# 1NC

## off

### 1nc

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

OATES 2010—Ph.D. candidate in political science at The Ohio State University (John Oates, “Methodological Nationalism in International Theory: Rethinking Sovereignty as Constituent Power,” Draft for Research in International Politics)

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.

**Oates continued – no text removed**

#### Oates 1NC [2/3]

**Oates continued**

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.

**Oates continued – no text removed**

#### Oates 1NC [3/3]

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.

#### 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.

BECK AND SZNAIDER ‘6 - Professor of sociology at Munich's Ludwig-Maximilian University and the London School of Economics AND\*\*\* professor of sociology at the Academic College of Tel-Aviv (Ulrich and Natan, “Unpacking cosmopolitanism for the social sciences: a research agenda,” The British Journal of Sociology 57.1, Wiley InterSciences)

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.

### 1nc

#### Restriction must be based in statute – the AFF doesn’t impose a specific restriction

**Bradley, 10** - \* Richard A. Horvitz Professor of Law and Professor of Public Policy Studies, Duke Law School (Curtis, “CLEAR STATEMENT RULES AND EXECUTIVE WAR POWERS” <http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=2730&context=faculty_scholarship>)

The scope of the President’s independent war powers is notoriously unclear, and courts are understandably reluctant to issue constitutional rulings that might deprive the federal government as a whole of the flexibility needed to respond to crises. As a result, courts often look for signs that Congress has either supported or opposed the President’s actions and rest their decisions on statutory grounds. This is essentially the approach outlined by Justice Jackson in his concurrence in Youngstown.1 For the most part, the Supreme Court has also followed this approach in deciding executive power issues relating to the war on terror. In Hamdi v. Rumsfeld, for example, Justice O’Connor based her plurality decision, which allowed for military detention of a U.S. citizen captured in Afghanistan, on Congress’s September 18, 2001, Authorization for Use of Military Force (AUMF).2 Similarly, in Hamdan v. Rumsfeld, the Court grounded its disallowance of the Bush Administration’s military commission system on what it found to be congressionally imposed restrictions.3 The Court’s decision in Boumediene v. Bush4 might seem an aberration in this regard, but it is not. Although the Court in Boumediene did rely on the Constitution in holding that the detainees at Guantanamo have a right to seek habeas corpus re‐ view in U.S. courts, it did not impose any specific restrictions on the executive’s detention, treatment, or trial of the detainees.5 In other words, Boumediene was more about preserving a role for the courts than about prohibiting the executive from exercising statutorily conferred authority.

#### Authority refers to permission granted – means restrictions must be on the statute

**Taylor, 96** – professor of law at Georgia State (Ellen, “New and Unjustified Restrictions on Delaware Directors' Authority” 21 Del. J. Corp. L. 870 (1996), Hein Online)

The term authority is commonly thought of in the context of the law of agency, and the Restatement (Second) of Agency defines both power and authority.'89 Power refers to an agent's ability or capacity to produce a change in a legal relation (whether or not the principal approves of the change), and authority refers to the power given (permission granted) to the agent by the principal to affect the legal relations of the principal; the distinction is between what the agent can do and what the agent may do.

Congress to exert control over what the President can do in the future and prevents the “gloss” that comes from congressional acquiescence.85

#### Voting issue -

#### 1. Stabilizes topical authority and both restriction mechanisms – best chance of predictable aff limits and complementary neg ground

#### 2. pleas for reasonability just warrant precision – only check on bi-directionality and Commander-in-Chief affs

Colby P. Horowitz 2013 “CREATING A MORE MEANINGFUL DETENTION STATUTE: LESSONS LEARNED FROM HEDGES V. OBAMA,” FORDHAM L.R. Vol. 81, http://fordhamlawreview.org/assets/pdfs/Vol\_81/Horowitz\_April.pdf

Thus, there at least two ways to interpret section 1021 under Justice Jackson’s framework. The government believes that section 1021 places the executive firmly in Zone 1. It has argued on appeal in Hedges that section 1021 is “an essentially verbatim affirmation by Congress of the Executive Branch’s interpretation of the AUMF.”335 This is supported by the government’s 2009 brief to the D.C. District Court, which is almost identical to the description of detention authority in section 1021.336 If section 1021 places the President in Zone 1, he has clear statutory authorization and does not need to rely on his general Commander-in-Chief powers (which courts view more narrowly).337 Additionally, in Zone 1, any ambiguities or vague terms in the statute might actually expand the President’s authority.338 338. See Chesney, supra note 33, at 792–93 (explaining that some observers view ambiguities in detention statutes as constituting “an implied delegation of authority to the executive to provide whatever further criteria may be required”).

### 1nc

#### 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

### 1nc

#### Obama’s pushing patent reform at the top of the docket --- PC is key to get it done

KRAVETS 3/24/2014 – Wired Staff Writer, Kravets, David, “History Will Remember Obama as the Great Slayer of Patent Trolls”, http://www.wired.com/threatlevel/2014/03/obama-legacy-patent-trolls/

But Obama will leave another gift to posterity, one not so obvious, one that won’t be felt until years after his term ends: The history ebooks will remember the 44th president for setting off a chain of reforms that made predatory patent lawsuits a virtual memory. Obama is the patent troll slayer. Even now, a perfect storm of patent reform is brewing in all three branches of government. Over time, it could reshape intellectual property law to turn the sue-and-settle troll mentality into a thing of the past. “If these reforms go into effect, they will be felt only minimally during the Obama administration,” says Joe Gratz, a San Francisco-based patent lawyer who is representing Twitter in a patent dispute. “They will be felt quite strongly well after the Obama administration.” “The president is a strong leader on these issues. We haven’t really seen that before,” says Julie Samuels, the executive director of startup advocacy group Engine. “I do think that this could be one of the legacies of this administration.” A patent troll is generally understood to be a corporation that exists to stockpile patents for litigation purposes, instead of to build products. Often taking advantage of vague patent claims and a legal system slanted in the plaintiff’s favor, the company uses the patents to sue or threaten to sue other companies, with an eye to settling out of court for a fraction of what they were originally seeking. The nation’s legal dockets are littered with patent cases with varying degrees of merit, challenging everything from mobile phone push notifications and podcasting to online payment methods and public Wi-Fi. Some 2,600 companies were targeted in new patent lawsuits last year alone. Against that backdrop, Obama issued five executive orders on patent reform last summer. Among other things, they require the Patent and Trademark Office to stop issuing overly broad patents, and to force patent applicants to provide more details on what invention they are claiming. One of the orders opens up patent applications for public scrutiny — crowdsourcing — while they are in the approval stage, to help examiners locate prior art and assist with analyzing patent claims. Since a patent is binding for 20 years, the impact of the new rules won’t be felt for some time. But they will be felt, says Gratz, a litigator who defends technology-heavy patent lawsuits. “The supply of overly broad, vague patents will start to dry up as new rules get put into place,” he says. In January, Obama became the first president to elevate patent reform to a national meat-and-potatoes issue, when he used the State of the Union address to urge Congress to “pass a patent reform bill that allows our businesses to stay focused on innovation, not costly and needless litigation.” The market is already reacting to the wind change. Shares of patent-litigation firm Acacia dropped sharply following Obama’s State of the Union, and are hovering near 52-week lows. Shares of VirnetX are in a similar tailspin. RPX, another intellectual-property concern, has seen its share prices slashed in half over the past three years. The House passed major patent reform legislation last year, on a 325-91 vote, in a bid to even out the litigation playing field. Among other things, the Innovation Act requires plaintiffs in lawsuits to be more specific about what they believe is being infringed, and to identify the people who have financial interests behind a company. Perhaps most significantly, it requires that plaintiffs pay litigation expenses if they lose at trial. The bill also prohibits patent holders from suing mere users of a technology that allegedly infringes on an invention, like restaurants offering Wi-Fi access to their diners. The Senate is debating similar legislation in a piecemeal manner. Whatever it finally approves, the package will have to go back to the House for final approval before landing on the president’s desk.

#### **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.

#### Key to innovation and American economic security

Goodlatte, 3-12 -- House Judiciary Committee chair, Rep

[Robert (R-VA), "Bipartisan Road Map for Protecting and Encouraging American Innovation," Roll Call 3-12-14, www.rollcall.com/news/bipartisan\_road\_map\_for\_protecting\_and\_encouraging\_american\_innovation-231413-1.html?pg=2, accessed 3-12-14]

Throughout our nation’s history, great ideas have powered our economic prosperity and security, from the Industrial Revolution to the Internet age. Safeguarding those great ideas were so important to our Founding Fathers that they included patent protection in the U.S. Constitution. Article I, Section 8, Clause 8 of the Constitution charges Congress with overseeing a patent system to “promote the progress of science and useful arts.” As chairman of the House Judiciary Committee, which has oversight of our patent system, I take the charge to uphold our Constitution seriously. In recent years, we have seen an exponential increase in the use of weak or poorly granted patents by “patent trolls” to file numerous patent infringement lawsuits against American businesses with the hopes of securing a quick payday. This abuse of the patent system is not what our Founding Fathers provided for in our Constitution. At its core, abusive patent litigation is a drag on our economy and stifles innovation. Everyone from independent inventors to startups to mid- and large-sized businesses face this constant threat. The tens of billions of dollars spent on settlements and litigation expenses associated with abusive patent suits represent truly wasted capital — wasted capital that could have been used to create new jobs, fund research and development, and create new innovations and technologies. Bad actors who abuse the patent system devalue American intellectual property and are a direct threat to American innovation. Abusive patent litigation is also a drain on consumers. We will never know what lifesaving invention or next-generation smartphone could have been created because a business went bankrupt after prolonged frivolous litigation or paying off a patent troll. When a firm spends more on patent litigation than on research, money is being diverted from real innovation. The patent system was designed to reward inventors and incentivize innovation, bringing new products and technologies to consumers. Last year, I introduced the Innovation Act (HR 3309), legislation designed to eliminate the abuses of our patent system, discourage frivolous patent litigation and keep U.S. patent laws up to date. In December, the House of Representatives, with overwhelming bipartisan support and the support of the White House, passed the Innovation Act. This important bill will help fuel the engine of American innovation and creativity, creating new jobs and growing our economy. Effective patent reform legislation requires the careful balance that was achieved in the Innovation Act. Senate Judiciary Chairman Patrick J. Leahy, D-Vt., ranking member Charles E. Grassley, R-Iowa., and committee members John Cornyn, R-Texas, Orrin G. Hatch, R-Utah, and Mike Lee, R-Utah, among others, are leading efforts in the Senate to combat abusive practices within our patent system that inhibit innovation. I am optimistic that as the Senate moves toward consideration of legislation they will act just as the House did and pass comprehensive patent litigation reform that includes all of the necessary reforms made in the Innovation Act, including heightened pleading standards and fee shifting. In 2011, Republicans and Democrats came together to pass the America Invents Act (PL 112-29), which brought the most comprehensive change to our nation’s patent laws since the 1836 Patent Act. We are continuing to work again in a collaborative, bipartisan way to end abusive patent litigation to help the American economy and American people. I am optimistic that these important reforms will be enacted to stop the abuse of our patent system and restore the central role patents play in our economy. Half measures and inaction are not viable options. The time is now, and the Innovation Act has helped set a clear bipartisan road map toward eliminating the abuses of our patent system, discouraging frivolous patent litigation and keeping U.S. patent laws up to date.

#### Economic collapse causes nuclear war

Merlini 11

[Cesare Merlini, nonresident senior fellow at the Center on the United States and Europe and chairman of the Board of Trustees of the Italian Institute for International Affairs (IAI) in Rome. He served as IAI president from 1979 to 2001. Until 2009, he also occupied the position of executive vice chairman of the Council for the United States and Italy, which he co-founded in 1983. His areas of expertise include transatlantic relations, European integration and nuclear non-proliferation, with particular focus on nuclear science and technology. A Post-Secular World? DOI: 10.1080/00396338.2011.571015 Article Requests: Order Reprints : Request Permissions Published in: journal Survival, Volume 53, Issue 2 April 2011 , pages 117 - 130 Publication Frequency: 6 issues per year Download PDF Download PDF (357 KB) View Related Articles To cite this Article: Merlini, Cesare 'A Post-Secular World?', Survival, 53:2, 117 – 130]

Two neatly opposed scenarios for the future of the world order illustrate the range of possibilities, albeit at the risk of oversimplification. The first scenario entails the premature crumbling of the post-Westphalian system. One or more of the acute tensions apparent today evolves into an open and traditional conflict between states, perhaps even involving the use of nuclear weapons. The crisis might be triggered by a collapse of the global economic and financial system, the vulnerability of which we have just experienced, and the prospect of a second Great Depression, with consequences for peace and democracy similar to those of the first. Whatever the trigger, the unlimited exercise of national sovereignty, exclusive self-interest and rejection of outside interference would likely be amplified, emptying, perhaps entirely, the half-full glass of multilateralism, including the UN and the European Union. Many of the more likely conflicts, such as between Israel and Iran or India and Pakistan, have potential religious dimensions. Short of war, tensions such as those related to immigration might become unbearable. Familiar issues of creed and identity could be exacerbated. One way or another, the secular rational approach would be sidestepped by a return to theocratic absolutes, competing or converging with secular absolutes such as unbridled nationalism.

