in the First World. Third Worldists in the First World should organize and agitate around challenging oppression and advancing higher interests than immediate class ones. Moreover, Third Worldists must spread awareness and support for people’s war and a united front against imperialism and prepare for later struggles ‘in the belly of the beast.’ U.S.-led imperialism is hardly invincible. Instead, it is weaker than ever. People’s wars and a broad united front against imperialism can alter the terrain of class struggle, thus bringing to the fore the struggle for socialism and communism. First Worldism and opportunism must not be treated lightly as part of this struggle. Whereas imperialism and reaction presents itself openly, First Worldism and opportunism operates within and around proletarian movements for similar ends. Obama, with the support and cover of the Amerikan and First World property-less petty-bourgeoisie, is leading a renewed imperialist offensive against the people of the Third World. People around the world must resist. People’s wars and revolutions against neo-colonial regimes must be initiated and carried out, and imperialism must be singled out and destroyed by a united front of exploited Third World peoples and their allies. Struggles must be waged in the ideological and practical sphere against First Worldism and opportunism. Allies must be built even in the First World, and unity must be achieved around revolutionary anti-imperialism.

### Violence – Kaldor 2013

#### Our methodological interpretation better analyzes how social violence is integrated in a post-globalized state --- this is critical to understand and challenge failed research agenda

Kaldor 2013, Mary Kaldor, professor of Global Governance at the London School of Economics and Director of the Civil Society and Human Security Research Unit, “In Defence of New Wars,” March 7, 2013, Stability, 2(1): 4, pp. 1-16, <http://www.stabilityjournal.org/article/download/sta.at/40%E2%80%8E>

