## 2AC

### Security

#### Threats are real

**Schweller 4** [Randall L. Schweller, Associate Professor in the Department of Political Science at The Ohio State University, “Unanswered Threats A Neoclassical RealistTheory of Underbalancing,” International Security 29.2 (2004) 159-201, Muse]

Despite the historical frequency of underbalancing, little has been written on the subject. Indeed, Geoffrey Blainey's memorable observation that for "every thousand pages published on the causes of wars there is less than one page directly on the causes of peace" could have been made with equal veracity about overreactions to threats as opposed to underreactions to them.92 Library shelves are filled with books on the causes and dangers of exaggerating threats, ranging from studies of domestic politics to bureaucratic politics, to political psychology, to organization theory. By comparison, there have been few studies at any level of analysis or from any theoretical perspective that directly explain why states have with some, if not equal, **regularity underestimated dangers to their survival**. There may be some cognitive or normative bias at work here. Consider, for instance, that there is a commonly used word, paranoia, for the unwarranted fear that people are, in some way, "out to get you" or are planning to do oneharm. I suspect that just as many people are afflicted with the opposite psychosis: the delusion that everyone loves you when, in fact, they do not even like you. Yet, we do not have a familiar word for this phenomenon. Indeed, I am unaware of any word that describes this pathology (hubris and overconfidence come close, but they plainly define something other than what I have described). That noted, international relations theory does have a frequently used phrase for the pathology of states' underestimation of threats to their survival, the so-called Munich analogy. The term is used, however, in a disparaging way by theorists to ridicule those who employ it. The central claim is that the naïveté associated with Munich and the outbreak of World War II has become an overused and inappropriate analogy because few leaders are as evil and unappeasable as Adolf Hitler. Thus, the analogy either mistakenly causes leaders [End Page 198] to adopt hawkish and overly competitive policies or is deliberately used by leaders to justify such policies and mislead the public. A more compelling explanation for the paucity of studies on underreactions to threats, however, is the tendency of theories to reflect contemporary issues as well as the desire of theorists and journals to provide society with policy- relevant theories that may help resolve or manage urgent security problems. Thus, born in the atomic age with its new balance of terror and an ongoing Cold War, the field of security studies has naturally produced theories of and prescriptions for national security that have had little to say about—and are, in fact, heavily biased against warnings of—the dangers of underreacting to or underestimating threats. After all, the nuclear revolution was not about overkill but, as Thomas Schelling pointed out, speed of kill and mutual kill.93 Given the apocalyptic consequences of miscalculation, accidents, or inadvertent nuclear war, small wonder that theorists were more concerned about overreacting to threats than underresponding to them. At a time when all of humankind could be wiped out in less than twenty-five minutes, theorists may be excused for stressing the benefits of caution under conditions of uncertainty and erring on the side of inferring from ambiguous actions overly benign assessments of the opponent's intentions. The overwhelming fear was that a crisis "might unleash forces of an essentially military nature that overwhelm the political process and bring on a war thatnobody wants. Many important conclusions about the risk of nuclear war, and thus about the political meaning of nuclear forces, rest on this fundamental idea."94 Now that the Cold War is over, we can begin to redress these biases in the literature. In that spirit, I have offered a domestic politics model to explain why threatened states often fail to adjust in a prudent and coherent way to dangerous changes in their strategic environment. The model fits nicely with recent realist studies on imperial under- and overstretch. Specifically, it is consistent with Fareed Zakaria's analysis of U.S. foreign policy from 1865 to 1889, when, he claims, the United States had the national power and opportunity to expand but failed to do so because it lacked sufficient state power (i.e., the state was weak relative to society).95 Zakaria claims that the United States did [End Page 199] not take advantage of opportunities in its environment to expand because it lacked the institutional state strength to harness resources from society that were needed to do so. I am making a similar argument with respect to balancing rather than expansion: incoherent, fragmented states are unwilling and unable to balance against potentially dangerous threats because elites view the domestic risks as too high, and they are unable to mobilize the required resources from a divided society. The arguments presented here also suggest that elite fragmentation and disagreement within a competitive political process, which Jack Snyder cites as an explanation for overexpansionist policies, are more likely to produce underbalancing than overbalancing behavior among threatened incoherent states.96 This is because a balancing strategy carries certain political costs and risks with few, if any, compensating short-term political gains, and because the strategic environment is always somewhat uncertain. Consequently, logrolling among fragmented elites within threatened states is more likely to generate overly cautious responses to threats than overreactions to them. This dynamic captures the underreaction of democratic states to the rise of Nazi Germany during the interwar period.97 In addition to elite fragmentation, I have suggested some basic domestic-level variables that regularly intervene to thwart balance of power predictions