### 1nc

#### EU on board with aggressive pressure now- Obama leadership key

Lee, 3-21 – Wall Street Journal White House correspondent; citing CSIS Europe Program director Heather Conley

[Carol, "Obama's Europe Trip Takes on New Security Focus," Wall Street Journal, 3-21-14, online.wsj.com/news/articles/SB10001424052702304256404579453792704932698?mg=reno64-wsj&url=http%3A%2F%2Fonline.wsj.com%2Farticle%2FSB10001424052702304256404579453792704932698.html, accessed 3-26-14]

Obama's Europe Trip Takes On **New Security Focus**

Aides Say Ukraine Crisis Has Reshaped Message; Asia, Middle East Will Also Get Attention The Ukraine crisis has reshaped the message President Barack Obama planned to bring to Europe this coming week, having already prompted a fundamental reassessment in the White House of U.S.-Russia relations. Even Mr. Obama's signature speech of the week—an address in Brussels on U.S.-European relations—has morphed into a moment where he will discuss his vision of trans-Atlantic relations and European security, officials said. "The speech has changed, as the situation in Ukraine reinforces the importance of supporting a Europe that is whole, free and at peace—that includes strengthening NATO as a collective defense alliance, deepening European integration, and providing urgently needed assistance for the Ukrainian government," said Ben Rhodes, a deputy national security adviser. Mr. **Obama** also **faces the challenge of convincing European allies to toughen their economic pressure** on Russian President Vladimir Putin in response to his annexation of Ukraine's Crimea region. The White House laid the groundwork this week for Mr. Obama to campaign for stronger European action, targeting Russians with close ties to Mr. Putin and a St. Petersburg bank, and setting the stage for stringent measures against Moscow's energy and arms industries. U.S. officials believe **those** steps **are enough to bring the Europeans along** because they demonstrate Mr. Obama's willingness to also take on economic pain to blunt Russia. Europe adopted a second round of sanctions on Friday, but its closer economic ties with Russia have made sanctions against Moscow more difficult for leaders there. "These sanctions will be very difficult and very painful, and this is why the United States has to **work very hard** to convince the most reluctant—which will be our three strongest allies in Europe, Germany, France and the U.K.—that they have to put their economic interests aside," said Heather Conley, director of the Europe Program at the Center for Strategic and International Studies. "It's going to require an enormous amount of American leadership in Europe." On the trip, which runs from Monday through Thursday, Mr. Obama also will attempt to mediate tensions in Asia and assuage the concerns of vital partners in the Middle East. The president will hold formal meetings on the sidelines of a Nuclear Security Summit in The Hague with Chinese President Xi Jinping, and a joint sit-down with South Korean President Park Geun-hye and Japanese Prime Minister Shinzo Abe. The meetings underscore concern in the administration that unrest in Europe and the Middle East doesn't distract from U.S. priorities in Asia. White House officials see Mr. Obama's joint meeting with the leaders of Japan and South Korea as a critical breakthrough in helping U.S. allies in the region bridge their differences and help counter China's rising economic and military influence in the region. The trip ends with Mr. Obama trying to smooth over tensions with Saudi Arabia during a meeting at King Abdullah's desert compound outside of Riyadh. Saudi Arabia has been frustrated with Mr. Obama's diplomatic outreach to Iran and over differences with the U.S. over the political turmoil in the Middle East. Mr. Obama is also navigating rifts in the region by meeting unilaterally with the leader of the United Arab of Emirates in The Hague, after the U.S. considered and dismissed the idea of holding a summit in Riyadh with Gulf States. The simultaneous management of crises across four continents marks a turning point in Mr. Obama's presidency, where foreign policy issues have been thrust to the top of the daily White House agenda and demand personal presidential attention. However, aides stressed that Mr. Obama's basic approach—working in concert with other countries and not unilaterally—is unchanged.

#### The plan guts it- domestic losses over executive powers take away Obama’s ability to showcase strength and derail his diplomatic focus

Epstein, 14 -- Politico White House reporter; citing CSIS Europe Program director Heather Conley

[Jennifer, "President Obama’s overseas agenda gets fresh spring focus," Politico, 2-11-14, www.politico.com/story/2014/02/barack-obama-foreign-policy-agenda-103359.html, accessed 3-12-14]

President Obama’s overseas agenda gets fresh spring focus

President Barack Obama has watched his foreign policy agenda, like those of so many of his predecessors, get knocked off course by international crises and domestic fights alike. But with a new year comes another push by the president to take control and take action — and not just at home. On Tuesday, for the first time more in than two years, Obama is hosting a state visit for a foreign leader, French President François Hollande. It’s the first state visit since late 2011, though the White House did host an official visit for British Prime Minister David Cameron in early 2012. In the week or so that follows, Obama will meet with the king of Jordan and the leaders of Canada and Mexico. Next month, he’ll meet with Israeli Prime Minister Benjamin Netanyahu in Washington and travel to the Netherlands, Belgium, the Vatican and Saudi Arabia. And April will take him to Asia for a trip that’s in part intended to make up for one canceled because of last year’s government shutdown. (PHOTOS: Obama’s second term) **As Obama increasingly turns to executive actions to show that — despite the congressional odds stacked against him**, and the fact that even many Democrats are reluctant to be seen with him — **he’s still got power on the home front, the foreign arena offers** him even more opportunities for significant action he can take on his own. “Whatever [Obama] can do by executive action in the domestic arena, except on climate change and carbon emissions, is pretty limited. He’s got little bit more leeway abroad,” said Norman Ornstein of the American Enterprise Institute. “The chances that he will have a significant breakthrough in foreign policy that will cement his place in history are much higher than it coming from an accomplishment at home at this point in the presidency.” While Obama has had to dissuade lawmakers from pursuing new sanctions against Iran, and is pushing for fast-track trade promotion authority for the Transatlantic Trade and Investment Partnership and the Trans-Pacific Partnership, most of his foreign policy agenda can be accomplished with little to no congressional involvement. Obama’s level of foreign engagement in the coming weeks isn’t off the charts in its intensity — but it is a marked shift from several months spent at home, dealing with deadlines and controversies, including several rounds of phone-based damage control with world leaders over the National Security Agency’s foreign surveillance programs. Under political pressure, and facing the logistical challenge created by staff furloughs during last year’s government shutdown, the White House canceled Obama’s early October trip to Indonesia, Brunei, Malaysia and the Philippines. Brazilian President Dilma Rousseff had been set to travel to Washington for a state visit in October, but that trip was derailed even before the government shutdown amid Brazilian outcry over the NSA’s surveillance practices. When Obama arrives next week in Toluca, Mexico, for the North American Leaders’ Summit, it will be his first time abroad for meetings since early September, when he visited Sweden and attended the G-20 Summit in Saint Petersburg, Russia. (He did spend about 12 hours on the ground in South Africa for Nelson Mandela’s December funeral.) “You always have the agenda that you want and the world crises that you have to address, and that’s always a balancing act. And this White House has had to be particularly reactive and it’s been incredibly challenging for them to be proactive as they had intended,” said Heather Conley, director of the Europe program at the Center for Strategic and International Studies. But the start of a new year, with a state visit and rescheduled trip to Asia, “is a bit of a reset,” she said.

#### Strong EU pressure key to stop Russian aggression- escalates to full-scale war

Stacey, 3-23 – Center for Transatlantic Relations senior visiting fellow

[Jeffrey, PhD from Columbia University, joined CTR after serving in the Obama Administration as a State Department official specializing in NATO and EU relations at the Bureau for Conflict Stabilization Operations, at State he founded and managed the International Stabilization and Peacebuilding Initiative (ISPI) which has over 20 government and international organization partners, has been a professor of U.S. foreign policy at Tulane University and Fordham University, a consultant at the Open Society Institute and the U.S. Institute of Peace, and a visiting scholar at George Washington, Georgetown, and the University of California, "Russia, Ukraine, and a New Era of International Relations," The Duck of Minerva, 3-23-14, www.whiteoliphaunt.com/duckofminerva/2014/03/russia-ukraine-and-a-new-era-of-international-relations.html, accessed 3-26-14]

The U.S. and Russia are not engaged in a new Cold War, but Russia is clearly playing the geopolitical menace du jour. **The U.S. and Europe are going to need to up their game to keep** Vladimir **Putin’s hands off the rest of Ukraine**. Beyond this crisis the West needs a new defense posture, as the world just entered a new era of international relations. Just weeks ago numerous observers dubbed the opening of the Winter Olympics in Sochi “Putin’s Triumph,” when it was anything but that. Russia may have barely edged the U.S. in total medals, but the price for Putin’s orderly Olympics was serious repression, severe environmental damage, and seismic corruption. Then came Ukraine. His reputation already tarnished, Putin seemingly wasted little time in setting off the biggest East-West crisis in decades. But contrary to conventional wisdom, his abject territorial grab of Crimea has less to do with any grand plan on his part—and more to do with western miscalculation and the momentum of reactive decision-making by a country led by officials with a stark inferiority complex. The catalyst for the current crisis came in two parts. First, Europe badly miscalculated by offering Ukraine membership in the European Union (EU) and making ensuing moves that forced Putin’s hand by making him choose to keep Ukraine in Russia’s sphere of influence or not. Second, Putin did not decide to embark on his current course until the day after former President Yanukovich fled, specifically when the Ukrainian Parliament stripped him of his powers and scheduled new president elections. But the seeds of this crisis were sewn long before. Putin and his coterie have long been adding up sleights from the West: NATO expansion to Russia’s border, in particular the Kosovo War and the bombing of Serbia without UN Security Council approval, the same for the Iraq War, U.S. involvement in the Ukraine and Georgia revolutions, an intention to install radar stations in Poland and the Czech Republic, and NATO’s coming close to offering both Georgia and Ukraine membership. Russia is not “back” so much as acting out again in its own region of the world. Its 2008 invasion of Georgia, notably, came after the end of the Kosovo War when NATO and Russian troops raced to be the first to occupy a former Yugoslav Army base on the outskirts of Pristina. Russian Foreign Secretary Lavrov at the time flatly stated that the West was forcing Russian to go to war somewhere. After making good on that threat in Georgia, Russia kept troops in two breakaway regions of the country that are now considered in international limbo. So after a period of virtual strategic irrelevance, Russia has achieved a Pyrrhic victory. Putin has gained Crimea, but he has cost Russia a great deal in both economic and reputational terms, made a mockery of future claims of any imperative for the West to gain approval of the UN Security Council for crisis interventions, and above all lost the rest of Ukraine. Or not? Will Putin seek further Ukrainian territory in the Russian-speaking east? Already Russian troops have seized a petroleum plant across the border in Ukraine proper and Russia placed thousands of troops just over Ukraine’s eastern border for the purposes of “exercises.” Moreover, Putin is displaying enormously risky behavior, for direct altercations could easily spiral into a prolonged battle that with reinforcements could rapidly lead to full-scale war. It is better to deter him from even trying. To do this the U.S. and Europe need to do more than place a small number of jet fighters in Eastern Europe and kick Russia out of the G8. Putin views the West as feckless and is likely emboldened by the lack of a robust Western response thus far. Much more costly economic sanctions are necessary, plus stepped up aerial patrols, forward placement of additional ground capabilities, and staging a NATO ground exercise in Poland, in order to establish credible conventional deterrence. Now that there are indications that part of Moldova–on the other side of Ukraine–may also be in Russia’s sights, this has become an urgent task. At present, in conventional deterrence terms, the U.S. and Europe are not credible in the eyes of Putin. The fact that he views the West as feckless and unlikely to intervene indicates that deterrence is low. **Western inaction** in this case **is** more **likely to lead to a massive Russian** **action**, thus moderate action intended to augment deterrence is necessary to prevent this. The Western preference is to keep the rest of Ukraine intact but not to go to war to ensure this, thus it needs to focus on reestablishing deterrence but it has little time in which to do so. Directly arming Ukraine would likely backfire, but ground movements in exercise form in either Poland or Romania would constitute an appropriately measured but more forceful response. The Bush Administration’s error in not sanctioning Russia’s Georgia invasion is even more glaring in retrospect. Now by openly accusing President Obama of appeasement, the American political right has only reinforced Putin’s perception. Yet in the process it made an unintentional but crucial strategic point: **other countries also need to be deterred from territorial takeovers, especially China**. The aborted Syrian intervention already harmed Western deterrence, and a meager response to the annexation of Crimea could easily lead to a Chinese occupation of the islands it claims from Japan. The Russia-Ukraine case may not be identical to the China-Japan case, but **wouldbe border changers are buoyed by Putin’s getting away with Crimea** fairly **cost free**. Japan is more powerful than Ukraine, but until very recently has been averse to using force and has little experience doing so. Thus, if China does not view the U.S. as credible in conventional deterrence terms, it may be emboldened to occupy the disputed islands despite the US-Japan defense treaty. The lack of action in the Syria and Ukraine cases has degraded this deterrence; it now needs to be reestablished. The fallacy of those advocating a buildup in Asia and drawdown in Europe is now clear. The U.S. commitment to its alliances in both the Asian and European spheres must be sufficient to achieve its simultaneous security interests. But with economic austerity and a decreased defense budget, the U.S. cannot build back up in Europe AND pivot fully to Asia. As a consequence the U.S. needs to rely on partners to a greater extent than in the past. In addition to NATO, the most capable and like-minded bilateral partners are France, the UK, and Germany. Despite reduced defense budgets, they have made their military forces more capable and shown an increased willingness to act even when the U.S. is reluctant to lead. This new “lead nation” model calls for rotating which country spearheads a particular crisis intervention, with the others playing support roles by providing smaller scale but vital assistance. On-the-fly uses of this yet to be fully developed model were on display in the interventions in Libya and Mali, as well as the near intervention in Syria. It is time to put this model fully in place, including in the Pacific theater by partnering with Australia and an increasingly activist Japan under Prime Minister Abe. Meanwhile, this crisis is NATO’s to handle. If the Post-war era after World War II gave way to the Post-Cold War era, that in turn gave way to the Post 9-11 era which has been with us for just over a decade. The new era–call it for now the Era of Incessant Conflict–may not be welcome, but with the Middle East in pieces and the forceful posturing of Russia and China we are going to have to get used to it and make the necessary adjustments. It no doubt is too early to deem this a completely new era of world politics, but there nonetheless is something distinctive about this emerging period of international lawlessness. In the past several years, since the advent of the Arab Awakening or perhaps back to the 2008 Russia-Georgia war, there has been a clear shift–not a sizable power shift, but certainly a notable shift in the ability of the West to influence the behavior of states who are not like-minded. This rise of regional powers, an increased penchant for meddling across borders, and large-scale instability in the Mideast and elsewhere together herald a new period in which western powers rapidly need to recalibrate their capabilities and how they will wield the less effective tools of foreign policy in their hands. **Wielding them in concert will increase their** utility and **effectiveness**. But western leaders cannot afford to be led by their increasingly isolationist publics; it is time for them to educate their people about this emerging era, and get on with leading. [CONTINUED IN COMMENTS] \*Scott Monje\* You draw attention to a number of US moves that the Russians viewed as provocative, then you prescribe solutions that include, among other things, NATO ground exercises in Poland and partnering with Shinzo Abe in East Asia. So here's a question: how do we know in advance when a particular action will be a deterrent and not a further provocation? For that matter, how do we know that the Russian troop buildup along Ukraine's border is not simply intended to deter the Ukrainian military from moving into Crimea? It seems its definition as deterrent or provocation is really in the mind of the target and depends heavily on what Putin (or the Chinese) believe further US intentions to be. \*Jeffrey Stacey\* Scott, fair questions: right now what is more provocative is actually inaction, for Putin experts like Fiona Hill view Putin as more likely to move into eastern Ukraine if he continues to think the West will do nothing substantial...this is the side of conventional deterrence that we often discount...so **the West needs to be credible,** which at present it isn't...we never know for sure because you are quite right that it is the mind of the adversary...but we do know that **every amassing of Russian forces in the last 5 years has led to an incursion, that's pretty credible**.