The most common criticism of the ‘new wars’ argument is that new wars are not new. It is argued that the Cold War clouded our ability to analyse ‘small wars’ or ‘low-intensity wars’, that many of the characteristics of new wars associated with weak states can be found in the early modern period and that phenomena like banditry, mass rape, forced population displacement, or atrocities against civilians all have a long history. Of course this is true. Many of the features of new wars can be found in earlier wars. Of course the dominance of the East-West conflict obscured other types of conflict. But there is an important reason, which is neglected by the preoccupation with empirical claims, for insisting on the adjective ‘new’. Critics of the ‘new wars’ thesis often concede that what is useful about the analysis of ‘new wars’ is the policy implication of the argument. But this is precisely the point. The term ‘new’ is a way to exclude ‘old’ assumptions about the nature of war and to provide the basis for a novel research methodology. The aim of describing the conflicts of the 1990’s as ‘new’ is to change the way scholars investigate these conflicts and thus to change the way policy-makers and policy- shapers perceive these conflicts. Dominant understandings of these conflicts that under pin policy are of two kinds. On the one hand, there is a tendency to impose a stereotyped version of war, drawn from the experience of the last two centuries in Europe, in which war consists of a conflict between two warring parties, generally states or proto-states with legitimate interests, what I call ‘Old Wars’. This term refers to a stylised form of war rather than to all earlier wars. In such wars, the solution is either negotiation or victory by one side and outside intervention takes the form of either traditional peace, keeping in which the peace-keepers are supposed to guarantee a negotiated agreement and the ruling principles are consent, neutrality and impartiality - or traditional war-fighting on one side or the other, as in Korea or the Gulf War. On the other hand, where policy-makers recognise the short comings of the stereotypical understanding, there is a tendency to treat these wars as anarchy, barbarism, ancient rivalries, where the best policy response is containment, i.e. protecting the borders of the West from this malady. The use of the term ‘new’ is a way of demonstrating that neither of these approaches are appropriate, that these are wars with their own logic but a logic that is different from ‘old wars’ and which therefore dictates a very different research strategy and a different policy response. In other words, the ‘new wars’ thesis is both about the changing character of organised violence and about developing a way of understanding, interpreting and explaining the interrelated characteristics of such violence. As Jacob Mundy (2011) puts it, in one of the more thoughtful contributions to the debate: ‘Whether we choose to reject, embrace or reformulate concepts such as.... new wars, our justifications should not be based on claims of alleged coherence with particular representations of history Rather such concepts should be judged in terms of their ability to address the very phenomena they seek to ameliorate’. Even so, it can be argued that there are some genuinely new elements of contemporary conflicts. Indeed, it would be odd if there were not. The main new elements have to do with globalisation and technology. First of all, the increase in the destructiveness and accuracy of all forms of military technology has made symmetrical war, war between similarly armed opponents, increasingly destructive and therefore difficult to win. The first Gulf war between Iraq and Iran was perhaps the most recent example of symmetrical war a war, much like the First World War, that lasted for years and killed millions of young men, for almost no political result. Hence, tactics in the new wars necessarily have to deal with this reality. Secondly, new forms of communications (information technology, television and radio, cheap air travel) have had a range of implications. Even though most contemporary conflicts are very local, global connections are much more extensive, including criminal networks, Diaspora links, as well as the presence of international agencies, NGOS, and journalists. The ability to mobilise around both exclusivist causes and human rights causes has been speeded up by new communications. Communications are also increasingly a tool of war, making it easier, for example, to spread fear and panic than in earlier periods hence, spectacular acts of terrorism. This does not mean, as Berdal (2011) suggests, that the argument implies that all contemporary wars involve global connections or that those connections are necessarily regressive. Rather, it is an element in theorising the logic of new wars. Thirdly, even though it may be the case that, as globalisation theorists argue, globalisation has not led to the demise of the state but rather its transformation, it is important to delineate the different ways in which states are changing. Perhaps the most important aspect of state transformation is the changing role of the state in relation to organised violence. On the one hand, the monopoly of violence is eroded from above, as some states are increasingly embedded in a set of international rules and institutions. On the other hand, the monopoly of violence is eroded from below as other states become weaker under the impact of globalisation. There is, it can be argued, a big difference between the sort of privatised wars that characterised the pre-modern period and the ‘new wars’ which come after the modern period and are about disintegration. These new elements are not the reason for the adjective ‘new’, however, even though they may help to explain the evolution of new wars. The point of the adjective ‘new’ does not have to do with any particular feature of contemporary conflicts nor how well it resembles our assumptions about reality, but rather it has to do with the model of war and how the model I spell out is different from the prevailing models that underpin both policy and scholarship. It is a model that entails a specific political, economic and military logic Many of the critics miss the point about the logic of new wars. For example, both Berdal (2011) and Malesovic (2010) make the point that identity politics are also about ideas the idea of Greater Croatia, for example, says Berdal. In a trivial sense, that is true just as ideological conflicts can also be reduced to identity a communist or a fascist identity as opposed to an ethnic or tribal identity for example. But the point of making this distinction is to illuminate different political logics, the way in which identity politics is associated with different practices, different methods of warfare and different ways of relating to authority Identity politics is about the right to power in the name of a specific group; ideological politics is about winning power in order to carry out a particular ideological programme. Typically, in new war contexts, for example, access to the state is about access to resources rather than about changing state behaviour; in such situations, competition for power tends to be based on identity rather than on programmatic debate, even if the latter is more of an ideal than a reality. This helps to explain military tactics - population displacement as a method of exerting political control or the persistence of new wars, as fear is a necessary long-term ingredient of identity politics. Berdal and Malesevic seem to be implying that the term ‘identity politics’ suggests that politics is a mask , which is instrumentalised for economic reasons; of course new wars are about politics that is why they are wars and of course identity is constructed, but so are all other forms of ideology. The point is that the distinction that I make between identity politics and ideology (democracy or socialism) and geopolitical interest implies a different set of political practices and a different methodology of war. Some critics of the ‘new wars’ argument say the term is too fuzzy – a ‘hodgepodge’, say Henderson and Singer (2002). Indeed, similar terms – like hybrid warfare, multi- variant warfare, or complex warfighting – are explicitly about being a mixture. Thus, for example, multi-variant warfare refers to a ‘spectrum of conflict marked by unrestrained Mad Max ways in which symmetric and asymmetric wars merge and in which Micro- soft coexists with machetes and stealth tech- nology met by suicide bombers’ (Evans 2003; Hoffman 2007). The problem with existing categorisations of conflict, however, is that they do not easily fit contemporary reality, a point that will be elaborated in the data sec- tion, and consequently the policy prescrip- tions that emerge out of them are confused and distorted. It is to be hoped that the cur- rent debate will further refine the concept and lead to new categories that may displace the term ‘new’. A typical example of this type of criticism is the article by Sven Chojnacki. Chojnacki (2006) argues that the term ‘new wars’ is too vague and also ‘methodologically prob- lematic because the criteria for identifying “new” wars are highly arbitrary, difficult to reproduce inter-subjectively, and diffi- cult to reconcile with conflict theory’ (italics added). Chojnacki then goes on to establish his own categories based on actors – inter- state, extra-state, intra-state, and sub-state – which entirely misses the point of new wars, in which the actors are both state and non-state, internal and external. It misses the point that the term ‘new wars’ is a critique of prevailing conflict theory. Some critics concede that something like new wars exists. But that does not mean that ‘old wars’ have gone away. Particularly after the wars in Iraq and Afghanistan, some schol- ars and policy makers warn of assuming that future wars will look like Iraq and Afghani- stan. It is to be hoped that future wars will not be like Iraq and Afghanistan because these wars have been exacerbated by outside military interventions. But nor are future wars likely to look like the wars of the twen- tieth century. Of course, a return to old wars cannot be ruled out. It is possible to imag- ine continued competitive arming by states, growing interstate tensions, and a tendency to forget the suffering of previous genera- tions. But failure to deal with the ‘new wars’ of the present might make that possibility more plausible. The reconstruction of mili- tarised states through external wars might come to be viewed as a way of re-establishing the monopoly of violence at national levels. As John Keegan puts it: ‘The great work of disarming tribes, sects, warlords and crimi- nals – a principal achievement of monarchs in the 17th century and empires in the 19th – threatens to need doing all over again’ (Quoted in Mueller 2004: 172). In the pre- sent economic crisis, where states are cutting defence budgets, there is a tendency to pro- tect what is seen as the core defence task – preparation for ‘old war’ – and to squeeze the emerging capacity to contribute to global peace enforcement efforts. Are new wars ‘War’? Some writers argue that contemporary vio- lence is mainly privatised and/or criminal and cannot therefore be properly described as war. A good example of this kind of thinking is John Mueller’s interesting book The Remnants of War. He claims that war is becoming obsolescent and what is left are thugs who are the ‘residual combatants’ (Mueller 2004). In other words, he defines war as ‘old war’. A similar argument is made by Martin Shaw (2003), who talks about ‘degenerate wars’. According to Mueller (2004: 115), ‘most of what passes for warfare to-day is cen- trally characterised by the opportunistic and improvisatory clash of thugs, not by the pro- grammed and/or primordial clash of civilisa- tions –although many of the perpetrators do cagily apply ethnic, national or ideological rhetoric to justify their activities because to stress the thrill and profit of predation would be politically incorrect’. There is a lot of sense in this line of argu- ment. New wars can be described as mix- tures of war (organised violence for political ends), crime (organised violence for private ends) and human rights violations (violence against civilians). The advantage of not using the term ‘war’ is that all forms of contempo- rary violence can be regarded as wholly ille- gitimate, requiring a policing rather than a political/military response. Moreover, much contemporary violence – like the drugs wars in Mexico or gang warfare in major cities – appears to have a similar logic to new wars, but has to be classified as criminal. The same sort of argument has been used in relation to terrorism. There has been widespread criticism of the term ‘war on terror’ because it implies a military response to terrorist vio- lence when policing and intelligence meth- ods, it is argued, would be more effective (Howard 2002). On the other hand, the political element does have to be taken seriously; it is part of the solution. Articulating a cosmopolitan politics as an alternative to exclusivist iden- tity is the only way to establish legitimate institutions that can provide the kind of effective governance and security that Muel- ler is proposing as a solution. War does imply organised violence in the service of political ends. This is the way it legitimises criminal activity. Suicide bombers in their farewell videos describe themselves as soldiers not as murderers. Even if it is the case, and it often is, that those who frame the violence in eth- nic, religious or ideological terms are purely instrumental, these political narratives are internalised through the process of engag- ing in or suffering from violence. Indeed, this is the point of the violence; it is only possi- ble to win elections or to mobilise political support through the politics of fear. This is a point made strongly by Kalyvas in his Logic of Violence in Civil Wars. He quotes Thucy- dides on ‘the violent fanaticism which came into play once the struggle had broken out ….society had become divided into two ideo- logically hostile camps, and each side viewed the other with suspicion’ (Kalyvas 2006: 78). Overcoming fear and hostility does not nec- essarily come about through compromise, even if that is possible, because compromise can entrench exclusivist positions; rather it requires a different kind of politics, the con- struction of a shared discourse that has to underpin any legal response. A related terminological issue concerns the word ‘conflict’. There is a legal difference between ‘war’ and ‘armed conflict’, which has to do with whether or not war has been formally declared. Most data sets assume a threshold below which violence cannot be counted as war – say a thousand battle deaths per year, as in the Correlates of War database (Correlates of War Project). Without wishing to be overly semantic, the term conflict does seem to imply a contestation around a legiti- mate grievance that can be resolved either by victory of one side or through compromise; the term used in the Uppsala University Con- flict Dataset is ‘contested incompatibility’ (UCDP 1988). Actually, conflict is endemic in all societies and necessary for change and adaptation. Democracy is a peaceful mecha- nism for managing conflict. Violence, as Michel Wievorka (2009) contends, tends to be the opposite of conflict; it closes down debates and ‘encourages ruptures’. In ‘new wars’ the ‘sides’ need an ‘incompatibility’ in order to justify their existence. the Debate about data The ‘new wars’ argument is largely based on qualitative rather than quantitative data. It came out of empirical studies of the wars in the former Yugoslavia and the South Cauca- sus as well as Sub Saharan Africa (Kaldor and Vashee 1997). This knowledge has since been augmented by research on Iraq and Afghani- stan, but there were two quantitative claims that I used to back up the arguments that battles are becoming rare and most violence is directed against civilians. One concerned the dramatic increase in the ratio of civil- ian to military casualties and the other con- cerned the rise in the numbers of displaced people per conflict. Other data that could be relevant relate to the recurrence and/or per- sistence of contemporary conflicts as well as the tendency to spread. In fact, the quantitative data, despite claims to the contrary, does seem to confirm the claims about the nature of new wars even though this data has to be used cautiously because it largely derives from ‘old’ assump- tions about conflict. The debate about data covers three broad areas: the numbers and duration of wars; the numbers of casualties; and the levels of forced displacement. t he numbers and duration of wars There are three main sources for data on numbers of wars. These are: - The Uppsala Conflict Data Programme (UCDP), which is used by the Stock- holm International Peace Research Insti- tute (SIPRI) in its annual yearbook, the Human Security Report project and the World Bank (UCDP; SIPRI; Human Secu- rity Report Project); - The Correlates of War roject at the Uni- versity of Michigan (Correlates of War project); and - The biennial Peace and Conflict Survey produced by the Center for Develop- ment and Conflict Management at the University of Maryland (Peace and Con- flict Survey). All three data sets are based on ‘old war’ assumptions. For violence to be counted as a war, there has to be a state involved at least on one side and there have to be a certain number of battle deaths. Moreover, they all distinguish between intra-state and inter- state war, and some have added sub-state or non-state categories. Yet central to the ‘new wars’ argument is the difficulty of distin- guishing between what is state or non-state and what is external or internal. So, none of these numbers are really able to capture the nature of new wars. In particular, the emphasis on battle deaths has the counter-intuitive effect of leaving out major episodes of violence. As Milton Leiten- berg (2006) puts it: ‘There were few “battle deaths” in Cambodia between 1975 and 1978, comparatively few in Somalia in 1990 and 1991, or in Rwanda in 1994: but it would simply be bizarre if two million dead in Cam- bodia, 350,000 in Somalia and 8000 or more in Rwanda were omitted from compilations’. Nevertheless, the findings from the three databases do have some relevance to the new wars thesis. They all tend to concur in the fol- lowing conclusions: - The virtual disappearance of wars between states; - The decline of all high intensity wars, involving more than a thousand battle deaths; - The decline in the deadliness of war measured in terms of battle deaths; - The increase in the duration and/or recurrence of wars; and - The risk factor of proximity to other wars. In other words, there does seem to be a decline in ‘old wars’, which is largely what this data measures. There is also a decline in the numbers killed in battles, which is consistent with the argument about the decline of battle. And there does seem to be evidence for the argument that new wars are difficult to end and they tend to spread if we assume that the data does catch some ‘new war’ elements. The UCDP has made the most effort to adjust to the new realities and has added data on episodes of one-sided violence and on non-state violent conflicts. Both of these numbers seem to be increasing and this again is consistent with the argument that new wars could be treated as cases of mutual one-sided violence and that low-level, low intensity persistent conflicts may be more typical nowadays. Those who have criticised the new wars argument using this sort of data have tended to set up straw men to attack. Thus it is argued that new wars are civil wars and the decline in civil wars suggests that new wars are not increasing. But new wars are not the same as civil wars and no one has claimed that new wars are increasing or decreasing; the argument was always about the changing character of war. Bizarrely, critics have also suggested that the decline of battle severity is a critique of new wars when on the con- trary it confirms the new wars argument (Melunder, Oberg and Hall 2009) c asualties The problem with calculations about the ratio of civilian to military casualties is three fold. First, figures on civilian casualties are notoriously inaccurate. There are a variety of methods for calculating these numbers: reli- ance on media and other reports of individ- ual deaths, epidemiological surveys, opinion surveys and, where available, official death certificates. The results vary widely. Thus, cas- ualties in the Bosnia war vary from 260,000 (the number given by the Bosnian Informa- tion Ministry and widely used by interna- tional agencies at the time), of which 60,000 were military, to 40,000 in the World Disas- ters Report (Roberts 2010). Similarly, civilian casualties in the Iraq war have been the sub- ject of huge debate; the numbers vary widely, from around 100,000 civilian casualties from violence (as of a 2011 estimate by Iraq Body Count, which relies on media reports and official documents) to over a million (based on an opinion survey in 2007, which asked Iraqis in all 18 governorates whether any member of their family had been killed) (ORB International). Secondly, it is very difficult to distinguish combatants from civilians. The only figures for which there are accurate statistics are military casualties because these are for- mally recorded by their governments. Hence, we know that, as of September 2012, there were some 4804 military casualties in Iraq, of which 4486 were American, and some 3202 military casualties in Afghanistan, of which some 2136 were American (Iraq Coalition Casualty Count). But, since many combatants in new wars are police, militia, private contractors, mercenaries, para-militaries or crim- inals of various