#### Reps don’t shape reality

**Jarvis, 00** (Darryl, lecturer in IR at the University of Sydney, International relations and the challenge of postmodernism, 2000, p. 128-130)

Perhaps more alarming though is the outright violence Ashley recom-mends in response to what at best seem trite, if not imagined, injustices. Inculpating modernity, positivism, technical rationality, or realism with violence, racism, war, and countless other crimes not only smacks of anthropomorphism but, as demonstrated by Ashley's torturous prose and reasoning, requires a dubious logic to malce such connections in the first place. Are we really to believe that ethereal entities like positivism, mod-ernism, or realism emanate a "violence" that marginalizes dissidents? Indeed, where is this violence, repression, and marginalization? As self- professed dissidents supposedly exiled from the discipline, Ashley and Walker appear remarkably well integrated into the academy-vocal, pub-lished, and at the center of the Third Debate and the forefront of theo-retical research. Likewise, is Ashley seriously suggesting that, on the basis of this largely imagined violence, global transformation (perhaps even rev-olutionary violence) is a necessary, let alone desirable, response? Has the rationale for emancipation or the fight for justice been reduced to such vacuous revolutionary slogans as "Down with positivism and rationality"? The point is surely trite. Apart from members of the academy, who has heard of positivism and who for a moment imagines that they need to be emancipated from it, or from modernity, rationality, or realism for that matter? In an era of unprecedented change and turmoil, of new political and military configurations, of war in the Balkans and ethnic cleansing, is Ashley really suggesting that some of the greatest threats facing humankind or some of the great moments of history rest on such innocu-ous and largely unknown nonrealities like positivism and realism? These are imagined and fictitious enemies, theoretical fabrications that represent arcane, self-serving debates superfluous to the lives of most people and, arguably, to most issues of importance in international relations. More is the pity that such irrational and obviously abstruse debate should so occupy us at a time of great global turmoil. That it does and continues to do so reflects our lack of judicious criteria for evaluating the-ory and, more importantly, the lack of attachment theorists have to the real world. Certainly it is right and proper that we ponder the depths of our theoretical imaginations, engage in epistemological and ontological debate, and analyze the sociology of our lmowledge.37 But to suppose that this is the only task of international theory, let alone the most important one, smacks of intellectual elitism and displays a certain contempt for those who search for guidance in their daily struggles as actors in international politics. What does Ashley's project, his deconstructive efforts, or valiant fight against positivism say to the truly marginalized, oppressed, and des-titute? How does it help solve the plight of the poor, the displaced refugees, the casualties of war, or the emigres of death squads? Does it in any way speak to those whose actions and thoughts comprise the policy and practice of international relations? On all these questions one must answer no. This is not to say, of course, that all theory should be judged by its technical rationality and problem-solving capacity as Ashley forcefully argues. But to suppose that problem-solving technical theory is not necessary-or is in some way bad-is a contemptuous position that abrogates any hope of solving some of the nightmarish realities that millions confront daily. As Holsti argues, we need ask of these theorists and their theories the ultimate question, "So what?" To what purpose do they deconstruct, problematize, destabilize, undermine, ridicule, and belittle modernist and rationalist approaches? Does this get us any further, make the world any better, or enhance the human condition? In what sense can this "debate toward [a] bottomless pit of epistemology and metaphysics" be judged pertinent, relevant, help-ful, or cogent to anyone other than those foolish enough to be scholasti-cally excited by abstract and recondite debate.38 Contrary to Ashley's assertions, then, poststructural approach a fails to empower the marginalized and, in fact, abandons them. Rather than ana-lyze the political economy of power, wealth, oppression, production, or international relations and render an intelligible understanding of these processes, Ashley succeeds in ostracizing those he portends to represent by delivering an obscure and highly convoluted discourse. If Ashley wishes to chastise structural realism for its abstractness and detachment, he must be prepared also to face similar criticism, especially when he so adamantly intends his work to address the real life plight of those who struggle at marginal places. If the relevance of Ashley's project is questionable, so too is its logic and cogency. First, we might ask to what extent the postmodern "empha-sis on the textual, constructed nature of the world" represents "an unwar-ranted extension of approaches appropriate for literature to other areas of human practice that are more constrained by an objective reality. "39 All theory is socially constructed and realities like the nation-state, domestic and international politics, regimes, or transnational agencies are obviously social fabrications. But to what extent is this observation of any real use? Just because we acknowledge that the state is a socially fabricated entity, or that the division between domestic and international society is arbitrar-ily inscribed does not make the reality of the state disappear or render invisible international politics. Whether socially constructed or objectively given, the argument over the ontological status of the state is of no particular moment. Does this change our experience of the state or somehow diminish the political-economic-juridical-military functions of the state? To recognize that states are not naturally inscribed but dynamic entities continually in the process of being made and reimposed and are therefore culturally dissimilar, economically different, and politically atypical, while perspicacious to our historical and theoretical understanding of the state, in no way detracts from its reality, practices, and consequences. Similarly, few would object to Ashley's hermeneutic interpretivist understanding of the international sphere as an artificially inscribed demarcation. But, to paraphrase Holsti again, so what? This does not malce its effects any less real, diminish its importance in our lives, or excuse us from paying serious attention to it. That international politics and states would not exist with-out subjectivities is a banal tautology. The point, surely, is to move beyond this and study these processes. Thus, while intellectually interesting, con-structivist theory is not an end point as Ashley seems to think, where we all throw up our hands and announce there are no foundations and all real-ity is an arbitrary social construction. Rather, it should be a means of rec-ognizing the structurated nature of our being and the reciprocity between subjects and structures through history. Ashley, however, seems not to want to do this, but only to deconstruct the state, international politics, and international theory on the basis that none of these is objectively given but fictitious entities that arise out of modernist practices of representa-tion. While an interesting theoretical enterprise, it is of no great conse- quence to the study of international politics. Indeed, structuration theory has long talcen care of these ontological dilemmas that otherwise seem to preoccupy Ashley.40