## Case

### Solvency

#### Awkward DRONES

Rehman, 12 (9/13/12, Fehzan, International Relations at the University of Westminster, "Analyzing America’s National Security Strategy", e-International Relations, http://www.e-ir.info/2012/09/13/analyzing-americas-national-security-strategy/)

Another implication on sovereignty, due to the NSS, was, yet again, demonstrated by the killing of Osama Bin Laden in Pakistan. Some academics have argued that it impeded national sovereignty. Pakistan’s foreign secretary Salman Bashir asserted that this “violation of sovereignty, and the modalities for combating terrorism, raises certain legal and moral issues which fall … in the domain of the international community” (Bowcott, 2011). Others have claimed that America sees itself as above international law and feels that they are able to take actions for which a smaller sovereign state would have received major international repercussions. Many academics believe that what America is doing is setting a new precedent, as it “continues to confuse preemption with preventive war” (Korb & Wadhams, 2006, p.1). This could lead to the demise of the international laws and norms that prohibit the offensive attacks by one state against another for simply self-gain (Korb & Wadhams, 2006, p.2). Other academics have accused the Bush Doctrine of “legitimating a doctrine of anticipatory war” (Wheeler, 2003, p.199). Senator Edward M. Kennedy assured that the Bush Doctrine “would also send a signal to governments the world over that the rules of aggression have changed for them too, which could increase the risk of conflict between countries” (Kennedy, The Bush Doctrine of Pre-Emption). The criticism of the NSS’s advancement of pre-emptive strike has been reverberated in foreign ministries across the world. Secretary General Kofi Annan, in his speech to the General Assembly in September 2003, articulated his deep restlessness with a policy that: “represents a fundamental challenge to the principles on which, however imperfectly, world peace and stability have rested for the last fifty eight years… if it were to be adopted, it could set precedents that resulted in a proliferation of the unilateral and lawless use of force” (Annan, 2003). “The Bush administration has stubbornly resisted these warnings about the dangers of the preemptive policy set out in the NSS” (Wheeler, 2003, p.199). Kaufman agrees with the international stance that the NSS has set a dangerous precedent (Kaufman, 2007. P142). The NSS has devised other states, like India-Pakistan, Russia-Georgia, and China-Taiwan, legitimate rationales of unilateral military force for its own gains. This has already happen with the Russia-Georgia crisis of August 2008, where Russia used military intervention in South Ossetia against Georgia. Who is to say that India may use this precedent to use military force against Pakistan, asserting that it believes that Pakistan is a threat to India’s national security? Similarly, China, as an emerging super power, may want to compete with or follow American democracy promotion through pre-emption and preventive wars against Taiwan for the promotion of its Chinese values.

Card for Richard

ICJ doesn’t solve Asian disputes- last resort

Strachan 9 – Research Intern, IPCS, New Delhi

(Anna Louise, “Resolving Southeast Asian Territorial Disputes: A Role for the ICJ,” http://www.ipcs.org/pdf\_file/issue/IB133-SEARP-AnnaICJ\_(Read-Only).pdf)

Southeast Asia is currently embroiled in a number ¶ of territorial disputes, the resolution of which ¶ would greatly increase progress towards regional ¶ integration. This essay argues that the ICJ has the ¶ potential to play a much greater role in resolving ¶ these disputes and that action should be taken to ¶ increase the court’s credibility among Southeast ¶ Asian nations. It is important to note that China is ¶ involved in a number of territorial disputes with ¶ countries in Southeast Asia. The Spratly Islands is ¶ the most notable of these, although there are also ¶ issues relating to the land borders between China ¶ and Vietnam and China and Laos. ¶ ROLE OF THE ICJ: A CRITIQUE ¶ In 2002, sovereignty over both Pulau Ligitan and ¶ Pulau Sipadan was awarded to Malaysia by the ¶ ICJ. The dispute over the territories was brought ¶ before the ICJ in 1998 by the governments of both ¶ parties to the dispute. However, the ICJ did not ¶ determine the maritime boundaries between ¶ Malaysia and Indonesia in the area around the two ¶ islands. As a result one could argue that the dispute ¶ has not been settled completely. It is important to ¶ note that the sole reason for this was that the ICJ ¶ was not requested to resolve that particular issue by ¶ the parties involved in the dispute. ¶ In May 2008, sovereignty over Pedra Branca was ¶ awarded to Singapore, Middle Rock was awarded ¶ to Malaysia and South Ledge was split between ¶ both countries according to their territorial waters. ¶ Both Malaysia and Singapore accepted the ICJ’s ¶ ruling, with the Singaporean Deputy Prime Minister ¶ S. Jayakumar stating that Singapore was pleased ¶ with the judgment and the Malaysian Foreign ¶ Minister Rais Yatim describing the outcome as a ¶ “win-win” judgment. This was to be expected as the ¶ two countries had jointly submitted the request for ¶ the ICJ to resolve the dispute in 2003. It is however ¶ important to note that despite this ruling, ¶ outstanding issues remain. Singapore and Malaysia ¶ have yet to decide how the territorial waters ¶ around Pedra Branca and Middle Rocks will be ¶ delimited. A joint technical committee will be ¶ responsible for this. ¶ In both the cases mentioned above, the ICJ has¶ only resolved half the issue. This is certainly a step ¶ in the right direction, but years of negotiation ¶ remain to fully resolve the disputes, even after the ¶ outcome of the lengthy ICJ hearings. It is however ¶ important to note that the ICJ fulfilled its remit in ¶ both the aforementioned cases as it was not ¶ asked to determine maritime boundaries in either ¶ case. The time-consuming process of starting fresh ¶ negotiations after the ICJ has presented its ruling ¶ does however suggest that alternative means of ¶ conflict resolution, preferably in the form of ¶ bilateral negotiations, may be more effective in ¶ resolving territorial disputes than referring cases to ¶ the ICJ. ¶ In 2003, Singapore and Malaysia also referred a ¶ territorial dispute to the International Tribunal for ¶ the Law of the Sea (ITLOS) in Hamburg for ¶ arbitration. The dispute related to Singapore’s land ¶ reclamation projects which Malaysia alleged ¶ encroached on Malaysian territorial waters. Once ¶ again the Tribunal, as arbitrator, only played a ¶ partial role in the resolution of the conflict. Several ¶ rounds of negotiations took place before the ¶ dispute was finally resolved by the signing of the ¶ Settlement Agreement on 26 April 2005. ¶ The majority of territorial disputes in Southeast Asia ¶ have not been resolved this way, confirming that ¶ for the majority of nations in the region, the ICJ ¶ and other international courts like the ITLOS remain ¶ something of a last resort. Bilateral dispute ¶ resolution is more common. Brunei and Malaysia, ¶ for example, reached agreements to resolve a ¶ number of territorial disputes regarding both land ¶ and sea boundaries in August 2008. ¶ II ¶ UNRESOLVED DISPUTES ¶ The Preah Vihear Temple dispute between ¶ Thailand and Cambodia has shown signs of ¶ escalation despite a period of calm since the ¶ latter half of 2008. On 19 September 2009, a mob¶ raised by the People’s Alliance for Democracy ¶ (PAD) clashed with riot police and local villagers ¶ who were blocking their way to the temple, on the ¶ Cambodian side of the Thai-Cambodian border. ¶ The conflict was initially thought to have been ¶ resolved in 1962, when the temple was awarded ¶ to Cambodia by the ICJ. However the problem ¶ with the 1962 ruling was that much of the territory ¶ surrounding the temple remained a part of ¶ Thailand. The way in which the territory was ¶ divided has arguably facilitated the recent rise in ¶ hostilities between the two parties to the dispute. ¶ The territorial dispute over Sabah also remains ¶ unresolved. The Philippines claims Sabah on the ¶ basis that all land on the Northeastern part of ¶ Borneo was once subject to the Sultanate of Sulu, ¶ which is part of the Philippines. The Philippines first ¶ staked their claim to the territory in 1962, when the ¶ Malaysian Federation was being formed. Bilateral ¶ relations between Malaysia and the Philippines ¶ were restored in 1969, but the Philippines has yet ¶ to officially renounce its claim to Sabah. Bilateral ¶ relations between the two countries have ¶ improved dramatically in recent years and it is ¶ hoped that the Philippines’ dormant claim to the ¶ territory will eventually be renounced completely. ¶ According to the 2008 issue of the Heidelberg ¶ Conflict Barometer, there are outstanding ¶ territorial disputes between Cambodia and ¶ Vietnam, Singapore and Malaysia, and Thailand ¶ and Myanmar. Other sources list many more ¶ regional territorial disputes. According to Amer, ¶ Vietnam alone was embroiled in five different ¶ territorial disputes with other Southeast Asian ¶ nations in 2005. These include disputes with ¶ Cambodia, Thailand, Malaysia, the Philippines and ¶ Brunei. Differences in dispute classification are one ¶ of the factors responsible for this data diversity. ¶ Regardless of the exact figures there can be no ¶ doubt that a significant number of territorial ¶ disputes in Southeast Asia remain unresolved. ¶ One of the reasons behind the plethora of ¶ territorial disputes in Southeast Asia relates to the ¶ fact that land borders have yet to be ¶ demarcated in many parts of the region. ¶ Cambodia and Laos have taken steps in this ¶ regard and Thailand has suggested that it is ¶ interested in taking steps to demarcate its border ¶ with Cambodia in order to prevent an escalation ¶ in hostilities between the two countries. Indonesia ¶ and Timor-Leste also took steps to demarcate their ¶ joint border in 2004. All these initiatives are a step ¶ towards eliminating territorial disputes within the ¶ region.

#### Conclusion says fail

Strachan 9 – Research Intern, IPCS, New Delhi

(Anna Louise, “Resolving Southeast Asian Territorial Disputes: A Role for the ICJ,” http://www.ipcs.org/pdf\_file/issue/IB133-SEARP-AnnaICJ\_(Read-Only).pdf)

CONCLUSION The ICJ has the potential to play a key role in resolving territorial disputes where other forms of mediation have failed. Bilateral negotiations, as the least involved method of resolving conflicts, are undoubtedly the preferred means of dispute settlement but they are not always successful. Regional mediation is also preferable to international involvement but is not always viable due to fears that regional actors may have vested interests in certain cases. Moreover, ASEAN’s current stance on intervention in regional disputes renders a greater regional role in the resolution of territorial disputes unlikely in the impending future. If the ICJ is to assume a greater role in resolving the outstanding territorial disputes in Southeast Asia, the Court must gain greater credibility in the eyes of Southeast Asian nations. Faith in the Court’s ability to settle disputes must extend beyond Singapore, Malaysia and Indonesia. Moreover, the ICJ must seek to reaffirm its nonpartisan status in order to convince countries that any rulings made by the Court are fair and should be adhered to.