kinds, the figures for other military and civilian casualties are very diffi- cult to identify. A good example are the fig- ures produced by the Sarajevo Research and Documentation Centre. They collected death certificates for people killed in the 1992–5 war and estimated that some 97,207 people were killed, of which 39,684 or 41% were civilian and 62,626 or 59% were soldiers. However, the number for soldiers included all men of military age. Since we know that it was mainly men of military age that were killed in ethnic cleansing operations and the majority of displaced people were women – and we also know that participation in the violence was very low, about 6.5% of the population – it is simply not credible that all those men were soldiers. It would presuppose that nearly all the 8000 men and boys killed in Srebrenica were soldiers, for example. Thirdly it is very difficult to distinguish whether civilians were killed as a side effect of battle, as a result of deliberate violence (political or criminal), or as a result of the indirect effects of war – privation and dis- ease. The Human Security Report suggests that deaths as an indirect effect of war have declined in contemporary wars. This is because wars are often highly localised and low-level and general improvements in healthcare or in immunisation continue dur- ing the wars. The main method of calculating these indirect effects is through calculating the excess deaths that took place over and above what might have been expected from previous trends. The Human Security Report, for example, criticises the IRC report on casu- alties in the war in the Democratic Republic of Congo, which estimates that 5.4 million people died during the war who would not have died ‘had there been no war’; more than 90% were estimated to have died from war- exacerbated disease and malnutrition. The HSR argues that their estimate was based on an estimated infant mortality rate prior to the conflict that was too low, that their surveys were biased in favour of areas with a small population and a high death toll and that the true figure is probably much lower. So what can be said about the data on casualties? First of all, the data suggests an overall decline in all war-related deaths. One of the misapplied criticisms that have been made of the new wars thesis is that new wars scholars claim that atrocities in new wars are worse than in previous wars. The only claim that the new wars thesis makes is most vio- lence in new wars consists of violence against civilians rather than combat – it would be mad to claim that violence against civilians is worse than the modernist state-based atrocities like the holocaust or the Soviet purges. Secondly, there has been a dramatic decline in battle deaths. If we compare all war-related deaths to battle deaths rather than civilian to military casualties, then it is possible to assert that the ratio has increased on a scale commensurate with the ‘new wars’ original claim (Lacin and Gleditsch 2005). Thirdly, casualties among regular soldiers are a very small proportion of total deaths in wars, both because there are fewer regular soldiers taking part in wars and because of the decline in battle. Finally, what is shocking about this whole debate is the fact that we have good and accu- rate statistics for the deaths of men in state- based uniforms, but information about the vast majority of victims is totally inadequate. Forced displacement No one disputes that the overall total dis- placed population has increased. Indeed according to UNHCR, the figures for forcibly displaced people in 2010 were at their high- est in fifteen years at 43.7 million, includ- ing 15.4 million refugees, some 27.5 million internally displaced persons and 837,500 individuals whose asylum applications had not been processed. But critics suggest that these numbers should be qualified in two respects. First, data collection has greatly improved, especially in relation to internally displaced persons. In particular, the main source of IDP data is the Norwegian Refugee Council’s Internal Displacement Monitor- ing Centre, which has only been collecting data since 1998 (IDMC). Before that date, the main source was UNHCR’s estimates of those IDPs of concern to UNHCR, a much lower figure. Secondly, refugee and IDP data tends to be cumulative, since many people do not return to their homes. Nevertheless, recent conflicts – especially in Iraq, Somalia and Pakistan – do seem to confirm the contention that forcible dis- placement is a central methodology of new wars. In Iraq, for example, some 4 mil- lion people were displaced at the height of the war in 2006–2008; roughly half were refugees and half were internally displaced. Indeed, it can be argued that one reason for lower levels of deaths in war is that it is easier to spread fear and panic using new communications, so that more people leave their homes than formerly. At the same time, there does seem to be a trend towards increasing displacement per conflict. Using the American Refugee Council data, Myron Weiner (1996) calculated that the number of refugees and internally displaced persons per conflict increased from 327,000 per con- flict in 1969 to 1,316,000 in 1992 (1992 was, of course, a peak year for conflict). Using the Uppsala Conflict Database and figures from UNHC and the IDMC, an upward trend in refugees and internally based persons can be observed per conflict. Figure 1 is broader, showing the rise in annual numbers of inter- nally displaced persons in countries experi- encing not only armed conflict, but what the UCDP describe as substate conflict and one- sided violence.3 One conclusion from this discussion is the need to refine the displacement data, which could well offer a better indicator of human insecurity than some of the other numbers that are used. the Debate about clausewitz The final set of criticisms against the ‘new wars’ thesis has to do with the claim that new wars are post-Clausewitzean (Strachan and Herberg-Rothe 2007; Schuurman 2010). The reasons that are normally put forward for claiming that new wars are post-Clause- witzean have to do with the Trinitarian con- ception of war, the primacy of politics and the role of reason. Both John Keegan (2004) and Martin Van Creveld (1991) have sug- gested that the Trinitarian concept of war, with its tripartite distinction of the state, the army and the people, is no longer relevant. Other authors suggest that war is no longer an instrument of politics and, indeed, that the ‘divorce of war from politics’ is charac- teristic of both pre-Clausewitzean and post- Clausewitzean wars (Snow quoted in Ang- strom 2003: 8). Along with these arguments, critics have also questioned the rationality of war. Van Creveld, for example, argues that it is ‘preposterous…to think that just because some people wield power, they act like cal- culating machines that are unswayed by pas- sions. In fact, they are no more rational than the rest of us’(1991: 10). These arguments are rather trivial and, depending on how Clausewitz is interpreted, they can all be refuted. Huw Strachan (2007) points out that the trinity refers to ‘tenden- cies’ or motivations rather than empirical cat- egories. The point of the concept is to explain how a complex social organisation, made up of many different individuals with many dif- ferent motivations, can become, in his words, the ‘personalised state’ – a ‘side’ in or party to war. ‘War’ says Clausewitz, ‘is, therefore, not only chameleon-like in character, because it changes colour in some degree in each par- ticular case, but it is, also, as a whole, in rela- tion to the predominant tendencies which are in it, a wonderful trinity, composed of the original violence of its elements, hatred and animosity, which may be looked upon as blind instinct; the play of probabilities and chance, which make it a free activity of the soul; and of the subordinate nature of a political instrument, by which it belongs to pure reason’ (1968: 24). These different ‘ten- dencies’ – reason, chance and emotion – are mainly associated with the state, the gener- als and the people, respectively, but the word ‘mainly’ or ‘more’ suggests that they are not exclusively associated with these different components or levels of warfare. Clausewitz argues that war is what unites the trinity. The trinity was ‘wondrous’ because it made possible the coming together of the people and the modern state. Obviously, the distinction between the state, the military, and the people is blurred in most new wars. New wars are fought by networks of state and non-state actors and often it is difficult to distinguish between combatants and civil- ians. So, if we think of the trinity in terms of the institutions of the state, the army and the people, then it cannot apply. But if we think of the trinity as a concept for explaining how disparate social and ethical tendencies are united in war, then it is clearly very relevant. A second issue is the primacy of politics. Among translators of Clausewitz, there is a debate about whether the German word poli- tik should be translated as policy or politics. It can be argued that it applies to both if we roughly define policy as external, in terms of relations with other states, and politics as the domestic process of mediating different interests and views. New Wars are also fought for political ends and, indeed, war itself can be viewed as a form of politics. The political narrative of the warring parties is what holds together dispersed loose networks of paramilitary groups, regular forces, criminals, mercenar- ies and fanatics, representing a wide array of tendencies – economic and/or criminal self- interest, love of adventure, personal or fam- ily vendettas, or even just a fascination with violence. It is what provides a license for these varying tendencies. Moreover, these political narratives are often constructed through war. Just as Clausewitz described how patriotism is kindled through war, so these identities are forged through fear and hatred, through the polarisation of us and them. In other words, war itself is a form of political mobilisation, a way of bringing together, of fusing the disparate elements that are organised for war. Understood in this way, war is an instru- ment of politics rather than policy. It is about domestic politics even if it is a politics that crosses borders rather than the external pol- icy of states. If, for Clausewitz, the aim of war is external policy and political mobilisation, this means, in new wars, it is the other way round. Mobilisation around a political narra- tive is the aim of the war and external policy or policy vis-à-vis the proclaimed enemy is the justification.So if new wars are an instrument of poli- tics, what is the role of reason? ‘New wars’ are rational in the sense of instrumental rationality. But is rationality the same as rea- son? The enlightenment version of reason was different from instrumental rationality. As used by Hegel, who was a contemporary in Berlin of Clausewitz, it had something to do with the way the state was identi- fied with universal values, the agency that was responsible for the public as opposed to the private interest. The state brought together diverse groups and classes for the purpose of progress – democracy and eco- nomic development. Clausewitz puts consid- erable emphasis on the role of the cabinet in formulating policy and argues that the Commander-in-Chief should be a member of the cabinet. The cabinet, which in Clause- witz’s time was a group of ministers advis- ing the monarch, was thought to play a role in bringing together different interests and motivations and providing unifying, publicly justifiable arguments for both war and the conduct of war. Of course, members of the cabinet had their own private motivations, as do generals (glory, enrichment, jealousy, etc), but it is incumbent on them to come to some agreement, to provide the public face of the war and to direct the war, and this has to be based on arguments that are universally acceptable (universal, here, refer- ring to those who are citizens of the state). In his description of the evolution of warfare and the state, which echoes Hegel’s stadial theory of history, he argues that only in the modern period can the state be regarded as ‘an intelligent being acting in accordance with simple logical rules’ (Clausewitz 1968: 342) and that this is associated with the rise of cabinet government where the ‘cabinet had become a complete unity, acting for the state in all its external relations’ (Clausewitz 1968: 344). The political narratives of new wars are based on particularist interests; they are exclusive rather than universalist. They deliberately violate the rules and norms of war. They are rational in the sense of being instrumental. But they are not reasonable. Reason has something to do with universally accepted norms that underpin national and international law. However there is another argument about why new wars are post-Clausewitzean. This has to do with the fundamental tenets of Clausewitzean thought – his notion of ideal war. This is derived from his definition of war. ‘War’ he says ‘is nothing but a duel on an extended scale. If we would conceive as a unit the countless number of duels which make up a war, we shall do so best by sup- posing to ourselves two wrestlers. Each strives by physical force to compel the other to submit to his will: each endeavours to throw his adversary, and thus render him incapable of further resistance. War therefore is an act of violence intended to compel our opponent to fulfil our will’ (Clausewitz 1968: 5; italics in the original). Violence, he says, is the means. The ultimate object is the ‘com- pulsory submission of the enemy to our will’ and, in order to achieve this, the enemy must be disarmed. He then goes on to explain why this must lead to the extreme use of violence. ‘Now philanthropists may easily imagine there is a skilful method of disarming and overcoming an enemy without causing great bloodshed…. However plausible this may appear, still it is an error, which must be extirpated; for in such dangerous things as war, the errors which proceed from a spirit of benevolence are the worst. As the use of physical power to the utmost extent by no means excludes the co-operation of intelligence, it follows that he who uses forces unsparingly, without reference to the bloodshed involved, must obtain a superiority if his adversary uses less vigour in its application. The former then dic- tates the law to the latter, and both proceed to extremities to which the only limitations are those imposed by the amount of counteracting force on each side’ (Clausewitz 1968: 6; italics added). In other words, the inner nature of war – Absolute War – follows logically from Kaldor: In Defence of New Wars Art.4, page 13 of 16 the definition as each side is pushed to make fresh efforts to defeat the other, a proposi- tion that Clausewitz elaborates in Chapter 1, through what he calls the three recipro- cal actions according to which violence is ‘pushed to its utmost bounds’ (1968: 7). For Clausewitz, combat is the decisive moment of war. Real war may depart from ideal war for a variety of reasons, but as long as war fits his definition, it contains the logic of extremes and, in Chapter 2 of my book, I describe how that logic applied to ‘Old Wars’. It is this logic of extremes that I believe no longer applies in ‘new wars’. I have therefore reformulated the definition of war. I have defined war as ‘an act of violence involving two or more organised groups framed in political terms’. According to the logic of this definition, war could either be a ‘contest of wills’ as is implied by Clausewitz’s defi- nition or it could be a ‘mutual enterprise’. A contest of wills implies that the enemy must be crushed and therefore war tends to extremes. A mutual enterprise implies that both sides need the other in order to carry on the enterprise of war and therefore war tends to be long and inconclusive. ‘New wars’ tend to be mutual enterprises rather than a contest of wills. The warring parties are interested in the enterprise of war rather than winning or losing, for both political and economic reasons. The inner tendency of such wars is not war without limits, but war without end. Wars, defined in this way, create shared self-perpetuating interest in war to reproduce political identity and to further economic interests. As in the Clausewitzean schema, real wars are likely to be different from the ideal description of war. The hostility that is kin- dled by war among the population may pro- voke disorganised violence or there may be real policy aims that can be achieved. There may be outside intervention aimed at sup- pressing the mutual enterprise or the wars may produce unexpectedly an animosity to violence among the population, undermin- ing the premise of political mobilisation on which such wars are based. This redefinition of war constitutes a dif- ferent interpretation of war, a theory of war, whose test is how well it offers a guide to practice. Since it is an ideal type, examples can be used to support the theory, but it is, in principle, unprovable. The question is whether it is useful. Take the example of the ‘War on Terror’. Antonio Echevarria defines the ‘War on Terror’ in classic Clause- witzean terms: ‘Both antagonists seek the political destruction of the other and, at this point, neither appears open to negoti- ated settlement’ (2007: 211). Understood in this way, each act of terrorism calls forth a military response, which, in turns, produces a more extreme counterreaction. The prob- lem is that there can be no decisive blow. The terrorists cannot be destroyed by mili- tary means because they cannot be distin- guished from the population. Nor can the terrorists destroy the military forces of the United States. But if we understand the ‘War on Terror’ as a mutual enterprise – what- ever the individual antagonists believe – in which the American Administration shores up its image as the protector of the Ameri- can people and the defender of democracy, those with a vested interest in a high military budget are rewarded and extremist Islamists are able to substantiate the idea of a Global Jihad and to mobilise young Muslims behind the cause, then action and counterreaction merely contribute to ‘long war’, which bene- fits both sides. Understood in Clausewitzean terms, the proposed course of action is total defeat of the terrorists by military means. Understood in post-Clausewitzean terms, the proposed course of action is very different; it has to do with both with the application of law and the mobilisation of public opinion not on one side or the other, but against the mutual enterprise. The contrast between new and old wars, put forward here, is thus a contrast between ideal types of war rather than a contrast between actual historical experiences. Of course, the wars of the twentieth century, at least in Europe, were close to the old war ideal and the wars of the twenty first century are closer to my depiction of new wars. Con- temporary wars may not actually conform to this description any more than earlier wars conformed to the old war description. Perhaps another way to describe the dif- ference is between realist interpretations of war as conflicts between groups, usually states, that act on behalf of the group as a whole and interpretations of war in which the behaviour of political leaders is viewed as the expression of a complex set of political and perhaps bureaucratic struggles pursuing their particular interest or the interests of their faction or factions, rather than those of the whole. It can be argued that in the West- phalian era of sovereign nation-states, a real- ist interpretation had more relevance than it does today. This conceptual distinction is not quite the same as the way I originally described ‘new wars’ in terms of the involvement of non-state actors, the role of identity poli- tics, the blurring of the distinction between war (political violence) and crime (violence for private interests) as well as the fact that, in new wars, battles are rare and violence is mainly directed against civilians (Kaldor 2007). But it is not inconsistent with that ear- lier description; it merely involves a higher level of abstraction. The debate about new wars has helped to refine and reformulate the argument. The debate about Clausewitz has facilitated a more conceptual interpretation of new wars, while the debate about data has led to the identification of new sources of evidence that have helped to substantiate the main proposition. The one thing the critics tend to agree is that the new war thesis has been important in opening up new scholarly analysis and new policy perspectives, which, as I have stressed, was the point of the argument (Newman 2004; Henderson and Singer 2002). The debate has taken this further. It has contributed to the burgeoning field of conflict studies. And it has had an influence on the intensive policy debates that are taking place especially within the military, ministries of defence and international organisations the debates about counter-insurgency in the Pentagon, for example, or about human security in the European Union and indeed about non-traditional approaches to security in general. What is still lacking in the debate is the demand for a cosmopolitan political response. In the end, policing, the rule of law, justice mechanisms and institution-building depend on the spread of norms at local, national and global levels, and norms are constructed both through scholarship and public debate. If we are to reconceptualise political violence as ‘new war’ or crime and the use of force as cosmopolitan law enforcement rather than war-fighting, then we have to be able to challenge the claims of those who conceptualise political violence as ‘old war’, and this can only be done through critical publicly-engaged analysis.