#### Prefer aff falsifiability – it disproves their methodology only a risk that the aff is true \

Coyne ‘6 (Jerry A., Author and Writer for the Times, “A plea for empiricism”, FOLLIES OF THE WISE, Dissenting essays, 405pp. Emeryville, CA: Shoemaker and Hoard, 1 59376 101 5)

My discomfort with Freud’s lack of rigour only grew as I continued to read his books and case histories. The latter were especially problematic: surely there were better explanations of Little Hans’s fear of horses than their symbolic representation of his father, haunting Hans with the threat of retaliation for his Oedipal fantasies. (It has since more plausibly been suggested that Hans was simply traumatized after seeing a horse collapse in the street.) Was Freud making it all up as he went along? Or did I have a personality flaw that blinded me to the power of his contributions? After all, he is touted (along with Darwin and Marx) as one of the three greatest modern thinkers, and only a hermit could be unaware of how deeply his ideas permeate Western society. Fortunately, Frederick Crews has made a much more thorough study of Freud, distilling and interpreting not only his whole corpus but also the past three decades of Freud scholarship. His conclusion is that Freud was indeed making it up as he went along. In Follies of the Wise, Crews takes on not only Freud and psychoanalysis, but also other fields of intellectual inquiry which have caused rational people to succumb to irrational ideas: recovered-memory therapy, alien abduction, theosophy, Rorschach inkblot analysis, intelligent design creationism, and even poststructuralist literary theory. All of these, asserts Crews, violate “the ethic of respecting that which is known, acknowledging what is still unknown, and acting as if one cared about the difference”. This, then, is a collection about epistemology, and one that should be read by anyone still harbouring the delusion that Freud was an important thinker, that psychoanalysis is an important cure, that intelligent design is a credible alternative to Darwinism, or that religion and science can coexist happily. It is perhaps strange that a retired professor of literature should become our preeminent critic of Freudianism and other intellectual follies on empirical grounds. But Crews has a keen mind, whetted by decades of arguing about the meaning of American literature, a scientific temperament, and is a fine prose stylist. And his credentials, at least for criticizing Freud, are authenticated by the fact that he was once an ardent Freudian, having written a psychoanalytic analysis of Nathaniel Hawthorne (The Sins of the Fathers, 1966), and then later disowned much of that book after developing misgivings about Freud’s system. Laid out in the first four essays, Crews’s brief against Freud is hard to refute. Through Freud’s letters and documents, Crews reveals him to be not the compassionate healer of legend, but a cold and calculating megalomaniac, determined to go down in history as the Darwin of the psyche. Not only did he not care about patients (he sometimes napped or wrote letters while they were free-associating): there is no historical evidence that he effectively cured any of them. And the propositions of psychoanalysis have proven to be either untestable or falsified. How can we disprove the idea, for example, that we have a death drive? Or that dreams always represent wish fulfilments? When faced with counter-examples, Freudianism always proves malleable enough to incorporate them as evidence for the theory. Other key elements of Freudian theory have never been corroborated. There are no scientifically convincing experiments, for example, demonstrating the repression of traumatic memories. As Crews points out, work with survivors of the Holocaust and other traumatic episodes has shown not a single case in which such memories are quashed and then recovered. In four further essays, Crews documents the continuing pernicious influence of Freud in the “recovered memory” movement. The idea that childhood sexual abuse can be repressed and then recalled originated with Freud, and has been used by therapists to evoke false memories which have traumatized patients and shattered families. Realizing the scientific weaknesses of Freud, many diehards have taken the fall-back position that he was nevertheless a thinker of the first rank. Didn’t Freud give us the idea of the unconscious, they argue? Well, not really, for there was a whole history of pre-Freudian thought about people’s buried motives, including the writings of Shakespeare and Nietzsche. The “unconscious” was a commonplace of Romantic psychology and philosophy. And those who champion Freud as a philosopher must realize that his package also includes less savoury items like penis envy, the amorality of women, and our Lamarckian inheritance of “racial memory”. The quality of Crews’s prose is particularly evident in his two chapters on evolution versus creationism. In the first, he