#### Their Obama key card says Gitmo

LAT 9 (Los Angeles Times, http://www.latimes.com/news/opinion/la-ed-leadership18-2009jan18,0,1509741.story#axzz2v2Z1Nc5n)

Obama must right the wrongs

Abu Ghraib, Guantanamo Bay and the waterboarding of suspected terrorists came to define U.S. power in the last eight years

**ICJ is not credible – contradictory arguments on Kosovo destroyed legitimacy**

**BLIC 10 <**Blic is a Serbian news source. This article is quoting Constitutional law professor and Serbian legal advisor, Thomas Fleiner. “Expert: ICJ has lost its legitimacy” July 24, 2010. <http://www.b92.net/eng/news/politics.php?yyyy=2010&mm=07&dd=24&nav_id=68649>>

He said that the opinion of the International Court of Justice on the unilateral proclamation of Kosovo’s independence would have “catastrophic effects for international law.”¶ “The court has lost all of its legitimacy because of its poor argumentations. I am almost sure that there was political pressure, because the arguments that were given in the ICJ’s opinion were identical to the arguments that the U.S. gave the judges in December,” Fleiner said. ¶ He said that the ICJ’s decision is contradictory. ¶ “The problem is that the legal meaning of the opinion is very narrow, because the court only decides on the paper that states that the Kosovo government proclaimed independence, and only decides on whether that sentence violates international law or not. The judges believe that this sentence does not violate international law, but at the same time believe that Kosovo does not have the right to a unilateral secession. Everyone can understand that this is a case of contradiction,” Fleiner said. ¶ He said that the political effects of the ICJ decision are much greater than the legal ones, because the political leaders of territories that want to secede are getting a message that they have the right to do so. ¶ “For me, the worst thing is that the court did not even discuss the question of whether the rights of the Serb minority were violated in Kosovo. I believe that there rights have been violated greatly, they have not been given the right to address the Serbian constitutional court without any compensation, and secondly, the Serbs in Kosovo do not have the possibility of stating their own political will, for example, to want to secede from Kosovo,” Fleiner said.

## Preemption Adv

### Law of War Defense 1NC

#### There’s no impact --- Conflation between jus ad bellum and jus in bello is globally inevitable

Robert Sloane 9, Associate Professor of Law, Boston University School of Law, 2009, “The Cost of Conflation: Preserving the Dualism of Jus ad Bellum and Jus in Bello in the Contemporary Law of War,” Yale Journal of International law, http://www.yale.edu/yjil/files\_PDFs/vol34/Sloane

This case reflects, in microcosm, a pressing issue in the contemporary law of war. After 9/11, countless scholars and statesmen have called for changes in the jus ad bellum, the law governing resort to force, or the jus in bello, the law governing the conduct of hostilities.10 These invitations to reform, whatever their merit, raise an equally vital but distinct legal issue that has been largely neglected in recent legal scholarship: the relationship between the traditional branches of the law of war.11 Since the U.N. Charter introduced a positive jus ad bellum into international law, the reigning dogma has been that reflected in the SCSL Appeals Chamber’s opinion: the jus ad bellum and the jus in bello are, and must remain, analytically distinct. In bello rules and principles apply equally to all combatants, whatever each belligerent’s avowed ad bellum rationale for resorting to force: self-defense, the restoration of democratic government, territorial conquest, or the destruction of a national, ethnic, racial, or religious group, as such.12 It is immaterial, on this view, whether the ad bellum intent of the militia leaders indicted by the SCSL had been to restore a democratic government or to topple that government and install a brutal regime in its stead: they must adhere to and be judged by the same in bello rules and principles.

Postwar international law regards this analytic independence as axiomatic,13 as do most just war theorists. They insist that “[i]t is perfectly possible for a just war to be fought unjustly and for an unjust war to be fought in strict accordance with the rules.”14 In theory, then, any use of force may be simultaneously lawful and unlawful: unlawful, because its author had no right to resort to force under the jus ad bellum; lawful, if and to the extent that its author observes “the rules,” that is, the jus in bello. 15 I will refer to this particular rule, which insists on the analytic independence of ad bellum and in bello, as the dualistic axiom. Despite its widespread acceptance,16 the axiom, as we will see, is logically questionable, 17 undertheorized, and at times disregarded or misapplied in practice—with troubling consequences for the policies that underwrite these components of the contemporary law of war. Consider briefly a few examples, which, among others, will be explored in greater detail below:

• In 1999, the North Atlantic Treaty Organization (NATO) carried out a four-month air campaign against Serbia. At the outset, NATO’s leaders made an in bello decision: its pilots would fly at a minimum height of 15,000 feet to reduce their risk from anti-aircraft fire essentially to zero, even though that would increase the risk to Serbian civilians because it often prevented visual confirmation of legitimate military targets. Many would argue that the in bello principle of proportionality obliges combatants to take some risk in an effort to reduce the risk to enemy civilians.18 If so, the perceived legitimacy of NATO’s avowed ad bellum goal, i.e., to halt the incipient ethnic cleansing of ethnic Albanian Kosovars, influenced the international ex post appraisal of NATO’s in bello conduct in the conflict.19

• After 9/11, the Bush administration launched and prosecuted what it described as a “Global War on Terror.” In this war, if it is a war,20 political elites and their lawyers invoked ad bellum

factors—for example, the novel nature of the conflict or the enemy and the imperative to avoid at any cost another catastrophic terrorist attack— to justify or excuse in bello violations.21 Both treaties and custom, for example, categorically prohibit the in bello tactic of torture. It is difficult to dispute that the United States deliberately tortured some detainees in its custody. Alberto R. Gonzales also wrote in what has become an infamous memorandum that “the war against terrorism is a new kind of war,” which “renders obsolete Geneva’s strict limitations on questioning of enemy prisoners and renders quaint some of its provisions.” 22 One might recharacterize this assertion in the framework of this Article as a suggestion that ad bellum considerations may justifiably relax, or even vitiate, what some see as anachronistic in bello constraints.23

• In 1996, the International Court of Justice (ICJ) considered the legality of the threat or use of nuclear weapons.24 This required it to analyze both the jus ad bellum and the jus in bello. The Court concluded that the jus in bello generally prohibits nuclear weapons— with a curious qualification. It could not say “whether the threat or use of nuclear weapons would be lawful or unlawful in an extreme circumstance of self-defence, in which the very survival of a State would be at stake.”25 Again, to recharacterize this statement in the framework of this Article: if the ad bellum consequences for one party to a conflict become bad enough, a weapon otherwise categorically prohibited by the jus in bello might become legal for that party, although presumably it would remain illegal for the other—unless that other party, too, “a State,” faced an “extreme circumstance of self-defence.”

The logic in each of these examples is contrary to the dualistic axiom, which insists that in bello constraints apply equally to all parties to a conflict. They do not vary based on ad bellum appraisals of the justice, legitimacy, or even urgency of one side’s asserted casus belli (cause or justification for resort to force). 26 Yet these examples reflect a trend in contemporary international law to relax or disregard the dualistic axiom, that is, to allow ad bellum considerations to influence and, at times, even to vitiate the jus in bello—an outcome that degrades the efficacy of both components of the law of war. Recent state practice and some jurisprudence also suggest a related, and equally misguided, tendency to collapse the distinct ad bellum and in bello proportionality constraints imposed by the law of war. As explained in greater detail below, today, in contrast to the pre-U.N. Charter era, all force must be doubly proportionate: that is, proportionate relative to both the jus ad bellum and the jus in bello. 27 Yet, at times, the ICJ has confused, neglected, or misapplied the two principles, as have belligerents—again to the detriment of the key values and policies that underwrite the contemporary law of war.

### No ME

**No risk of Middle East war**

**Maloney and Takeyh, 7** – \*senior fellow for Middle East Policy at the Saban Center for Middle East Studies at the Brookings Institution AND \*\*senior fellow for Middle East Studies at the Council on Foreign Relations (Susan and Ray, International Herald Tribune, 6/28, “Why the Iraq War Won't Engulf the Mideast”, http://www.brookings.edu/opinions/2007/0628iraq\_maloney.aspx)

Yet, the Saudis, Iranians, Jordanians, Syrians, and others are very unlikely to go to war either to protect their own sect or ethnic group or to prevent one country from gaining the upper hand in Iraq. The reasons are fairly straightforward. First, Middle Eastern leaders, like politicians everywhere, are primarily interested in one thing: self-preservation. Committing forces to Iraq is an inherently risky proposition, which, if the conflict went badly, could threaten domestic political stability. Moreover, most Arab armies are geared toward regime protection rather than projecting power and thus have little capability for sending troops to Iraq. Second, there is cause for concern about the so-called blowback scenario in which jihadis returning from Iraq destabilize their home countries, plunging the region into conflict. Middle Eastern leaders are preparing for this possibility. Unlike in the 1990s, when Arab fighters in the Afghan jihad against the Soviet Union returned to Algeria, Egypt and Saudi Arabia and became a source of instability, Arab security services are being vigilant about who is coming in and going from their countries

. In the last month, the Saudi government has arrested approximately 200 people suspected of ties with militants. Riyadh is also building a 700 kilometer wall along part of its frontier with Iraq in order to keep militants out of the kingdom. Finally, there is no precedent for Arab leaders to commit forces to conflicts in which they are not directly involved. The Iraqis and the Saudis did send small contingents to fight the Israelis in 1948 and 1967, but they were either ineffective or never made it. In the 1970s and 1980s, Arab countries other than Syria, which had a compelling interest in establishing its hegemony over Lebanon, never committed forces either to protect the Lebanese from the Israelis or from other Lebanese. The civil war in Lebanon was regarded as someone else's fight. Indeed, this is the way many leaders view the current situation in Iraq. To Cairo, Amman and Riyadh, the situation in Iraq is worrisome, but in the end it is an Iraqi and American fight. As far as Iranian mullahs are concerned, they have long preferred to press their interests through proxies as opposed to direct engagement. At a time when Tehran has access and influence over powerful Shiite militias, a massive cross-border incursion is both unlikely and unnecessary. So Iraqis will remain locked in a sectarian and ethnic struggle that outside powers may abet, but will remain within the borders of Iraq. The Middle East is a region both prone and accustomed to civil wars. But given its experience with ambiguous conflicts, the region has also developed an intuitive ability to contain its civil strife and prevent local conflicts from enveloping the entire Middle East.

### No Indo Pak

**No indo-pak war**

**Ganguly ‘8** [Sumit Ganguly is a professor of political science and holds the Rabindranath Tagore Chair at Indiana University, Bloomington. “Nuclear Stability in South Asia,” International Security, Vol. 33, No. 2 (Fall 2008), pp. 45–70]

As the outcomes of the 1999 and 2001–02 crises show, nuclear deterrence is robust in South Asia.Both crises were contained at levels considerably short of full-scale war. That said, as Paul Kapur has argued, Pakistan’s acquisition of a nuclear weapons capability may well have emboldened its leadership, secure in the belief that India had no good options to respond. India, in turn, has been grappling with an effort to forge a new military doctrine and strategy to enable it to respond to Pakistani needling while containing the possibilities of conflict escalation, especially to the nuclear level.78 Whether Indian military planners can fashion such a calibrated strategy to cope with Pakistani probes remains an open question. This article’s analysis of the 1999 and 2001–02 crises does suggest, however, that nuclear deterrence in South Asia is far from parlous, contrary to what the critics have suggested. Three specific forms of evidence can be adduced to argue the case for the strength of nuclear deterrence. First, there is a serious problem of conflation in the arguments of both Hoyt and Kapur. Undeniably, Pakistan’s willingness to provoke India has increased commensurate with its steady acquisition of a nuclear arsenal. This period from the late 1980s to the late 1990s, however, also coincided with two parallel developments that equipped Pakistan with the motives, opportunities, and means to meddle in India’s internal affairs—particularly in Jammu and Kashmir. The most important change that occurred was the end of the conflict with the Soviet Union, which freed up military resources for use in a new jihad in Kashmir. This jihad, in turn, was made possible by the emergence of an indigenous uprising within the state as a result of Indian political malfeasance.79 Once the jihadis were organized, trained, armed, and unleashed, it is far from clear whether Pakistan could control the behavior and actions of every resulting jihadist organization.80 Consequently, although the number of attacks on India did multiply during the 1990s, it is difficult to establish a firm causal connection between the growth of Pakistani boldness and its gradual acquisition of a full-fledged nuclear weapons capability. Second, India did respond with considerable force once its military planners realized the full scope and extent of the intrusions across the Line of Control. Despite the vigor of this response, India did exhibit restraint. For example, Indian pilots were under strict instructions not to cross the Line of Control in pursuit of their bombing objectives.81 They adhered to these guidelines even though they left them more vulnerable to Pakistani ground ªre.82 The Indian military exercised such restraint to avoid provoking Pakistani fears of a wider attack

into Pakistan-controlled Kashmir and then into Pakistan itself. Indian restraint was also evident at another level. During the last war in Kashmir in 1965, within a week of its onset, the Indian Army horizontally escalated with an attack into Pakistani Punjab. In fact, in the Punjab, Indian forces successfully breached the international border and reached the outskirts of the regional capital, Lahore. The Indian military resorted to this strategy under conditions that were not especially propitious for the country. Prime Minister Jawaharlal Nehru, India’s first prime minister, had died in late 1964. His successor, Lal Bahadur Shastri, was a relatively unknown politician of uncertain stature and standing, and the Indian military was still recovering from the trauma of the 1962 border war with the People’s Republic of China.83 Finally, because of its role in the Cold War, the Pakistani military was armed with more sophisticated, U.S.-supplied weaponry, including the F-86 Sabre and the F-104 Starfighter aircraft. India, on the other hand, had few supersonic aircraft in its inventory, barring a small number of Soviet-supplied MiG-21s and the indigenously built HF-24.84 Furthermore, the Indian military remained concerned that China might open a second front along the Himalayan border. Such concerns were not entirely chimerical, because a Sino-Pakistani entente was under way. Despite these limitations, the Indian political leadership responded to Pakistani aggression with vigor and granted the Indian military the necessary authority to expand the scope of the war. In marked contrast to the politico-military context of 1965, in 1999 India had a self-confident (if belligerent) political leadership and a substantially more powerful military apparatus. Moreover, the country had overcome most of its Nehruvian inhibitions about the use of force to resolve disputes.85 Furthermore, unlike in 1965, India had at least two reserve strike corps in the Punjab in a state of military readiness and poised to attack across the border if given the political nod.86 Despite these significant differences and advantages, the Indian political leadership chose to scrupulously limit the scope of the conflict to the Kargil region. As K. Subrahmanyam, a prominent Indian defense analyst and political commentator, wrote in 1993:. The awareness on both sides of a nuclear capability that can enable either country to assemble nuclear weapons at short notice induces mutual caution. This caution is already evident on the part of India. In 1965, when Pakistan carried out its “Operation Gibraltar” and sent in infiltrators, India sent its army across the cease-fire line to destroy the assembly points of the infiltrators. That escalated into a full-scale war. In 1990, when Pakistan once again carried out a massive infiltration of terrorists trained in Pakistan, India tried to deal with the problem on Indian territory and did not send its army into Pakistan-occupied Kashmir**.**87