#### The framing is critical ---- adopting a post-nationalist framework to challenge the way we frame problems is key to cosmopolitanism

Prout College 7 (Prout College is an academic cooperative focusing on Neohumanistic studies, “Neohumanism, Policy Making, and Contemporary Issues,” May 2nd, http://www.proutcollege.org/courseoutline.htm#6)

While beginning with conventional policy making debates (cost-benefit analysis versus structural class analysis; short term versus long term; elitist versus democratic approaches), this unit takes multiple steps forward. It does so by taking a Neohumanistic framework of policy making. Neohumanism seeks to expand the lenses we use to understand the world. It intends to move beyond egoist, territorial, national, ethnic, religious, and even humanistic frames of reference. For example, Neohumanism challenges analyses that reify nation-states (geo-sentiment) or that uphold the power of a particular gender (patriarchy), or religion (particular access to God). Questions asked include: Does the policy and the methodology used create more or less gender partnership cooperation? Does the policy move us away from narrow national/religious identities to broader planetary identities? How will nature be impacted? Are spiritual concerns articulated, or is the spiritual seen as less important than strict economic concerns? Are future generations considered, or is the immediate, the business quarter, of sole concern? Does the policy favour any particular class, or is it integrated? Does the policy have depth, that is, can it create institutional change? Are policy makers aware that their worldviews are complicit in the policies they enact? Are unconscious myths and metaphors explored? Current issues are thus analyzed from a Neohumanistic framework. This means seeking solutions that move outside narrow formulations (good for a particular nation, religion, class) and methods that reinscribe these frames. Solutions to today's problems thus require policy approaches that challenge how we frame these problems. The Neohumanist perspective recognizes that solutions are not to be found at the level of the problem but at deeper and broader levels. Using this Neohumanistic lens, issues explored in this unit will include transport, water, ageing, health, education and cities, as well as those of particular interests to unit participants.