takes on creationists in their new guise as intelligent-design advocates, chastising them for pushing not only bad science, but contorted faith: “Intelligent design awkwardly embraces two clashing deities – one a glutton for praise and a dispenser of wrath, absolution, and grace, the other a curiously inept cobbler of species that need to be periodically revised and that keep getting snuffed out by the very conditions he provided for them. Why, we must wonder, would the shaper of the universe have frittered away some fourteen billion years, turning out quadrillions of useless stars, before getting around to the one thing he really cared about, seeing to it that a minuscule minority of earthling vertebrates are washed clean of sin and guaranteed an eternal place in his company?” But after demolishing creationists, Crews gives peacemaking scientists their own hiding, reproving them for trying to show that there is no contradiction between science and theology. Regardless of what they say to placate the faithful, most scientists probably know in their hearts that science and religion are incompatible ways of viewing the world. Supernatural forces and events, essential aspects of most religions, play no role in science, not because we exclude them deliberately, but because they have never been a useful way to understand nature. Scientific “truths” are empirically supported observations agreed on by different observers. Religious “truths,” on the other hand, are personal, unverifiable and contested by those of different faiths. Science is nonsectarian: those who disagree on scientific issues do not blow each other up. Science encourages doubt; most religions quash it. But religion is not completely separable from science. Virtually all religions make improbable claims that are in principle empirically testable, and thus within the domain of science: Mary, in Catholic teaching, was bodily taken to heaven, while Muhammad rode up on a white horse; and Jesus (born of a virgin) came back from the dead. None of these claims has been corroborated, and while science would never accept them as true without evidence, religion does. A mind that accepts both science and religion is thus a mind in conflict. Yet scientists, especially beleaguered American evolutionists, need the support of the many faithful who respect science. It is not politically or tactically useful to point out the fundamental and unbreachable gaps between science and theology. Indeed, scientists and philosophers have written many books (equivalents of Leibnizian theodicy) desperately trying to show how these areas can happily cohabit. In his essay, “Darwin goes to Sunday School”, Crews reviews several of these works, pointing out with brio the intellectual contortions and dishonesties involved in harmonizing religion and science. Assessing work by the evolutionist Stephen Jay Gould, the philosopher Michael Ruse, the theologian John Haught and others, Crews concludes, “When coldly examined . . . these productions invariably prove to have adulterated scientific doctrine or to have emptied religious dogma of its commonly accepted meaning”. Rather than suggesting any solution (indeed, there is none save adopting a form of “religion” that makes no untenable empirical claims), Crews points out the **dangers to the survival of our planet arising** from a rejection of Darwinism. Such rejection promotes apathy towards overpopulation, pollution, deforestation and other environmental crimes: “So long as we regard ourselves as creatures apart who need only repent of our personal sins to retain heaven’s blessing, we won’t take the full measure of our species-wise responsibility for these calamities”. Crews includes three final essays on deconstruction and other misguided movements in literary theory. These also show “follies of the wise” in that they involve interpretations of texts that are unanchored by evidence. Fortunately, the harm inflicted by Lacan and his epigones is limited to the good judgement of professors of literature. Follies of the Wise is one of the most refreshing and edifying collections of essays in recent years. Much like Christopher Hitchens in the UK, Crews serves a vital function as National Sceptic. He ends on a ringing note: “**The human race has produced only one successfully validated epistemology**, characterizing all scrupulous inquiry into the real world, from quarks to poems. It is, simply, **empiricism**, or the submitting of propositions to the arbitration of evidence that is acknowledged to be such by all of the contending parties. Ideas that claim immunity from such review, whether because of mystical faith or privileged “clinical insight” or the say-so of eminent authorities, are not to be countenanced until they can pass the same skeptical ordeal to which all other contenders are subjected.” As science in America becomes ever more harried and debased by politics and religion, we desperately need to heed Crews’s plea for empiricism.