## Territory Adv

### China

#### (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.

#### Chinese soft power restrains aggression --- takes out the 1AC impact but means we have an impact----- 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

### Multilat

#### Current multilateral institutions are incapable of dealing with crises effectively --- nationalism takes over

Beck and Grande 2010 (Ulrich and Edgar, Beck (Department of Sociology, Ludwig-Maximilian University and London School of Economics and Politial Science) and Grande (Geschwister-Scholl-Institut fur Politische Wissenschaft, Ludwig-Maxililians-Universitat Munchen), “Varieties of second modernity: the cosmopolitan turn in social and political theory and research” British Journal of Sociology)

It has become a commonplace that national institutions alone are unable to cope with the challenges of regulating global capitalism and responding to new global risks (Beck 2009). It is no less obvious that there is no global state or international organization capable of regulating global capital and risk in a way comparable to the role played by the ‘Keynesian welfare national state’ (Jessop 2002) in industrial society. Instead, we can observe a complex reconstitution of political authority, with which to organize the mechanisms of global economic regulation, risk management and control in ways characterized by new forms of political interdependence (Grande and Pauly 2005). At present, the politics of the ‘world risk society’ (Beck 1999, 2009) is an extraordinarily intricate terrain, composed, among other things, of co-ordinated national mechanisms, bilateral and multilateral agreements, inter-, trans- and suprana- tional institutions, transnational corporations, private charity foundations, and civil society groups. Despite this rapidly growing number of global organiza- tions and transnational institutions, there is an increasing unease

, nourished not least by the hesitant responses to the global ﬁnancial crisis, the European currency crisis, and the poor results of last global climate conference at Copenhagen that these institutions are proving unable to address the chal- lenges they were created to meet. Similar developments can be observed at the national level, regarding, for example, democratic institutions, welfare systems, families, etc. Can the World Bank solve the global problem of poverty? Can the Food and Agriculture Organisation of the United Nations (FAO) solve a global food crisis? Can the World Trade Organisation effectively regulate global trade? It seems as if these institutions do not constitute a sufﬁcient basis for managing or controlling the global risks and crises created by the global victory of industrial capitalism. This is exactly what the transformative dynamics of the Second, Cosmopolitan Modernity is about! Isn’t there a gulf of centuries between the threats, opportunities and conﬂict dynamics of border- transcending, radicalized modernization in the twenty-ﬁrst century and the ideas, institutions and structures of industrial capitalism and national state authority rooted in the nineteenth century?

### Resource

**No resource wars—multiple factors check**

**Tertrais 12** [Bruno, Senior Research Fellow at the Fondation pour la Recherche Strat gique (FRS) The Demise of Ares: The End of War as We Know It? The Washington Quarterly • 35:3 pp. 722]

Future **resource wars are unlikely**. There are fewer and fewer conquest wars. Between the Westphalia peace and the end of World War II, nearly half of conflicts were fought over territory. Since the end of the Cold War, it has been less than 30 percent. 61 The invasion of Kuwaita nationwide bank robberymay go down in history as being the last great resource war. The U.S.-led intervention of 1991 was partly driven by the need to maintain the free flow of oil, but not by the temptation to capture it. (Nor was the 2003 war against Iraq motivated by oil.) As for the current tensions between the two Sudans over oil, they are the remnants of a civil war and an offshoot of a botched secession process, not a desire to control new resources. China’s and India’s energy needs are sometimes seen with apprehension: in light of growing oil and gas scarcity, is there not a risk of military clashes over the control of such resources? This seemingly consensual idea rests on two fallacies. One is that there is such a thing as oil and gas scarcity, a notion challenged by many energy experts. 62 As prices rise, previously untapped reserves and non-conventional hydrocarbons become economically attractive

. The other is that spilling blood is a rational way to access resources. As shown by the work of historians and political scientists such as Quincy Wright, the economic rationale for war has always been overstated. And because of globalization, it has become cheaper to buy than to steal. We no longer live in the world of 1941, when fear of lacking oil and raw materials was a key motivation for Japan’s decision to go to war. In an era of liberalizing trade, many natural resources are fungible goods. (Here, Beijing behaves as any other actor: 90 percent of the oil its companies produce outside of China goes to the global market, not to the domestic one.) 63 There may be clashes or conflicts in regions in maritime resource-rich areas such as the South China and East China seas or the Mediterranean, but they will be driven by nationalist passions, not the desperate hunger for hydrocarbons. Only in civil wars does the question of resources such as oil, diamonds, minerals, and the like play a significant role; this was especially true as Cold War superpowers stopped their financial patronage of local actors. 64 Indeed, as Mueller puts it in his appropriately titled The Remnants of War, ‘‘Many [existing wars] have been labeled ‘new war,’ ‘ethnic conflict,’ or, most grandly ‘clashes of civilization.’ But in fact, most. . .are more nearly opportunistic predation by packs, often remarkably small ones, of criminals, bandits, and thugs.’’ 65 It is the abundance of resources, not their scarcity, which fuels such conflicts. The risk is particularly high when the export of natural resources represents at least a third of the country’s GDP. 66

### Warming

**Warming won’t cause extinction**

**Barrett**, professor of natural resource economics – Columbia University, **‘7**

(Scott, Why Cooperate? The Incentive to Supply Global Public Goods, introduction)

First, **climate change does not threaten the survival of the human species**.5 If unchecked, it will cause other species to become extinction (though biodiversity is being depleted now due to other reasons). It will alter critical ecosystems (though this is also happening now, and for reasons unrelated to climate change). It will reduce land area as the seas rise, and in the process displace human populations. “Catastrophic” climate change is possible, but not certain. Moreover, and unlike an asteroid collision, large changes (such as sea level rise of, say, ten meters) **will likely take centuries to unfold, giving societies time to adjust.** “Abrupt” climate change is also possible, and will occur more rapidly, perhaps over a decade or two. However, **abrupt climate change** (such as a weakening in the North Atlantic circulation), though potentially very serious, **is unlikely to be ruinous.** Human-induced climate change is an experiment of planetary proportions, and we cannot be sur of its consequences. **Even in a worse case scenario**, however, global **climate change is not the equivalent of the** Earth being hit by **mega-asteroid.** Indeed, if it were as damaging as this, and if we were sure that it would be this harmful, then our incentive to address this threat would be overwhelming. The challenge would still be more difficult than asteroid defense, but we would have done much more about it by now.

# case

### Drone DA

#### Independently, US targeted killing is driving a global shift in strategic doctrine toward preventive self-defense---causes nuclear war

Kerstin Fisk 13, visiting assistant professor in the Department of Political Science at Loyola Marymount University, PhD in Political Science from Claremont Graduate University, and Jennifer M. Ramos, Assistant Professor of Political Science at Loyola Marymount University, PhD in Political Science from UC Davis, April 15 2013, “Actions Speak Louder Than Words: Preventive Self-Defense as a Cascading Norm,” International Studies Perspectives, http://onlinelibrary.wiley.com.turing.library.northwestern.edu/doi/10.1111/insp.12013/full

How and to what extent is the preventive use of force becoming the future of foreign policy for states around the world? We explore the spread of preventive logic to increasing numbers of states and examine the degree to which an international norm toward preventive self-defense is cascading in the international system. Through content and comparative case study analysis, we investigate leaders’ rhetoric and security policies concerning what we theorize is the key indicator of a country's emulation of the United States: assertion of the right to the unilateral, preventive use of force outside of its borders. Our evidence indicates that there has been a shift away from the established international norm—which considers the use of preventive force illegal and illegitimate—toward growing acceptance of unilateral preventive strategies, a shift largely propelled by the precedents set by the United States in the war in Iraq and its use of unmanned aerial vehicles (UAVs or drones) in the global war on terror. Our findings also reveal that some states are applying the strategy of preventive self-defense beyond the use of UAVs for targeted killings to the extreme contingency plan for nuclear war. We conclude by discussing possibilities for further research and considering the implications of this phenomenon.

#### Specifically- this unable or unwilling doctrine collapses jus ad bellum firebreak and international precedent- means the affirmative causes drone wars

ACLU et al. ’13 (American Civil Liberties Union Amnesty, International Center for Human Rights & Global Justice, NYU School of Law\* Center for Civilians in Conflict Center for Constitutional Rights Global Justice Clinic, NYU School of Law\* Human Rights First Human Rights Institute, Columbia Law School, Human Rights Watch, Open Society Foundations, “Joint Letter to President Obama on US Drone Strikes and Targeted Killings”, April 11, 2013

Senior officials have claimed that the administration applies international humanitarian law to its targeted killing program.[14] However, unlike international human rights law, the circumstances under which international humanitarian law applies are narrow and exceptional. There must be an armed conflict: hostilities must be between the United Statesanda group that is sufficiently organized and must reach a level of intensity that is distinct from sporadic acts of violence.[15] Outside of an armed conflict, where international human rights law applies, the United States can only target an individual if he poses an imminent threat to life and lethal force is the last resort.[16] A key preliminary issue is thus whether or not the United States is using lethal force as part of hostilities in an armed conflict. Even when the United States uses force as part of hostilities in an armed conflict, there are important legal constraints on its targeting operations. The administration’s statements have raised fundamental concerns about whether it recognizes these constraints and complies with international law. We describe three of these concerns below, although they are not exhaustive. The first two involve concerns pertaining to how the U.S. chooses particular targets; the third involves concerns pertaining to the legality of U.S. use of force in other states. A. The administration’s criteria for determining that it can lawfully engage in lethal targeting of a particular individual or groups of individuals. The administration should ensure that its standards and criteria for determining that it can directly target a particular individual using lethal force are consistent with international law. It should also disclose those standards so that Congress, the public, and other nations can assess them. Because of the impact that U.S. policy will have on global standard setting on the use of drones in targeted killings, it is critically important that U.S. legal standards be fully disclosed. There are troubling indications that the U.S. regards an individual’s affiliation with a group as making him or her lawfully subject to direct attack.[17] This raises serious questions about whether the U.S. is operating in accordance with international law. Under international humanitarian law, applicable in the narrow and exceptional circumstance of armed conflict, the U.S. can directly target only members of the armed forces of an enemy, military objectives, or civilians directly participating in hostilities.[18] U.S. standards should reflect a presumption that unidentified individuals are civilians with protection from direct attack, unless and for such time as they take a direct part in hostilities.[19] Outside of an armed conflict, where international human rights law applies, any use of force must be both necessary and proportionate. Intentional lethal force may only be used where strictly necessary to prevent an imminent threat to life.[20] To assess “imminence” under human rights law and in the context of determining how force can be used outside an armed conflict, the U.S. should look only to human rights law sources. Some administration statements imply that the U.S. government may be attempting to borrow interpretations of “imminence” from the law regarding resort to the use of force (jus ad bellum), which involves a wholly separate inquiry into whether a state can lawfully use force in violation of another state’s sovereignty, to defend itself against an imminent threat (see Section V.C infra). B. The administration’s criteria for determining that a group is an “associated force” of Al Qaeda, and the implications of that determination. The administration has stated that it is in an armed conflict with Al Qaeda and “associated forces,” which it defines as organized armed groups that have “entered the fight alongside al Qaeda” and are “co-belligerent[s] with al Qaeda in hostilities against the United States or its coalition partners.”[21] The administration’s failure to define what specific organizational features or conduct would lead a group to be classified as an associated force raises concerns that this results in an aggressive and indefinitely expansive scope of targeting authority. The administration should disclose the groups it believes to currently constitute associated forces and the criteria for determining whether a group is an associated force. It should set forth the legal basis for considering the United States to be at war with “associated forces” of Al Qaeda that did not participate in the September 11, 2001 terrorist attacks. Moreover, it should clarify who it believes is lawfully targetable with lethal force within such “associated forces.” C. The administration’s concept of imminence, in justifying its resort to the use of force in self-defense. Some of the undersigned groups are concerned that the administration’s statements appear improperly to conflate the question of sovereignty with the question of whether use of force against a particular individual is lawful.[22] International law prohibits the use of force in the territory of other states, except in narrow circumstances, including self-defense and consent. The use of force may be a lawful act of self-defense in response to an armed attack or imminent threat of armed attack. Some scholars believe a state may use force in these circumstances even without a host state’s consent, for so long as the host state is unwilling or unable to take appropriate action. The resort to the use of force in self-defense (jus ad bellum) relates to issues of state sovereignty; any U.S. operations would still need to satisfy the applicable requirements of humanitarian law (jus in bello) and human rights law. Moreover, John Brennan has implied that the “imminent threat” threshold “should be broadened in light of the modern-day capabilities, techniques, and technological innovations of terrorist organizations.”[23] This and other statements by administration officials, and a leaked Department of Justice white paper regarding the legality of targeting a U.S. citizen,[24] imply that the broadening of the term “imminent threat” could expand the situations in which lethal force would be justified based on a perceived danger that may be realized at an undefined point in the future; or based on a group’s generalized intent to use force against the United States, even if the U.S. government is not aware of that group’s planning toward a specific attack against the United States.[25] These interpretations of imminence would be inconsistent with international law regarding resort to the use of force. \*\*\*\*\* As senior administration officials have recognized, U.S. targeted killing policies and practices will set a precedent for other nations, particularly as weaponized drone technology becomes more widely available. Lowering the threshold for the use of force outside armed conflicts could be in breach of international law, set a dangerous precedent, and weaken the U.S. government’s ability to argue for constraints on lethal targeting operations of other states.