### Impact Calculus – Verschuur 1996

#### Prefer our long-term impact scenarios to their short-term impacts ---- key to solve extinction

VERSCHUUR ‘96 - **Adjunct Prof of Physics at U of Memphis** (Gerrit, , Impact: the Threat of Comets and Asteroids, p. 216)

There is an even more subtle reason why we are unlikely to take collective and significant action to assure the long-term survival of our species. It manifests as the psychological syndrome known as the "illusion of invulnerability." Individuals cannot believe that they will personally succumb in the next catastrophe. This syndrome is at play in those who live happily in earthquake zones, in floodplains, or on the sides of active volcanoes. The existence of the syndrome poses a paradox. If we are concerned about the long-term survival of civilization, we must overcome our genetic predisposition to deal only with the immediate future. Dealing with short-term issues is natural in all animals, and represents the practical way in which to survive from day to day. However, this predisposition is not conducive to assuring a long-term existence. Perhaps that is what is at issue. We have learned much about the natural universe in recent years, and the mind's eye has only just developed the ability to scan millions of years of time. Yet that seems to be no more than an intellectual exercise with little practical use. Perhaps the evolution of **our species** may yet **depend** on whether we can succeed in making very **long term plans** and carrying them out for the benefit of life on earth. Scientific discovery has brought us to the point where we confront the awesome probability that collision with an earth-crossing object will bring an end to civilization. It is no longer a question of whether a massive impact will occur in the future; it is only a matter of when. Even if we think it will be a thousand years from now, the point of raising the issue is to ask ourselves what we plan to do about it. It may be time to think in terms of thousands of years into the future. I am assuming that we care that our species will be around for a long time, and that this question is worth thinking about.

### A2 social sci. Smith 97

#### Empiricism is theoretically bankrupt—it relies on a politicized worldview

Smith, 97 [Steve Smith, Professor at Aberystwyth, becoming Head of the Department of International Politics at the University of Wales BSc in Politics and International Studies in 1973, an MSc degree in International Studies in 1974 and a PhD degree in International Relations in 1978, all from the University of Southampton. Power and truth: a reply to William Wallace Review of International Studies, 1997, 23]

Therefore, Wallace would see detachment where I see engagement; hiding behind the walls of the monastery where I see deep enquiry into the possibilities of the political; and scholasticism where I see intellectual endeavour. Second, and for me more importantly, his view of politics is narrow because it confines itself to policy debates dealing with areas of disagreement between competing party positions. The trouble with this view is of course that it ignores the shared beliefs of any era, and so does not enquire into those things that are not problematic for policy-makers. By focusing on the policy debate, we restrict ourselves to the issues of the day, to the tip of the political iceberg. What politics seems to me to be crucially about is how and why some issues are made intelligible as political problems and how others are hidden below the surface (being defined as ‘economic’ or ‘cultural’ or ‘private’). In my own work I have become much more interested in this aspect of politics in the last few years. I spent a lot of time dealing with policy questions and can attest to the ‘buzz’ that this gave me both professionally and personally. But I became increasingly aware that the realm of the political that I was dealing with was in fact a very small part of what I would now see as political. I therefore spent many years working on epistemology, and in fact consider that my most political work. I am sure that William Wallace will regard this comment as proof of his central claim that I have become scholastic rather than scholarly, but I mean it absolutely. My current work enquires into how it is that we can make claims to knowledge, how it is that we ‘know’ things about the international political world. My main claim is that International Relations relies overwhelmingly on one answer to this question, namely, an empiricist epistemology allied to a positivistic methodology. This gives the academic analyst the great benefit of having a foundation for claims about what the world is like. It makes policy advice more saleable, especially when positivism’s commitment to naturalism means that the world can be presented as having certain furniture rather than other furniture. The problem is that in my view this is a flawed version of how we know things; indeed it is in fact a very political view of knowledge, born of the Enlightenment with an explicit political purpose. So much follows politically from being able to present the world in this way; crucially the normative assumptions of this move are hidden in a false and seductive mask of objectivity and by the very difference between statements of fact and statements of value that is implied in the call to ‘speak truth to power’. For these reasons, I think that the political is a far wider arena than does Wallace. This means that I think I am being very political when I lecture or write on epistemology. Maybe that does not seem political to those who define politics as the public arena of policy debate; but I believe that my work helps uncover the regimes of truth within which that more restricted definition of politics operates. In short, I think that Wallace’s view of politics ignores its most political aspect, namely, the production of discourses of truth which are the very processes that create the space for the narrower version of politics within which he works. My work enquires into how the current ‘politics’ get defined and what (political) interests benefit from that disarming division between the political and the non-political. In essence, how we know things determines what we see, and the public realm of politics is itself the result of a prior series of (political) epistemological moves, which result in the political being seen as either natural or a matter of common sense. (508-9)

### Solvency – Pariah Weapons Cooper 2011

#### Pariah weapons regulation backfires- normalizes militarism and leads to worse forms of violence

Cooper, 11 -- University of Bradford International Relations and Security Studies Senior Lecturer

[Neil, PhD from University of Kent at Canterbury, University of Bradford Associate Dean for Research for the School of Social and International Studies, "Humanitarian Arms Control and Processes of Securitization: Moving Weapons along the Security Continuum," Contemporary Security Policy, Vol 32, Issue 1, 2011, tandfonline, accessed 9-5-13, mss]