#### Their view guarantees annihilation – securitizing against even potential enemies is key to prevent extinction.

Harris ‘4(Essayist for Policy Review, Lee, Civilization and its Enemies, http://www.freerepublic.com/focus/f-news/1260214/posts)

This is why all utopian projects are set either on a distant island or in a hidden valley: they must exist in isolation from the rest of the world, to keep even the thought of the enemy at bay. Otherwise, they would have to deal with the problem of how to survive without abandoning their lofty ideals. This is the problem that confronts us today. The ideals that our intellectuals have been instilling in us are utopian ideals, designed for men and women who know no enemy and who do not need to take precautions against him. They are the values appropriate for a world in which everyone plays by the same rules, and accepts the same standards, of rational cooperation; they are fatally unrealistic in a world in which the enemy acknowledges no rule except that of ruthlessness. To insist on maintaining utopian values when your society is facing an enemy who wishes only to annihilate you is to invite annihilation. And that is unacceptable. The only solution is for us to go back and unforget some of what we have forgotten, for our very forgetfulness is an obstacle to understanding the lessons of the past, so long as we insist on interpreting the past in ways which give comfort to our pet illusions. We want to believe that civilization came about because men decided one fine morning to begin living sensible, peaceful, rational lives; we refuse to acknowledge what it sot to achieve even the first step in this direction. Unless we can understand this first step, none of the rest will make any sense to us, and we will fail to see what is looming right in front of us. The Greek way of expressing past and future differed from ours. We say that the past is behind us and the future is in front of us. To the Greeks, however, the past was before them, because they could plainly see its finished form standing in front of them: it was territory they had passed through and whose terrain they had charted. It was the future that was behind them, sneaking up like a thief in the night, full of dim imaginings and vast uncertainties. Nothing could penetrate the blackness of this unknown future except the rare flash of foresight that the Greeks called sophos, or wisdom. Yet even these flashes of wisdom depended entirely upon the capacity to remember that which is eternal and unchanging-which is precisely what we have almost forgotten. The past tells that there can be no end of history, no realm of perpetual peace, and that those who are convinced by this illusion are risking all that they hold dear. The past tells us that there will always be an enemy as long as men care enough about anything to stake a claim to it, and thus enmity is built into the very nature of things. The past tells us that the next stage of history will be a tragic conflict between two different ways of life, which both have much that is worthy of admiration in them but which cannot coexist in the same world. But the past does not, and cannot, tell us how it will end this time.