#### Pariah weapons regulation backfires- normalizes centralized militarism and leads to worse forms of violence- affirmative causes a further shift to drones

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 considered 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 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.

### Legal Solve War K Link

#### This is the link that simple legal interpretations solve the phenomena of war- this creates legal path dependency and justifies state of exception- we critic their notion of war as an event

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### Smith K

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

Smith, 9 -- Internationalist Socialist Review editorial board member

[Ashley, "Humanitarian imperialism and its apologists," International Socialist Review, Issue 67, Sept 2009, isreview.org/issue/67/humanitarian-imperialism-and-its-apologists, accessed 9-8-13, mss]

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.

# K

### Short Term Bad – Bilgin

#### The alternative precedes their advantages---epistemic reframing is a prior question to short term impacts

Pinar **Bilgin 4** IR @ Bilikent AND Adam David MORTON Senior Lecturer and Fellow of the Centre for the Study of Social and Global Justice IR @ Nottingham“From ‘Rogue’ to ‘Failed’ States? The Fallacy of Short-termism” Politics 24 (3) p. Wiley Interscience

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

### Their Social Science Fails – Bernstein

#### **Their method empirically fails time and time again – Can’t calculate subjective factors and models can’t reflect those inadequacies**

BERNSTEIN ET AL. ’00 --- Steven , Richard Ned Lebow, Janice Gross Stein and Steven Weber, University of Toronto, The Ohio State University, University of Toronto and University of California at Berkeley. European Journal of International Relations 2000; 6; 43.

A deep irony is embedded in the history of the scientific study of international relations. Recent generations of scholars separated policy from theory to gain an intellectual distance from decision-making, in the belief that this would enhance the 'scientific' quality of their work. But five decades of well-funded efforts to develop theories of international relations have produced precious little in the way of useful, high confidence results. Theories abound, but few meet the most relaxed 'scientific' tests of validity. Even the most robust generalizations or laws we can state — war is more likely between neighboring states, weaker states are less likely to attack stronger states — are close to trivial, have important exceptions, and for the most part stand **outside any consistent body of theory**. A generation ago, we might have excused our performance on the grounds that we were a young science still in the process of defining problems, developing analytical tools and collecting data. This excuse is neither credible nor sufficient; there is no reason to suppose that another 50 years of well-funded research would result in anything resembling a valid theory in the Popperian sense. We suggest that the nature, goals and criteria for judging social science theory should be rethought, if theory is to be more helpful in understanding the real world. We begin by justifying our pessimism, both conceptually and empirically, and argue that the quest for predictive theory**rests on a mistaken analogy**between physical and social phenomena. Evolutionary biology is a more productive analogy for social science. We explore the value of this analogy in its 'hard' and 'soft' versions, and examine the implications of both for theory and research in international relations.' We develop the case for forward `tracking' of international relations on the basis of local and general knowledge as an alternative to backward-looking attempts to build deductive, nomothetic theory. We then apply this strategy to some emerging trends in international relations. This article is not a nihilistic diatribe against 'modern' conceptions of social science. Rather, it is a plea for constructive humility in the current context of attraction to deductive logic, falsifiable hypothesis and large- n statistical 'tests' of narrow propositions. We propose a practical alternative for social scientists to pursue in addition, and in a complementary fashion, to `scientific' theory-testing. Physical and chemical laws make two kinds of predictions. Some phenomena — the trajectories of individual planets — can be predicted with a reasonable degree of certainty. Only a few variables need to be taken into account and they can be measured with precision. Other mechanical problems, like the break of balls on a pool table, while subject to deterministic laws, are inherently unpredictable because of their complexity. Small differences in the lay of the table, the nap of the felt, the curvature of each ball and where they make contact, amplify the variance of each collision and lead to what appears as a near random distribution of balls. Most predictions in science are probabilistic, like the freezing point of liquids, the expansion rate of gases and all chemical reactions. Point predictions appear possible only because of the large numbers of units involved in interactions. In the case of nuclear decay or the expansion of gases, we are talking about trillions of atoms and molecules. In international relations, even more than in other domains of social science, it is often impossible to assign metrics to what we think are relevant variables (Coleman, 1964: especially Chapter 2).The concepts of polarity, relative power and the balance of power are among the most widely used independent variables, but there are **no commonly accepted definitions or measures**for them. Yet without consensus on definition and measurement, almost every statement or **hypothesis will have too much wiggle room to be `tested'**decisively against evidence. What we take to be dependent variables fare little better. Unresolved controversies rage over the definition and evaluation of deterrence outcomes, and about the criteria for democratic governance and their application to specific countries at different points in their history. Differences in coding for even a few cases have significant implications for tests of theories of deterrence or of the democratic peace (Lebow and Stein, 1990; Chan, 1997). The lack of consensus about terms and their measurement is not merely the result of intellectual anarchy or sloppiness — although the latter cannot entirely be dismissed. Fundamentally, it has more to do with the arbitrary nature of the concepts themselves. Key terms in physics, like mass, temperature and velocity, refer to aspects of the physical universe that we cannot directly observe. However, they are embedded in theories with deductive implications that have been verified through empirical research. Propositions containing these terms are legitimate assertions about reality because their truth-value can be assessed. Social science theories are for the most part **built on 'idealizations', that is, on concepts that cannot be anchored to observable phenomena** through rules of correspondence. Most of these terms(e.g. rational actor, balance of power) are not descriptions of reality but implicit 'theories' about actors and contexts that do not exist

MARKED

 (Hempel, 1952; Rudner, 1966; Gunnell, 1975; Moe, 1979; Searle, 1995: 68-72).The inevitable differences in interpretation of these concepts lead to different predictions in some contexts, and these outcomes may eventually produce widely varying futures (Taylor, 1985: 55). If problems of definition, measurement and coding could be resolved, we would still find it difficult, if not impossible, to construct large enough samples of comparable cases to permit statistical analysis. It is now almost generally accepted that in the analysis of the causes of wars, the variation across time and the complexity of the interaction among putative causes make the likelihood of a general theory extraordinarily low. Multivariate theories run into the problem of negative degrees of freedom, yetinternational relations rarely generates data sets in the high double digits. Where larger samples do exist, they often group together cases that differ from one another in theoretically important ways.' Complexity in the form of multiple causation and equifinality can also make simple statistical comparisons misleading. But it is hard to elaborate more sophisticated statistical tests until one has a deeper baseline understanding of the nature of the phenomenon under investigation, as well as the categories and variables that make up candidate causes (Geddes, 1990: 131-50; Lustick, 1996: 505-18; Jervis, 1997). Wars — to continue with the same example — are similar to chemical and nuclear reactions in that they have underlying and immediate causes. Even when all the underlying conditions are present, these processes generally require a catalyst to begin. Chain reactions are triggered by the decay of atomic nuclei. Some of the neutrons they emit strike other nuclei prompting them to fission and emit more neutrons, which strike still more nuclei. Physicists can calculate how many kilograms of Uranium 235 or Plutonium at given pressures are necessary to produce a chain reaction. They can take it for granted that if a 'critical mass' is achieved, a chain reaction will follow. This is because trillions of atoms are present, and at any given moment enough of them will decay to provide the neutrons needed to start thereaction. In a large enough sample, catalysts will be present in a statistical sense. Wars involve relatively few actors. Unlike the weak force responsible for nuclear decay, their catalysts are probably not inherent properties of the units. Catalysts may or may not be present, and their potentially random distribution relative to underlying causes makes it difficult to predict when or if an appropriate catalyst will occur. If in the course of time underlying conditions change, reducing basic incentives for one or more parties to use force, catalysts that would have triggered war will no longer do so. This uncertain and evolving relationship between underlying and immediate causes makes point **prediction extraordinarily difficult**. It also makes more general statements about the causation of war problematic, since we have no way of knowing what wars would have occurred in the presence of appropriate catalysts. It isprobably impossible to define the universe of would-be wars or to construct a representative sample of them. Statistical inference requires knowledge about the state of independence of cases, but in a practical sense that knowledge is often impossible to obtain in the analysis of international relations. Molecules do not learn from experience. People do, or think they do. Relationships among cases exist in the minds of decision-makers, which makes it very hard to access that information reliably and for more than just a very small number of cases. We know that expectations and behavior are influenced by experience, one's own and others. The deterrence strategies pursued by the United States throughout much of the Cold War were one kind of response to the failure of appeasement to prevent World War II. Appeasement was at least in part a reaction to the belief of British leaders that the deterrent policies pursued by the continental powers earlier in the century had helped to provoke World War I. Neither appeasement nor deterrence can be explained without understanding the context in which they were formulated; that context is ultimately a set of mental constructs. We have descriptive terms like 'chain reaction' or 'contagion effect' to describe these patterns, and hazard analysis among other techniques in statistics to measure their strength. But neither explains how and why these patterns emerge and persist. The broader point is that the relationship between human beings and their environment is not nearly so reactive as with inanimate objects. Social relations are not clock-like because the values and behavioral repertories of actors are not fixed; people have memories, learn from experience and undergo shifts in the vocabulary they use to construct reality. Law-like relationships — even if they existed — could not explain the most interesting social outcomes, since these are precisely the outcomes about which actors have the most incentive to learn and adapt their behavior. Any regularities would be `soft'; they would be the outcome of processes that areembedded in history and have a short half-life. They would decay quickly because of the memories, creative searching and learning by political leaders. Ironically, the `findings' of social science contribute to this decay (Weber, 1969; Almond and Genco, 1977: 496-522; Gunnell, 1982: Ch. 2; Ball, 1987: Ch. 4; Kratochwil, 1989; Rorty, 1989; Hollis, 1994: Ch. 9). Beyond these conceptual and empirical difficulties lies a familiar but fundamental difference of purpose. Boyle's Law, half-lives, or any other scientific principle based on probability, says nothing about the behavior of single units such as molecules. For many theoretical and practical purposes this is adequate. But social science ultimately aspires — or should aspire —to provide insight into practical world problems that are generally part of a small or very small n. In international relations, the dynamicsa nd outcomes of single cases are often much more important than any statistical regularities. The conception of causality on which deductive-nomological models are based, in classical physics as well as social science, **requires empirical invariance** under specified boundary conditions. The standard form of such a statement is this — given A, B and C, if X then (not) Y.4 This kind of bounded invariance can be found in closed systems. Open systems can be influenced by external stimuli, and their structure and causal mechanisms evolve as a result. Rules that describe the functioning of an open system at time T do not necessarily do so at T + 1 or T + 2. The boundary conditions may have changed, rendering the statement irrelevant. Another axiomaticcondition may have been added, and the outcome subject to multiple conjunctural causation. There is no way to know this a priori from the causal statement itself. Nor will complete knowledge (if it were possible) about the system at time T necessarily allow us to project its future course of development. In a practical sense, all social systems (and many physical and biological systems) are open. Empirical invariance does not exist in such systems, andseemingly probabilistic invariances may be causally unrelated (Harre and Secord, 1973; Bhaskar, 1979; Collier, 1994; Patomaki, 1996; Jervis, 1997). As physicists readily admit, prediction in open systems, especially non-linear ones, is difficult, and often impossible. The risk in saying that social scientists can 'predict' the value of variables in past history is that the value of these variables is already known to us, and thus we are not really making predictions. Rather, we are trying to convince each other of the logic that connects a statement of theory to an expectation about the value of a variable that derives from that theory. As long as we can establish the parameters within which the theoretical statement is valid, which is a prerequisite of generating expectations in any case, this 'theory-testing' or 'evaluating' activity is not different in a logical sense when done in past or future time.