In this account of contemporary HAC, powerful actors who aim to uphold the status quo principally have a role as agents of resistance to control agendas, not as actors in the production of control regimes. This certainly reﬂects important aspects of contemporary campaigns to regulate pariah weapons but, as I suggest below, it offers a rather incomplete account. Moreover, if such accounts did indeed provide a complete understanding of the dynamics underpinning these control agendas it would certainly represent a novel development, not least because the long history of pariah weapons regulation illustrates the way that weapons taboos frequently reﬂect the interests of the powerful. For example, one factor in the virtual eradication of the gun in 17th and 18th century Japan was that it represented a threat to the warrior class when in the hands of the lower classes.48 The same was true of the rather less successful attempt of the Second Lateran Council to ban the crossbow – a ban partly motivated by the fact that crossbows could pierce the armour of the knight – and a ban that was notably not extended to use against non-Christians.49Similarly, whilst the restrictions on the slave, arms, and liquor trade to Africa embodied in the 1890 Brussels Act were certainly grounded in an ethical discourse, the restrictions imposed on the trade in ﬁrearms were primarily rooted in concerns about the impact of the trade on colonial order. As one British colonial ofﬁcial noted at the time, the restrictions on the small arms trade to Africa reﬂected imperial concern to ‘avoid the development and paciﬁcation of this great continent ... [being] carried out in the face of an enormous population, the majority of whom will probably be armed with ﬁrst-class breechloading riﬂes’.50 The history of pariah weapons regulation would therefore appear to demonstrate a persistent link between the material and political interests of states and / or powerful elites and the emergence of pariah weapons regulation. To be sure, the material and political interests of the same, or other, powerful actors also provide countervailing pressures – the immediate interests of nobles in winnings wars with crossbows mostly won out over their broader class interests,51 whilst colonial competition to secure arms proﬁts and local allies mitigated the impact of the various restrictions on the ﬁrearms trade in the late 19th century.52 But the point is that whilst the genesis of earlier attempts at pariah regulation may, in part, be explained by reference to particular securitizing moments of intervention, the impact of such interventions can only be understood by locating them in particular political economies of power. What is surprising therefore about accounts of post-Cold War humanitarian arms control is that this long history has largely failed to prompt consideration of the way in which contemporary regulation might also reﬂect the interests of powerful states and other actors, albeit in ways that are subject to similar countervailing pressures – an issue that will be taken up below. Pariah Weapons, Heroic Weapons, and Legitimized Military Technology A further recurring theme in the history of pariah regulation is the way in which **restrictions on pariah weapons are** often **related** in some way **to the construction of a broad arena of legitimized military tech**nology**.** A particularly extreme example of this is the way in which pariah weapons are sometimes constructed as the antithesis of the ‘heroic weapon’ – a weapon deemed to embody positive values such as honour and / or which is deemed central to national defence. Thus, the series of relatively successful Acts implemented in England between 1508 and 1542 banning crossbows were largely rooted in a concern to preserve the use of the heroic longbow, deemed central to a long line of English military successes.53 The Japanese ban on the gun was similarly connected to the romanticization of the heroic samurai sword as the visible form of one’s honour, as associated with grace of movement in battle and even its status as a work of art.54 In effect both the crossbow in 16th century England and the gun in 17th and 18th century Japan became the ‘other’ which deﬁned legitimized military technologies and militarism. Redford makes much the same point about English attitudes to the submarine, which was constructed as an ‘other’ partly because of the British romanticization of the battleship (‘the upper class or aristocracy of warships’)55 as central to British security and linked to British notions of valour and honour in the conduct of war. This highlights the ways in which the security meaning associated with particular sets of weapons technology are not just a function of the framings speciﬁc to that technology but are also relational, with the representation of one weapon playing an important role in constituting the meaning of another (albeit in sometimes unexpected ways), and vice versa. Not surprisingly perhaps, similar themes also help explain the contemporary taboos constructed around particular sets of military technology such as cluster munitions. Cluster Munitions What is particularly striking about the campaign against cluster munitions is not its success in banning an inhumane weapon but the fact that this success was achieved at a moment in history when, in absolute terms at least, cluster munitions use had fallen from the peak years of use during the Vietnam era (see Table 2). In the latter period cluster bombs such as the CBU-24 represented a ‘major increase in battleﬁeld lethality’ yet its development and deployment was ‘accomplished with no public debate and relatively little subsequent protest’.56 Indeed, for the American military, ‘CBUs were categorised as a standard weapon, to be taken off the shelf – “conventional ironmongery”.57 This is not to suggest that American use of cluster munitions in this period went unremarked. There were certainly some critics at the time who argued that such weapons were inhumane.58 There were also attempts, sponsored by the International Committee of the Red Cross (ICRC) and Sweden in particular, to promote restrictions on cluster munitions in negotiations in the 1970s on the Additional Protocols to the 1949 Geneva Conventions.59 The point is however, that these efforts never achieved traction either with diplomats or with a wider public in the way that the issue would 30 years later. The labels attached to cluster munitions and also landmines only changed dramatically as the move into the post-Cold War era occurred when they moved from being treated as unproblematic elements in global military arsenals to a form of ‘technology non grata’ – weaponry deemed immoral, inhumane, and indiscriminate. Crucially, such a successful process of stigmatization was only made feasible in the context of a post-Cold War widening of the security label to incorporate the notion of human security as a referent object; by the turn to casting security interventions in humanitarian terms; and the representation of modern weaponry as humane because of its perceived capacity to better discriminate between civilians and combatants. The widening and deepening of the security label created the permissive environment necessary for activists to reframe cluster munitions (and APMs) as threats to the human. At the same time, the discussion of intervention in humanitarian terms60 and of precision weapons as instruments of humane warfare61 created a legitimized discursive space into which campaigners could insert a re-representation of landmines and cluster munitions technology as inhumane. Indeed, such a re-representation only exerted a powerful appeal because it was consonant with both the predominant framing of security threats in a postCold War world and a new divide between good and odious military technology. This is not to suggest that such developments reﬂected some teleology in which security and arms control practice progressively evolved to be more humane. As Krause and Latham have noted, for example, whilst the post-Cold War era concern with the impact of ‘inhumane weapons’ represents a notable shift compared with the Cold War arms control agenda, it does have similarities with the late 19th century when a Western discourse of civilized warfare was also prominent. One corollary of this – then as now – was a concern to specify what constituted an ‘inhumane weapon’62 manifest, for example, in the negotiations in the Hague conferences over problem technologies such as the dum dum bullet. As Michael Howard has suggested though, whilst initiatives such as the Hague conferences achieved notable successes, they also reﬂected the fact that liberal internationalists had ‘abandoned their original objects of preventing war and building peace in favour of making war more humane for those actually ﬁghting it’.63 The prohibitions on cluster munitions and also APMs can be understood as similarly ambiguous developments. On the one hand, the legitimizing discourse of Western militaries and arms ﬁrms was turned against them in order to generate powerful taboos against particular categories of weapons – even in the face of opposition from these militaries. The language of state security was coopted to promote human security, to preserve life, and prevent threats to its existence. On the other hand, the same prohibitions can ultimately be understood less as progressive initiatives imposed on foot-dragging states by the bottom-up power of global civil society and more as performative acts that simultaneously function to codify aspects of a new set of criteria for judging international respectability in a post-Cold War era, to reinforce the security framings of the era and to legitimize those categories of weapons successfully constructed as precise, discriminate, and thus humane. Indeed, **to the extent** that states such as **the U**nited **S**tates have been able to **circumscribe their commitments** on landmines etc. **they** have been able to **beneﬁt** **from the** broader **legitimizing effects of** speciﬁc **weapons taboos without being unduly constrained** **by** the **speciﬁc regulatory requirements** they have given rise to. Moreover, as already noted, the presence of pariah weapons regulation is not necessarily a sign of a more general shift to the tighter regulation of the arms trade – quite the reverse in some cases. Thus, any evaluation of the overall impact of such regulation on global and local security also has to take into account the broader system of arms regulation in which it is located, and the relationship that exists between pariah regulation and this broader system. The next two sections will offer some observations on these issues. Models of Economy and Models of Arms Trade Regulation The approach adopted to the regulation of the arms trade in general does not only reﬂect the security labels attached to particular kinds of technology or the direct interests powerful actors may have in constraining such technology. Regulatory approaches to the arms trade are also a function of the particular paradigms of political economy that dominate in speciﬁc era. In part this is because they link into particular understandings of what constitutes economic security. But the link between regulation and the paradigms of political economy go beyond this, reﬂecting a much more fundamental common sense about economy and trade. For example, the rise of mercantilism from about the 1600s meant the previous dominance of private arms traders was replaced by that of government arsenals64 and the emphasis on autarky encouraged a more restrictive approach to the regulation of arms transfers.65 In England for example, Queen Elizabeth I issued an order in 1574 restricting the number of guns to be cast in England to those ‘for the only use of the Realm’66 and further Ordnances restricting the export of arms were passed in 1610 and 1614.67 In contrast, the shift in economic ideology from mercantilism to capitalism led to the more laissez-faire approach to the regulation of arms transfers in the late 19th century already described above. Britain moved to a more laissez-faire basis from 1862 onwards, France passed legislation in 1885 reinstituting the private manufacture of arms and also repealed the law prohibiting exports.68 Indeed, this was an era in which the Prussian government did not even feel able to compel Krupp to abjure exports to Austria on the eve of war with that country in 1866.69 Economic philosophy also shaped both discourse and practice on the regulation of the arms trade in the aftermath of World War I. Against the background of what Buzan and Waever have described as a broader attempt to ‘construct war as a threat to civilisation’ after World War I70 private arms manufacturers were particularly castigated for the role they had supposedly played in fomenting war fever to promote sales, a role facilitated by their alleged control over the press in many countries.71 This partly explained the attempts in 1919 and 1925 to develop international agreements on the regulation of the arms trade, although in reality a broader set of international order and security concerns were also at work (see below). However, the 1919 and 1925 agreements never received the necessary ratiﬁcations to come into force (although they did have important legacy effects) and the laissez faire approach to the arms trade still predominated throughout the 1920s. It was only in the 1930s that concern about the activities of the arms manufacturers gained particular salience in both the media and policy circles. In part this may have been a function of the deteriorating international situation, but as Harkavy has argued, it was also a function of the fact that the Great Depression had prompted widespread doubts about the general viability of the capitalist system.72Consequently, nationalization and greater government oversight of the arms industry was presented by campaigners and, indeed, some governments, as a vehicle to ensure arms proﬁts were not pursued at the expense of either state interests or world peace. Although nationalization was, with the exception of France73 mostly avoided, by the mid-1930s most of the major arms producing states had begun to develop formal defence export licensing systems.74 In other words, this was the moment when the institutions and processes were established that would produce the many thousands of ordinary extraordinary export licensing decisions that now occur on a weekly basis, the point of genesis for a particular habitus of a particular set of security professionals. This shift was not solely a function of debates about the role of arms merchants in World War I, nor was it purely a consequence of the doubts about unmanaged capitalism sowed by the Great Depression. Issues of power and security as well as the moments of intervention represented by successive attempts to agree international arms regulation all played their role in this shift (see below). Nevertheless, attitudes to economy were an important part of the mix. In the Cold War, the regulation of arms transfers was structured so that it was simultaneously permissive vis-a`-vis transfers to allies and highly restrictive vis-a`-vis allies of the Soviet Union. In the West at least, these security rationales overlapped with the dominance of Keynesian approaches to the economy in which the preservation of defence production emerged not only as a strategic imperative but as a form of welfare militarism – aimed at maintaining jobs, stimulating economies in times of recession, and preserving key technology sectors. This implied the further extension of government oversight of arms sales (albeit principally on a national basis rather than through international negotiation) and government’s role in the promotion of arms sales. It also meant that arms sales were pursued primarily (if not exclusively) for political rather than economic reasons. This contrasted sharply with the late 19th century and even inter-war years when private industry and the search for arms proﬁts were the principle factors driving supply. However, the end of the Cold War coincided with (and reinforced) underlying shifts in conceptions of economy and security that inﬂuenced the debate on arms transfer control. In terms of economy, the neoliberal agenda had already been thoroughly mainstreamed in the policy discourse of governments. Greed was good, proﬁt was better and market principles were the order of the day. In terms of domestic defence procurement policies this was reﬂected in a shift to the much wider application of competition policy, particularly in the United States and the United Kingdom.75 In terms of the approach to major arms transfers it underpinned the shift to a more commercial attitude that had been gradually evolving from the 1960s onwards. Already by 1988 one analyst could note that ‘the political factors that dominated the arms trade in the recent past are yielding to market forces... the arms trade is returning to its patterns prior to World War II, when the trade in military equipment was not dramatically different from the trade in many other industrial products’.76The comparison with the pre-World War II era is perhaps exaggerated – not least because the frameworks of national oversight and national export promotion are far more extensive, as are the frameworks of international regulation. Nevertheless, whilst one feature of the post-Cold War era has been the proliferation of international or regional initiatives to ostensibly restrain arms proliferation, an equally notable feature has been the relaxation of restrictions on arms supplies, particularly to allies. Both the Clinton and George W. Bush administrations in the United States have attempted to ease restrictions on exports to key allies, most notably in the form of defence trade cooperation treaties with Australia and the United Kingdom announced in 2007, although these have yet to be ratiﬁed by the Senate.77 The effect of these agreements will be to permit the licence-free transfer of defence goods between the United States and each of the signatories.78 The Obama administration has, in addition, committed itself to a radical overhaul of the American export control system to make it easier to export weapons to American allies and to emerging markets such as China. For example, the administration has claimed that in the case of items related to tanks and military vehicles, the new rules would remove 74 per cent of the items currently on the US Munitions List.79 In other words, the export of brake pads for tanks may no longer be subject to a regime of extraordinary measures. Similar processes have been at work in other countries. For example, in 2002 the United Kingdom announced changes to its methodology for assessing licence applications for components to be incorporated into military equipment for onward export, a reform generally interpreted as opening ‘a signiﬁcant export licensing loophole’,80 whilst in 2007 the French government announced it would ease restrictions on products moving within the European Union.81 At the same time as this occurred NGOs became more focussed on the security outcomes stemming from the trade in small arms and landmines. To the extent that NGOs and academics have engaged with the issue of major conventional arms transfers, they have tended to follow the lead set by government and industry by engaging with the economic rationale for defence exports – albeit in an attempt to debunk them.82The combined effect of this has been to give a more central place to a technocratic discourse on major weapons transfers focussed on their economic costs and beneﬁts to suppliers. This is not to suggest that strategic rationales for arms transfers have disappeared completely – they still remain important factors in speciﬁc cases, particularly post-9/11. Nevertheless, as Hartung has noted, with the end of the Cold War, the economic rationales for arms sales ‘moved to the forefront’.83One corollary of this greater emphasis on the economics of arms sales has been the post-Cold War deproblematization of major arms transfers84 at least in terms of debates about their security outcomes. Today, such sales are primarily discussed (by exporters at least, if not by recipients and their neighbours) in the language of the technocrat and the banker - the language of jobs, ﬁnancing terms, market share, and performance evaluation. Indeed, both government and NGO security concerns about the negative effects of the arms trade have bifurcated – with concern focussed either on the problem of weapons of mass destruction (WMD) (problematized primarily in terms of their potential acquisition by rogues) or, at the other end of the scale, on issues such as small arms (primarily problematized in terms of the illicit rather than the legal trade in such weapons). Arms Trade Regulation and the Security Problematique If neoliberalism has facilitated a more permissive approach to arms transfer regulation then this raises the question of why any limits have been introduced at all? As already noted above, one part of the answer is rooted in the relationship between legitimized and heroic weapons and those military technologies that lie outside the boundaries of the heroic and the legitimized. Being the ‘other’ of legitimized military technology facilitates successful problematization and indeed ‘extra-securitisation’. Additionally however, the architecture of global arms trade regulation has been transformed in the post-Cold War era along with the transformation in the objects of security that accompanied the end of the Cold War. During the Cold War, the global architecture of conventional arms trade regulation, like arms control more generally, was principally focussed on managing East –West tensions. One consequence was a substantial extension of the range of dual-use goods invested with security labels in relation to trade with Eastern Europe, most manifest in debates in the early 1950s between the United States and European states over the operation of CoCoM (Coordinating Committee for Multilateral Export Controls).85 In contrast, the developing world was merely an object of security competition between the superpowers and therefore a site for the supply of arms to allies. With the dissolution of the Soviet threat the focus has turned more to the management of North–South relations as the developing world has been reconstructed as the source of diverse security threats86 and as humanitarian intervention has resurrected similar concerns with the maintenance of order in the developing world that animated the arms restrictions in the Brussels Act. One manifestation of this has been in the reframing of small arms as instruments of disorder rather than the means to shore up Cold War allies. A further example is the replacement of the CoCom regime with the Wasennaar Arrangement, focussed particularly on restricting transfers to pariah regimes in the global South. This shift in focus is also manifest in the signiﬁcant rise in the use of arms embargoes in the post-Cold War era. For example, between 1945 and 1990 only two mandatory embargoes were imposed globally, on Rhodesia and Africa, respectively. Since the 1990s there have been two voluntary and 27 mandatory cases of sanctions, the vast majority of which have been aimed at actors in Africa.87 Sanctions, just like the efforts to control arms to Africa in the late 19th century have not been hugely successful in reducing the supply of weapons to combatants. Nevertheless, they can be understood as animated by much the same desire to maintain order in the peripheries of the world, particularly in a context where Western powers have once again taken on a greater responsibility for policing and managing instability in the developing world. Thus, the post-Cold War regulation of the conventional arms trade is simultaneously characterized by a relatively more permissive approach to arms transfers in general but also a redirection of controls away from the governance of East – West relations and towards the governance of North –South relations and particularly the disciplining of those actors framed as rogue or pariah in the security narratives of dominant actors. The campaign to promote an arms trade treaty may yet produce a more meaningful architecture of arms transfer control – the jury is out. However the framing of the Arms Trade Treaty to the defence industry is perhaps instructive. For example, the UK’s Ambassador for Multilateral Arms Control has noted, the ATT ‘... is about ... export controls that will stop weapons ending up in the hands of terrorists, insurgents, violent criminal gangs, or in the hands of dictators’.88 It should also be noted that current efforts to develop a global agreement on the arms trade echo late 19thth and early 20thth century initiatives to govern the international arms trade, most notably: the Brussels Act, the 1919 St Germain Convention for the Control of the Trade in Arms and Ammunition, and the 1925 Arms Trafﬁc Convention. Although the latter two never received the necessary ratiﬁcations to come into force both were animated by the same imperial concern to prevent disorder in the colonies that had underpinned the Brussels Act. As Stone has noted with regards to the St Germain convention for example, ‘there was little doubt among representatives in Paris [where the Convention was signed] that keeping arms out of African and Asian hands was St Germain’s chief task’.89Accordingly, the convention imposed far stricter restrictions on sales to these areas as well as a ban on arms shipments to ‘any country which refuses to accept the tutelage under which it has been placed’.90 Indeed, although the convention never came into being, European powers nevertheless agreed informally to carry out its provisions in Africa and the Middle East.91 The 1925 convention similarly imposed more severe restrictions on exports to special zones that covered most of Africa and parts of what had been the Ottoman Empire.92 Thus, viewed against this broader history of arms regulation, negotiations on a putative Arms Trade Treaty (rather like action on APMs or cluster munitions) do not represent a novel post-Cold War development that symbolizes progress on an emancipatory human security agenda consonant with the promotion of local and global peace. Instead, it reﬂects the emergence of particular sets of relationships between power, interest, economy, security, and legitimized military technologies that in turn create the conditions of emergence for historically contingent architectures of global regulation. Conclusion The preceding analysis has a number of implications for campaigners, but also speaks to the debates about the utility of the securitization framework outlined at the start of this article. First, it provides support for Abrahamson’s notion of the security spectrum. Viewed in a more historical perspective, what is notable about the post-Cold War emergence of a humanitarian arms control agenda is the way in which action on landmines, cluster munitions, and even small arms have been made possible by a quite dramatic transformation in the way such technology is represented. They have, in Abrahamson’s formulation, been moved along the ‘spectrum of security’ from normal, run-of-the mill, unproblematic technologies of killing, to ones of extra special concern. Conversely, one of the features of the post-Cold War era is the way in which the security labels attached to major weapons transfers have, in general, actually moved in the other direction. Whilst such transfers still remain clearly within the domain of security it is, nevertheless, possible to conceive the post-Cold War trade in major weapons as having been relatively desecuritized. Second, the analysis highlights the relational elements that can be involved in processes of securitization and desecuritization. In the case of the landmines ban this manifested itself in the way campaigners engaged in simultaneous processes of securitization of APMs (with respect to the human as referent object) and (relative) desecuritization (with respect to the state as referent object) that worked to mutually reinforce the case for a ban. In the case of pariah weapons generally, whilst there are a number of factors that explain their stigmatization, one factor can be the way their particular qualities are depicted as the antithesis of those possessed by legitimized and particularly heroic weapons. Conversely, the stigmatization of pariah weapons works to delineate other weapons as normal and legitimate. There is therefore a process of mutual constitution that is at work in the way different sets of weapons technology are framed and understood. Third, the preceding analysis illustrates the relevance of Floyd’s argument that processes of securitization or desecuritization can be positive and negative, particularly when considered in terms of their emancipatory effects. As noted above, in the case of landmines a process of relative desecuritization vis-a`-vis the state combined with a process of extra-securitization vis-a`-vis the human to bring about the production of a ban widely cNeedonsidered to have produced positive security outcomes for individuals, communities, and the human as a collective. In contrast, the relative desecuritization of major weapons transfers represents a much more ambiguous development. It could, of course, be argued that such a change in the security labels attached to the weapons holdings of neighbouring states would not only reﬂect but reinforce a move to more peaceable relations. In addition, the relative deproblematization of defence transfers might be conceived as a positive development, particularly for states that possess minimal domestic defence industrial capacity, and are threatened by hostile neighbours. At the same time however, such a shift along the spectrum of security arguably represents a quite regressive development when applied to the issue of arms transfers. This is particularly the case given that, irrespective of the powerful ways in which the security labels attached to major weapons are shaped by discourse and other forms of representation, they still possess a residual materiality, however thin, that is characterized by their capacity to facilitate the organized prosecution of violence. More generally, the transfer of such technologies can also be viewed as symptomatic of a world characterized by deeply problematic higher order paradigms of security and economy. At the very least then, the relative (if not complete) desecuritization of major arms transfers would appear to raise further questions about the Copenhagen School’s normative commitment to desecuritization. Although more accurately, it highlights the effects that come from ratcheting down the security labels attached to ‘normal’ arms transfers and subjecting them to the kind of standard bureaucratic routines highlighted by Bigo, albeit the routines of the export licencing process in this case. One consequence, is that the many thousands of export licences granted for the transfer of weapons other than landmines, cluster munitions, and small arms are far less likely to become the object of public scrutiny or become subject to intense public and political contestation about the security effects of such exports. In this sense at least, the switch from a Cold War arms transfer system where security motivations for exports often predominated to one where economic motivations are more to the fore, has also been accompanied by a corresponding depoliticization of contemporary transfers, a phenomenon that highlights the problematic nature of the neat division between politicized and securitized issues outlined in the CS conception of securitization and one that highlights the downside of even partial moves towards the desecuritization end of the security spectrum. Fourth, the success of campaigns on landmines and cluster munitions demonstrates how ‘moments of intervention’ undertaken on behalf of the voiceless by supposedly weak securitizing actors such as NGOs can, nevertheless, produce quite effective securitizations – in this case, the hyper-securitization of particular weapons technologies. Both campaigns also highlighted the ways in which actors can utilize media images and, through survivor activism that extended to the conference room, provide a context for the body to speak security. Moreover, the success of these campaigns highlights the ways in which the language of threat, survival, and security can be deployed to achieve positive security outcomes. At the same time however, the success of the humanitarian arms control agenda around landmines and cluster munitions in particular was only achieved because NGOs adopted exactly the same discourse around humanitarianism, human security and weapons precision that has been deployed to legitimize post-Cold War liberal peace interventionism and in the marketing of new weapons developments. On one reading, this might point to the potential for actors to deploy dominant forms of security speech in order to achieve progressive ends. On a more pessimistic reading however, it also highlights the profound limits involved in such approaches. To the extent that the extra-securitization of pariah technologies such as landmines has facilitated the relative desecuritization of major conventional weapons transfers it has also made the current framework of control look like an example of ethical advance at the same time as creating space for the deproblematization of arms transfers