#### Their alt fails— critique is worthless without a method of implementation

**Jones 99** (Richard, professor of International Politics at the University of Wales, Security, Strategy, and Critical Theory, CIAO Net AM)

Because emancipatory political practice is central to the claims of critical theory, one might expect that proponents of a critical approach to the study of international relations would be reflexive about the relationship between theory and practice. Yet their thinking on this issue thus far does not seem to have progressed much beyond grandiose statements of intent. There have been no systematic considerations of how critical international theory can help generate, support, or sustain emancipatory politics beyond the seminar room or conference hotel. Robert Cox, for example, has described the task of critical theorists as providing “a guide to strategic action for bringing about an alternative order” (R. Cox 1981: 130). Although he has also gone on to identify possible agents for change and has outlined the nature and structure of some feasible alternative orders, he has not explicitly indicated whom he regards as the addressee of critical theory (i.e., who is being guided) and thus how the theory can hope to become a part of the political process (see R. Cox 1981, 1983, 1996). Similarly, Andrew Linklater has argued that “a critical theory of international relations must regard the practical project of extending community beyond the nation–state as its most important problem” (Linklater 1990b: 171). However, he has little to say about the role of theory in the realization of this “practical project.” Indeed, his main point is to suggest that the role of critical theory “is not to offer instructions on how to act but to reveal the existence of unrealised possibilities” (Linklater 1990b: 172). But the question still remains, reveal to whom? Is the audience enlightened politicians? Particular social classes? Particular social movements? Or particular (and presumably particularized) communities? In light of Linklater’s primary concern with emancipation, one might expect more guidance as to whom he believes might do the emancipating and how critical theory can impinge upon the emancipatory process. There is, likewise, little enlightenment to be gleaned from Mark Hoffman’s otherwise important contribution. He argues that critical international theory seeks not simply to reproduce society via description, but to understand society and change it. It is both descriptive and constructive in its theoretical intent: it is both an intellectual and a social act. It is not merely an expression of the concrete realities of the historical situation, but also a force for change within those conditions. (M. Hoffman 1987: 233) Despite this very ambitious declaration, once again, Hoffman gives no suggestion as to how this “force for change” should be operationalized and what concrete role critical theorizing might play in changing society. Thus, although the critical international theorists’ critique of the role that more conventional approaches to the study of world politics play in reproducing the contemporary world order may be persuasive, their account of the relationship between their own work and emancipatory political practice is unconvincing. Given the centrality of practice to the claims of critical theory, this is a very significant weakness. Without some plausible account of the **mechanisms** by which they hope to aid in the achievement of their emancipatory goals, proponents of critical international theory are hardly in a position to justify the assertion that “it represents the next stage in the development of International Relations theory” (M. Hoffman 1987: 244). Indeed, without a more convincing conceptualization of the theory–practice nexus, one can argue that critical international theory, by its own terms, has no way of redeeming some of its central epistemological and methodological claims and thus that it is a **fatally flawed** enterprise.