### Alt Solves Aff Everything Better – Inoguchi

#### The alt takes a stake only in nationalism --- 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.

### Policy

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

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

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

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

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

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

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

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

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

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

### Method K2 War

#### 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.

### Policy Bad – Biswas

#### You should reject calls for immediate yes/no policy action and instead adopt the role of a global intellectual---this is the only way to prevent the reconsolidation of empire and allow for ethical action in IR

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

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

### Can’t solve – State Anti-Epistemologies – Pugliese

#### State anti-epistemolies makes testing the aff impossible- the imperial executive rigs the game

Pugliese, 13 -- Macquarie University Cultural Studies professor

[Joseph, Macquarie University MMCCS (Media, Music, Communication and Cultural Studies) research director, *State Violence and the Execution of Law: Biopolitcal Caesurae of Torture, Black Sites, Drones,* 3-15-13, ebook accessed via EBL on 8-30-13, mss]

A constitutively incomplete scholarship: redactions, foreclosures, fragments

The work that unfolds in the chapters that follow is inscribed by a constitutively **incomplete** **scholarship**. This incompleteness is not due to the standard limitations imposed by time, word length and the other practical exigencies that impact on the process of scholarly research. Rather, this incompleteness is constitutive in quite another way. It is an incompleteness determined by the power of the state to impose fundamental omissions of information through the redaction of key documents, through the legal silencing of its agents and through the literal obliteration of evidence. **These** are all **techniques** of foreclosure that **establish the** **impossibility of disclosure**. In rhetorical terms, the redactions that score the legal texts that I examine operate as aposiopetic ﬁgures; ﬁgures that, in keeping with Greek etymology of the term, demand the keeping of silence. In their liquidation of linguistic meaning, they establish voids of signiﬁcation. Through the process of institutionalized censorship, they order into silence the voices of those subjects who might proceed to name the violence they perpetrated, while also nullifying the voices of the tortured. As rectilinear bars of blackness, the redactions that score the state’s declassiﬁed texts occlude the victims of state violence even as they neatly geometrize the disorder of torn flesh and violated bodies. The slabs of redaction encrypt the disappeared victims of torture in their textual black coffins. As such, they graphically exemplify the obliterative violence of law. These aposiopetic tracts are the textual and symbolic equivalent of the physical violence that is exercised by the state in order to silence its captives. Perhaps the most graphic incarnation of this transpired at Guantanamo, where a detainee, after an interrogation session, ‘began to yell (in Arabic): “Resist, Resist with all your might.”’102 The Interrogation Control Element Chief for Joint Task Force 170# GTMO ordered the detainee to be silenced with duct tape. In their Summarized Witness Statement, an unnamed agent recounts what they witnessed: "˜When I arrived at the interrogation room. I observed six or seven soldiers (or persons I believed were soldiers) laughing and pointing at something inside the room. When I looked inside I noticed a detainee with his entire head covered in duct tape . . . When I asked how he planned to take the tape off without hurting the detainee (the detainee had a beard and longer hair) [redacted] just laughed" The reduction of the detainee to a figure of bondage - short-shackled to the floor and manacled - is not adequate in confirming his status as captive. His face and voice, evidence of his human status, must be physically redacted. The taping of his entire head transmutes him into a faceless papier-machê mannequin. Even the most minimal sign of resistance, such as the exercise of the voice, IIILISI be subju- gated. The corporal economies of torture oscillate between the exercise of violence in order to extort confessions from broken bodies finally rendered docile and the exercise of violence to silence those insurgent bodies that refuse the order to be silent. The duct taping of the head of the detainee emblematizes the deployment of two violent modalities of torture: instrumental and gratuitous. Instrumental violence is produced by the direct application of tools and technologies - such as cables, pliers. electrodes and so on ~ onto the body of the victim in order to inflict pain. In this case the duct taping of the detainee's entire head directly produces a terrifying sense of asphyxiation. Gratuitous violence is a type of supplementary violence that results indirectly, after the fact of the application of instrumental violence. In this instance, the instrumentalized application of duct tape was principally driven by the desire to silence and subjugate the detainee. The ripping off of the duct tape and the tearing of his hair and beard will generate a violence that is wanton, augmenting the pain of having one's facial apertures sealed up. The end result is to confirm the detainee's status as subjugated object of violence. The US government’s power to withhold or destroy information runs the full gamut of censorial practices -- from the ludicrous to the indefensible. The CIA, for example, has exercised an impressive commitment to linguistic probity by insisting on the redaction of such disturbing terms as ‘rot,’ ‘shithole’ and ‘urinal’ from the testimony of one its former interrogators.104 It has also overseen the wholesale destruction of 92 videos that document the torture practices inflicted on their victims; torture practices that allegedly ‘went even beyond those approved by the expansive Yoo and Bybee Torture Memos.’105 **These censorial practices have fundamentally determined the very material conditions of possibility of** my **research**. They have produced a complex textual field inscribed by gaps,

MARKED

silences and the contingent fragments of knowledge that have managed to enter the public domain despite the censorial power of the state. And I refer here to the extraordinary work of individuals - such as Bradley Manning, who is himself now a victim of the state`s punitive regime of cruel and degrading punishment - or organizations, such as WikiLeaks, that have defied the censorial power of the state in order to make public texts that document the full extent of the state's violent practices and that compel its witnesses to call it to account. The work of these whistle- blowers and activists evidences the fact that the state is not an impervious monolith of repressive power but that, on the contrary, much as it strives to be unilateral in its actions and monologic in its enunciations, the state cannot completely master its heterogeneous agents or silence its heteroglossic voices. In the chapters that follow, I draw heavily on the texts that document the operations of the state in executing and exceeding its laws. I also, however, take the time to reflect critically on the materiality of the absences that mark my field of study by focusing specifically on the redactions that score a number of the key state documents to which I refer. These redactions, as I argue in Chapter 5, visibly signify both the sovereign power of the state and its insecurity. I read these redactions as techniques designed to manage, control and, where necessary, to obliterate knowledge altogether. In effect, these **redactions** function to **constitute the opposite of epistemology: they generate official systems of unknowing, anti-epistemologies that consign the reading subject to** **ignorance and unknowledge**. Faced with these lacunae, I attempt to unsettle the anti-epistemological practices of redaction by reading the very processes of redaction as symbolic instantiations of state violence: they reproduce, textually, their own figural black sites that effectively occlude the names of the agents responsible for the torture practices, even as they also become the black holes to which are dispatched the victims of such practices. Against the grain, then, I read these black sites of redaction as the textual and symbolic equivalent to the material black site prisons run by the state. The anti-epistemological violence of these sites of redaction works in tandem with the ontological violence that the state visits upon its embodied subjects.

### Liberal Interantionalism Violent

#### It’s wrong

**Gray ’11** (Delusions of peace JOHN GRAY 21st September 2011 — Issue 187 Steven Pinker argues that we are becoming less violent. Nonsense, says John Gray John Gray's review in Prospect magazine

“Today we take it for granted that war happens in smaller, poorer and more backward countries,” Steven Pinker writes in his new book, The Better Angels of Our Nature: the Decline of Violence in History and Its Causes. The celebrated Harvard professor of psychology is discussing what he calls “the Long Peace”: the period since the end of the second world war in which “the great powers, and developed states in general, have stopped waging war on one another.” As a result of “this blessed state of affairs,” he notes, “two entire categories of war—the imperial war to acquire colonies, and the colonial war to keep them—no longer exist.” Now and then there have been minor conflicts. “To be sure, [the super-powers] occasionally fought each other’s smaller allies and stoked proxy wars among their client states.” But these episodes do not diminish Pinker’s enthusiasm about the Long Peace. Chronic warfare is only to be expected in backward parts of the world. “Tribal, civil, private, slave-raiding, imperial, and colonial wars have inflamed the territories of the developing world for millennia.” In more civilised zones, war has all but disappeared. There is nothing inevitable in the process; major wars could break out again, even among the great powers. But the change in human affairs that has occurred is fundamental. “An underlying shift that supports predictions about the future,” the Long Peace points to a world in which violence is in steady decline. A sceptical reader might wonder whether the outbreak of peace in developed countries and endemic conflict in less fortunate lands might not be somehow connected. Was the immense violence that ravaged southeast Asia after 1945 a result of immemorial backwardness in the region? Or was a subtle and refined civilisation wrecked by world war and the aftermath of decades of neo-colonial conflict—as Norman Lewis intimated would happen in his prophetic account of his travels in the region, A Dragon Apparent (1951)? It is true that the second world war was followed by over 40 years of peace in North America and Europe—even if for the eastern half of the continent it was a peace that rested on Soviet conquest. But there was no peace between the powers that had emerged as rivals from the global conflict. **In much the same way that rich societies exported their pollution to developing countries, the societies of the highly-developed world exported their conflicts. They were at war with one another the entire time—not only in Indo-China but in other parts of Asia, the Middle East, Africa and Latin America.** The Korean war, the Chinese invasion of Tibet, British counter-insurgency warfare in Malaya and Kenya, the abortive Franco-British invasion of Suez, the Angolan civil war, decades of civil war in the Congo and Guatemala, the Six Day War, the Soviet invasion of Hungary in 1956 and of Czechoslovakia in 1968, the Iran-Iraq war and the Soviet-Afghan war—these **are only some of the armed conflicts through which the great powers pursued their rivalries** while avoiding direct war with each other. **When the end of the Cold War removed the Soviet Union from the scene, war did not end. It continued in the first Gulf war, the Balkan wars, Chechnya, the Iraq war and in Afghanistan and Kashmir, among other conflicts.** **Taken together these conflicts add up to a formidable sum of violence. For Pinker they are** minor, **peripheral** and hardly worth mentioning. The real story, for him, is the outbreak of peace in advanced societies, a shift that augurs an unprecedented transformation in human affairs. \*\*\* While Pinker makes a great show of relying on evidence—the 700-odd pages of this bulky treatise are stuffed with impressive-looking graphs and statistics—his argument that violence is on the way out does not, in the end, rest on scientific investigation. He cites numerous reasons for the change, including increasing wealth and the spread of democracy. For him, none is as important as the adoption of a particular view of the world: “