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in general. Ultimately then, the moments of intervention represented by the campaigns on landmines and cluster munitions were successful because they did not threaten, and in many ways were quite consistent with, the dominant security paradigm and security narratives of the post-Cold War era. Equally, whilst the regularized routines and working practices of the security professionals of the export licensing process are certainly important in understanding the treatment of defence transfers, this body of professionals were themselves, brought into being as a result of historical changes in the fundamental assumptions about security and economy. Moreover, their very working practices and modes of behaviour are currently being altered as a result of similar fundamental shifts in the paradigms of security and economy which, in turn, are a function of particular combinations of power and interest. Although these shifts certainly predated the post-Cold War era, they have become particularly concretized in this era. One consequence of all this is that a loud ethical discourse around the restriction of landmines, cluster munitions, and small arms has gone hand in hand with recent rises in both global military expenditure and arms transfers. For example, overall, world defence expenditure in 2008 was estimated to be $1,464 billion (of which NATO countries accounted for 60 per cent and OECD countries 72 per cent) representing a 45 per cent increase in real terms since 1999,93whilst global arms sales were 22 per cent higher in real terms for the period 2005– 2009 than for the preceding period 2000– 2004.94 Moreover, largely because of the dominance of American and European defence spending, the defence trade is increasingly concentrated in the hands of the United States and to a lesser extent, European companies. For example, in 2006 American and European companies accounted for an estimated 92.7 per cent of the arms sales of the world’s 100 largest defence companies.95 Most arms trade NGOs have largely neglected issues such as the rises in defence expenditure in major weapons states such as the United States, intra-northern trade in arms, and the dominant role played by Western companies in the arms trade, in favour of an agenda that conceives the South – and in particular pariah actors in sub-Saharan Africa – as the primary object of conventional arms trade regulation.96With regard to transfers of small arms and major conventional weapons it might be argued that this, at least, also requires impressive self-abnegation from arms trade proﬁts on the part of powerful states in the international system. In practice however, international initiatives such as the EU Code or the Wassennaar Arrangement, national export regulations of the major weapons states and the local initiatives of client states mostly combine to produce a cartography of prohibition that corresponds more closely with the disciplinary geographies advocated by the powerful rather than any global map of militarism and injustice. One illustration of this is the way in which a recent review of British defence export legislation downgraded long-range missiles and the ‘heroic’ Unmanned Aerial Vehicle (UAV – the Maxim gun of modern imperial wars) from a category A classiﬁcation (goods such as cluster munitions whose supply is prohibited) to the less restrictive category B,97 whilst in 2010, the Afghan government proscribed the import, use, and sale of Ammonium Nitrate Fertilizer because it is one of the elements used in the making of IEDs.98 More generally, as one recent econometric analysis of major weapons transfers from the Britain, France, Germany, and the United States concluded, despite much rhetoric about the need for a more ethical approach to arms sales from governments in all these countries: Neither human rights abuses nor autocratic polity would appear to reduce the likelihood of countries receiving Western arms, or reduce the relative share of a particular exporter’s weapons they receive. In fact, human rights abusing countries are actually more likely to receive weapons from the US, while autocratic regimes emerge as more likely recipients of weaponry from France and the UK.99 Of course, arms trade NGOs have often been the ﬁrst to highlight such hypocrisies and the work of most organizations include, to a greater or lesser extent, elements of critique or advocacy that might be considered transformational. However, one of the principle features of arms trade activism in the post-Cold War era is the extent to which many NGOs have downgraded radical critique in exchange for insider inﬂuence and government funding.100 Instead, activism has largely been aimed at promoting tactical reform within an overarching economic and security paradigm that justiﬁes intervention, regulation, and transformation of the South whilst (with the exception of token action on landmines, etc.) leaving the vast accumulation of Western armaments largely unproblematized. The logic of this analysis then, is that there needs to be a far greater problematization of military expenditure by the major powers, of the so-called ‘legitimate’ trade in defence goods, including intraNorthern trade, and a problematization of the predominance of Western defence companies in global arms markets. In short, campaigners needs to return to a strategic contestation of global militarism rather than searching for tactical campaign victories dependent on accommodation with the language and economic and security paradigms of contemporary military humanism.