MARKED

The reason so many violent institutions succumbed within so short a span of time was that the arguments that slew them belong to a coherent philosophy that emerged during the Age of Reason and the Enlightenment. The ideas of thinkers like Hobbes, Spinoza, Descartes, Locke, David Hume, Mary Astell, Kant, Beccaria, Smith, Mary Wollstonecraft, Madison, Jefferson, Hamilton and John Stuart Mill coalesced into a worldview that we can call Enlightenment humanism.” (The italics are Pinker’s.) Yet these are highly disparate thinkers, and it is far from clear that any coherent philosophy could have “coalesced” from their often incompatible ideas. The difficulty would be magnified if Pinker included Marx, Bakunin and Lenin, who undeniably belong within the extended family of intellectual movements that comprised the Enlightenment, but are left off the list. Like other latter-day partisans of “Enlightenment values,” Pinker prefers to ignore the fact that many Enlightenment thinkers have been doctrinally anti-liberal, while quite a few have favoured the large-scale use of political violence, from the Jacobins who insisted on the necessity of terror during the French revolution, to Engels who welcomed a world war in which the Slavs—“aborigines in the heart of Europe”—would be wiped out. **The idea that a new world can be constructed through the rational application of force is peculiarly modern, animating ideas of revolutionary war and pedagogic terror that feature in an influential tradition of radical Enlightenment thinking**. Downplaying this tradition is extremely important for Pinker. Along with liberal humanists everywhere, he regards the core of the Enlightenment as a commitment to rationality. The fact that prominent Enlightenment figures have favoured violence as an instrument of social transformation is—to put it mildly—inconvenient. There is a deeper difficulty. Like so many contemporary evangelists for humanism, Pinker takes for granted that science endorses an Enlightenment account of human reason. Since science is a human creation, how could humans not be rational? Surely science and humanism are one and the same. Actually it’s extremely curious—though entirely typical of current thinking—that science should be linked with humanism in this way. A method of inquiry rather than a settled view of the world, there can be no guarantee that science will vindicate Enlightenment ideals of human rationality. Science could just as well end up showing them to be unrealisable. Admittedly, this was not a conflict that faced any of the thinkers Pinker cites. None of them based their view of the human animal on the findings of science. The Origin of Species appeared in the same year as John Stuart Mill’s On Liberty (1859), but the most influential liberal humanist (who died in 1873) never mentioned Darwin in his seminal works. Although Mill wrote extensively on the need for “moral science,” his view of human beings was a mix of classical philosophy (especially Aristotle) and the ideas of personal development he imbibed from the Romantics. Mill never considered the possibility that his view of human beings could be falsified by scientific investigation. Still, one must not judge him too harshly. He did not have to consider whether his view of humankind squared with science because the science of evolution was only just coming into being. Pinker and his fellow humanists have no such excuse today. Evolutionary psychology is in its infancy, and much of what passes for knowledge in the subject is not much more than speculation—or worse. There have been countless attempts to apply evolutionary theory to social life but, since there is no mechanism in society comparable to natural selection in biology, they have produced only a succession of misleading metaphors, in which social systems are mistakenly viewed as living organisms. Indeed, if there is anything of substance to be derived from an evolutionary view of the human mind, it must be the persistence of unreason. As the related discipline of behavioural finance has shown in some detail with regard to decision-making under conditions of risk and uncertainty, human thought and perception are riddled with bias, inconsistency and self-deception. Since our minds are animal minds—as Darwin argued in The Expression of the Emotions in Man and Animals (1872)—things could hardly be otherwise. Shaped by imperatives of survival, the human mind will not normally function as an organ for seeking out the truth. If science is the pursuit of truth—an assumption that begs some tricky questions—it doesn’t follow that anything similar is possible in other areas of human life. The idea that humans can shape their lives by the use of reason is an inheritance from rationalist philosophy that does not fit easily with what we know of the evolution of our mammalian brain. The end result of scientific inquiry may well be that irrational beliefs are humanly indispensable. Science and humanism are at odds more often than they are at one. For a devoted Darwinist like Pinker to maintain that the world is being pacified by the spread of a particular world view is deeply ironic. There is nothing in Darwinism to suggest that ideas and beliefs can transform human life. To be sure, there have been attempts to formulate an idea of progress in terms of competing memes—vaguely defined concepts or units of meaning that are held to be in some ways akin to genes—although nothing like a scientific theory has been developed. Even if there were such things as memes and they did somehow compete with one another, there is nothing to say that benign memes would be the winners. Quite to the contrary, if history is any guide. Racist ideas are extremely resilient and highly contagious, as is shown by the re-emergence of xenophobic ethnic nationalism and antisemitism in post-communist Europe. So are utopian ideas, which have resurfaced in neoconservative thinking about regime change. The recurrent appearance of these memes suggests that outside of some fairly narrowly defined areas of scientific investigation, progress is at best fitful and elusive. Science may be the cumulative elimination of error, but the human fondness for toxic ideas is remarkably constant. The irony is compounded when we recall that Pinker achieved notoriety through his attempt to reinstate the idea that the human mind is fixed and limited. His bestseller The Blank Slate: The Modern Denial of Human Nature (2002), an assault on the idea that human behaviour is indefinitely malleable, was controversial for several reasons—not least for its attack on the belief that pre-agricultural cultures were inherently peaceable. The book provoked a storm of criticism from liberal humanists who sensed—rightly—that this emphasis on the constancy of human nature limited the scope of future human advance. Pinker seems to have come to share this anxiety, and the present volume is the result. The decline of violence posited in The Better Angels of Our Nature is a progressive transformation of precisely the kind his earlier book seemed to preclude. But the contradiction in which Pinker is stuck is not his alone. It afflicts anyone who tries to combine rigorous Darwinism with a belief in moral progress. Darwinism is unlikely to be the last word on evolution and, rather than identifying universal laws of natural selection, it may only apply in our corner of the universe. But if Darwin’s theory is even approximately right, there can be no rational basis for expecting any revolution in human behaviour. \*\*\* This is a troubling truth for humanists, including Pinker. It can be avoided only by pointing to some kind of ongoing evolution in humans, and Pinker is now ready to entertain “the possibility that in recent history Homo Sapiens has literally evolved to become less violent in the biologist’s technical sense of a change in our genome.” He concludes that there is very little evidence that this is so, but the fact that he takes the possibility seriously is telling. Social violence is coeval with the human species. This is not because humans have always been driven by an inbuilt instinct of aggression. Some of the impulses we inherit from our evolutionary past may incline us to conflict, but others— “the better angels of our nature,” as Abraham Lincoln called them—incline us to peaceful cooperation. In order to show that conflicts between the two will in future increasingly be settled in favour of peace, Pinker needs to be able to identify some very powerful trends. He does his best, but the changes to which he points—the spread of democracy and the increase of wealth, for example—are more problematic than he realises. The formation of democratic nation-states was one of the principal drivers of violence of the last century, involving ethnic cleansing in inter-war Europe, post-colonial states and the post-communist Balkans. Steadily-growing prosperity may act as a kind of tranquilliser, but there is no reason to think the increase of wealth can go on indefinitely—and when it falters violence will surely return. In quite different ways, attacks on minorities and immigrants by neo-fascists in Europe, the popular demonstrations against austerity in Greece and the English riots of the past summer show the disruptive and dangerous impact of sudden economic slowdown on social peace. All the trends that supposedly lie behind the Long Peace are contingent and reversible. Hobbes is cited more than once by Pinker, but he misses Hobbes’s most important insight: that even if humans were not moved by the pursuit of power and glory, scarcity and uncertainty would drive them repeatedly into conflict with one another. Recurrent violence is a result of the normal disorder of human life. In some ways Hobbes—an early Enlightenment thinker and an intrepid rationalist—was overly sanguine about the capacity of humans to lift themselves out of conflict. Envisioning a social contract in which the power of violence is handed over to a peace-making state, he failed to take account of the fact that humans adapt to violence and often turn it into a way of life. (The novelist Cormac McCarthy presents an image of such a way of life in Blood Meridian, his fictional recreation of the mid-19th century American-Mexican borderlands.) When it is not a way of life, violence is often simply a method. Suicide bombing is morally repugnant but it is also cheap and highly effective, deploying an abundant and easily replaceable resource—human life—to achieve objectives that could be compromised if the perpetrators survived to be captured and interrogated. Humans use violence for many reasons, and everything points to their doing so for the foreseeable future. No doubt we have become less violent in some ways. But it is easy for liberal humanists to pass over the respects in which civilisation has retreated. Pinker is no exception. Just as he writes off mass killing in developing countries as evidence of backwardness without enquiring whether it might be linked in some way to peace in the developed world, he celebrates “recivilisation” in America without much concern for those who pay the price of the recivilising process. Focusing on large, ill-defined cultural changes—a decline of the values of respectability and self-control in the 1960s, for example, which he tells us resulted from the influence of “the counterculture”—his analysis has a tabloid flavour, not improved by his repeated recourse to not always very illuminating statistics. One set of numbers does stand out, however. “By the early 1990s Americans had gotten sick of the muggers, vandals and drive-by shootings.” The result is clear: “Today more than two million Americans are in jail, the highest incarceration rate on the planet. This works out to three-quarters of a percent of the entire population and a much larger percentage of young men, especially African Americans.” (Again the italics are Pinker’s.) The astonishing numbers of black young men in jail in the US is due to the disproportionate impact on black people of the “decivilising process,” notably the high rate of black children born out of wedlock and what Pinker sees as the resulting potential for violence in families (black or white) that lack the civilising influence of women. While “massive imprisonment” has not reversed this trend, it “removes the most crime-prone individuals from the streets, incapacitating them.” America’s experiment in mass incarceration is, apparently, an integral part of the recivilising process. The vast growth of the American penal state, reaching a size not achieved in any other country, does not immediately present itself as an advance in civilisation. A large part of the rise in the prison population has to do with America’s repressive policies on drugs, which Pinker endorses when he observes: “A regime that trawls for drug users or other petty delinquents will net a certain number of violent people as a by-catch, further thinning the ranks of the violent people who remain on the streets.” While it may be counter-productive in regard to its stated goal of controlling drugs use, it seems America’s prohibitionist regime offers a useful means of banging up troublesome people. The possibility that mass incarceration of young males may be in some way linked with family breakdown is not considered. Highly uneven access to education, disappearing low-skill jobs, cuts in welfare and greatly increased economic inequality are also disregarded, even though these factors go a long way in explaining why there are so many poor blacks and so few affluent whites in prison in America today. Talking to the vacuum cleaner salesman and part-time British agent James Wormold in Graham Greene’s Our Man in Havana, the Cuban secret policeman Captain Segura refers to “the torturable class”: those, chiefly the poor, who expect to be tortured and who (according to Segura) accept the fact. The poor in America may not fall exactly into this category—even if some of the practices to which they are subject in US prisons are not far from torture. But there is certainly an imprisonable class in the United States, largely composed of people that Pinker describes as decivilised, and once they have been defined in this way there is a kind of logic in consigning this category of human beings to the custody of America’s barbaric justice system. Pinker’s attempt to ground the hope of peace in science is profoundly instructive, for it testifies to our enduring need for faith. We don’t need science to tell us that humans are violent animals. History and contemporary experience provide more than sufficient evidence. For liberal humanists, the role of science is, in effect, to explain away this evidence. They look to science to show that, over the long run, violence will decline—hence the panoply of statistics and graphs and the resolute avoidance of inconvenient facts. The result is no more credible than the efforts of Marxists to show the scientific necessity of socialism, or free-market economists to demonstrate the permanence of what was until quite recently hailed as the Long Boom. The Long Peace is another such delusion, and just as ephemeral.

### Ikenberry Goes Neg

#### Ikenberry definitely is a negative argument --- it only makes a uniqueness argument for us but that there is a US-led system

Ikenberry 11

John, “The Future of the Liberal World Order” [http://www.foreignaffairs.com/articles/67730/g-john-ikenberry/the-future-of-the-liberal-world-order] May/June //mtc

THE LIBERAL ASCENDANCY¶ China and the other emerging powers do not face simply an American-led order or a Western system. They face a broader international order that is the product of centuries of struggle and innovation. It is highly developed, expansive, integrated, institutionalized, and deeply rooted in the societies and economies of both advanced capitalist states and developing states. And over the last half century, this order has been unusually capable of assimilating rising powers and reconciling political and cultural diversity.¶ Today's international order is the product of two order-building projects that began centuries ago. One is the creation and expansion of the modern state system, a project dating back to the Peace of Westphalia in 1648. In the years since then, the project has promulgated rules and principles associated with state sovereignty and norms of great-power conduct. The other project is the construction of the liberal order, which over the last two centuries was led by the United Kingdom and the United States and which in the twentieth century was aided by the rise of liberal democratic states. The two projects have worked together. The Westphalian project has focused on solving the "realist" problems of creating stable and cooperative interstate relations under conditions of anarchy, and the liberal-order-building project has been possible only when relations between the great powers have been stabilized. The "problems of Hobbes," that is, anarchy and power insecurities, have had to be solved in order to take advantage of the "opportunities of Locke," that is, the construction of open and rule-based relations.¶ At the heart of the Westphalian project is the notion of state sovereignty and great-power relations. The original principles of the Westphalian system -- sovereignty, territorial integrity, and nonintervention -- reflected an emerging consensus that states were the rightful political units for the establishment of legitimate rule. Founded in western Europe, the Westphalian system has expanded outward to encompass the entire globe. New norms and principles -- such as self-determination and mutual recognition among sovereign states -- have evolved within it, further reinforcing the primacy of states and state authority. Under the banners of sovereignty and self-determination, political movements for decolonization and independence were set in motion in the non-Western developing world, coming to fruition in the decades after World War II. Westphalian norms have been violated and ignored, but they have, nonetheless, been the most salient and agreed-on parts of the international order.¶ A succession of postwar settlements -- Vienna in 1815, Versailles in 1919, Yalta and Potsdam in 1945, and the U.S., Soviet, and European negotiations that ended the Cold War and reunified Germany in the early 1990s -- allowed the great powers to update the principles and practices of their relations. Through war and settlement, the great powers learned how to operate within a multipolar balance-of-power system. Over time, the order has remained a decentralized system in which major states compete and balance against one another. But it has also evolved. The great powers have developed principles and practices of restraint and accommodation that have served their interests. The Congress of Vienna in 1815, where post-Napoleonic France was returned to the great-power club and a congress system was established to manage conflicts, and the UN Security Council today, which has provided a site for great-power consultations, are emblematic of these efforts to create rules and mechanisms that reinforce restraint and accommodation.¶ The project of constructing a liberal order built on this evolving system of Westphalian relations. In the nineteenth century, liberal internationalism was manifest in the United Kingdom's championing of free trade and the freedom of the seas, but it was limited and coexisted with imperialism and colonialism. In the twentieth century, the United States advanced the liberal order in several phases. After World War I, President Woodrow Wilson and other liberals pushed for an international order organized around a global collective-security body, the League of Nations, in which states would act together to uphold a system of territorial peace. Open trade, national self-determination, and a belief in progressive global change also undergirded the Wilsonian worldview -- a "one world" vision of nation-states that would trade and interact in a multilateral system of laws. But in the interwar period of closed economic systems and imperial blocs, this experiment in liberal order collapsed.¶ After World War II, President Franklin Roosevelt's administration tried to construct a liberal order again, embracing a vision of an open trading system and a global organization in which the great powers would cooperate to keep the peace -- the United Nations. Drawing lessons from Wilson's failure and incorporating ideas from the New Deal, American architects of the postwar order also advanced more ambitious ideas about economic and political cooperation, which were embodied in the Bretton Woods institutions. This vision was originally global in spirit and scope, but it evolved into a more American-led and Western-centered system as a result of the weakness of postwar Europe and rising tensions with the Soviet Union. As the Cold War unfolded, the United States took command of the system, adopting new commitments and functional roles in both security and economics. Its own economic and political system became, in effect, the central component of the larger liberal hegemonic order.¶ Another development of liberal internationalism was quietly launched after World War II, although it took root more slowly and competed with aspects of the Westphalian system. This was the elaboration of the universal rights of man, enshrined in the UN and its Universal Declaration of Human Rights. A steady stream of conventions and treaties followed that together constitute an extraordinary vision of rights, individuals, sovereignty, and global order. In the decades since the end of the Cold War, notions of "the responsibility to protect" have given the international community legal rights and obligations to intervene in the affairs of sovereign states.¶ Seen in this light, the modern international order is not really American or Western -- even if, for historical reasons, it initially appeared that way. It is something much wider. In the decades after World War II, the United States stepped forward as the hegemonic leader, taking on the privileges and responsibilities of organizing and running the system. It presided over a far-flung international order organized around multilateral institutions, alliances, special relationships, and client states -- a hierarchical order with liberal characteristics.¶ But now, as this hegemonic organization of the liberal international order starts to change, the hierarchical aspects are fading while the liberal aspects persist. So even as China and other rising states try to contest U.S. leadership -- and there is indeed a struggle over the rights, privileges, and responsibilities of the leading states within the system -- the deeper international order remains intact. Rising powers are finding incentives and opportunities to engage and integrate into this order, doing so to advance their own interests. For these states, the road to modernity runs through -- not away from -- the existing international order