### Norms – Imperial Law Smith 2009

#### International law is incapable of resisting imperialism- justifies US actions while leaving elites in charge

Smith, 9 -- Internationalist Socialist Review editorial board member

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Bricmont’s book is a good brief polemic, but he is too apologetic about the betrayals of Stalinism and failures of Third World nationalist governments. For an adequate reconstruction of the left, which is one of his stated goals, we must simultaneously oppose imperialism and criticize Stalinism and nationalist dictatorships as oppressive barriers to the transformation of our world. He also exaggerates the ability of the left to use the UN or international law to resist U.S. imperialism. China Miéville’s book Between Equal Rights is an important corrective to this widespread belief in international law as a means to prevent war and oppression of subject nations. Miéville is an award-winning novelist as well as a Marxist theorist of international law. Miéville argues that international law is the product of imperialism and is actually a vehicle for the dominance of the biggest powers, not a means for progressive opposition. Drawing on the Bolshevik legal theorist Evgeny Pashukanis, Miéville contends that generalized commodity exchange under capitalism gave birth to law in its distinctive modern form. Whether between workers and bosses for wage labor or between a buyer and a seller of a product or service, commodity exchange takes place as a contract between legally equal individuals. Thus the legal contract, law, has emerged as the ubiquitous social relation between individuals as well as nation-states in the international system. Coercion, Miéville shows, is intrinsic to this commodity form of law. He writes, “violence—coercion—is at the heart of commodity form, and thus the contract. For a commodity meaningfully to be ‘mine-not-yours’—which is, after all, central to the fact that it is a commodity to be exchange—some forceful capabilities are implied. If there were nothing to defend its ‘mine-ness,’ there would be nothing to stop it becoming ‘yours,’ and then it would no longer be a commodity, as I would not be exchanging it. Coercion is implicit.” Moreover, legal equality masks actual inequality. In the world system, advanced capitalist powers and oppressed nations are not in fact equal. So in a legal contest over the interpretation of, say, the legality of a war, the nation with the greatest power is more likely to win its interpretation over those with less power. To encapsulate the point, Miéville quotes Marx’s observation that between equal rights, force decides. This is particularly so in international law, since there is no sovereign state to oversee and enforce legal rulings as in domestic law. As a result, the interpretation and policing of international law comes down to the capitalist nation-states themselves. As Miéville writes, “this is why international law is a paradoxical form. It is simultaneously a genuine relation between equals and a form that the weaker states cannot hope to win.” Appeals to international law are, therefore, completely incapable of resisting imperialism. For example, International Court of Justice (ICJ) courts ruled that the United States violated Nicaragua’s sovereignty by supporting the Contras and mining the country’s harbors. But the United States ignored the ruling, argued that it was out of the ICJ’s jurisdiction, overrode a Security Council resolution that would have enforced the ruling, and never made any restitution. As Miéville points out, “from the left, one might argue that this evidences that the U.S. has the power to flout law with impunity; alternatively, that the U.S.’s interpretation was the one made actual and that this illustrates the imperial actuality of international law. Either way, out of an apparent legal triumph for progressives, the international legal system is undermined as a site for activism.” Importantly, Miéville argues that we have not entered a new phase of imperialism in which the so-called international community is using international law to undo national sovereignty. He points out that imperialism and its international law, while predicated on sovereign property-owning states, always built in qualifications of sovereignty so that powers could legally intervene in other states. The United States and other powers are using political humanitarianism and various international institutions as ideological justification and tools for traditional inter-imperial conflicts and to intervene in weaker nations.