#### Debates by non-government actors about planning for future crises are critical to social movements—dystopian representations can spur policy change and prevent extinction

**Kurasawa, 04** (Professor of Sociology, York University of Toronto, Fuyuki, Constellations Volume 11, No 4, 2004).

In the twenty-first century, the lines of political cleavage are being drawn along those of competing dystopian visions. Indeed, one of the notable features of recent public discourse and socio-political struggle is their negationist hue, for they are devoted as much to the prevention of disaster as to the realization of the good, less to what ought to be than what could but must not be. The debates that preceded the war in Iraq provide a vivid illustration of this tendency, as both camps rhetorically invoked incommensurable catastrophic scenarios to make their respective cases. And as many analysts have noted, the multinational antiwar protests culminating on February 15, 2003 marked the first time that a mass movement was able to mobilize substantial numbers of people dedicated to averting war before it had actually broken out. More generally, given past experiences and awareness of what might occur in the future, given the cries of ‘never again’ (the Second World War, the Holocaust, Bhopal, Rwanda, etc.) and ‘not ever’ (e.g., nuclear or ecological apocalypse, human cloning) that are emanating from different parts of the world, the avoidance of crises is seemingly on everyone’s lips – and everyone’s conscience. From the United Nations and regional multilateral organizations to states, from non-governmental organizations to transnational social movements, the determination to prevent the actualization of potential cataclysms has become a new imperative in world affairs. Allowing past disasters to reoccur and unprecedented calamities to unfold is now widely seen as unbearable when, in the process, the suffering of future generations is callously tolerated and our survival is being irresponsibly jeopardized. Hence, we need to pay attention to what a widely circulated report by the International Commission on Intervention and State Sovereignty identifies as a burgeoning “culture of prevention,”3 a dynamic that carries major, albeit still poorly understood, normative and political implications. Rather than bemoaning the contemporary preeminence of a dystopian imaginary, I am claiming that it can enable a novel form of transnational socio-political action, a manifestation of globalization from below that can be termed preventive foresight. We should not reduce the latter to a formal principle regulating international relations or an ensemble of policy prescriptions for official players on the world stage, since it is, just as significantly, a mode of ethico-political practice enacted by participants in the emerging realm of global civil society. In other words, what I want to underscore is the work of farsightedness, the social processes through which civic associations are simultaneously constituting and putting into practice a sense of responsibility for the future by attempting to prevent global catastrophes. Although the labor of preventive foresight takes place in varying political and socio-cultural settings – and with different degrees of institutional support and access to symbolic and material resources – it is underpinned by three distinctive features: dialogism, publicity, and transnationalism. In the first instance, preventive foresight is an intersubjective or dialogical process of address, recognition, and response between two parties in global civil society: the ‘warners,’ who anticipate and send out word of possible perils, and the audiences being warned, those who heed their interlocutors’ messages by demanding that governments and/or international organizations take measures to steer away from disaster. Secondly, the work of farsightedness derives its effectiveness and legitimacy from public debate and deliberation. This is not to say that a fully fledged global public sphere is already in existence, since transnational “strong publics” with decisional power in the formal-institutional realm are currently embryonic at best. Rather, in this context, publicity signifies that “weak publics” with distinct yet occasionally overlapping constituencies are coalescing around struggles to avoid specific global catastrophes.4 Hence, despite having little direct decision-making capacity, the environmental and peace movements, humanitarian NGOs, and other similar globally-oriented civic associations are becoming significant actors involved in public opinion formation. Groups like these are active in disseminating information and alerting citizens about looming catastrophes, lobbying states and multilateral organizations from the ‘inside’ and pressuring them from the ‘outside,’ as well as fostering public participation in debates about the future. This brings us to the transnational character of preventive foresight, which is most explicit in the now commonplace observation that we live in an interdependent world because of the globalization of the perils that humankind faces (nuclear annihilation, global warming, terrorism, genocide, AIDS and SARS epidemics, and so on); individuals and groups from far-flung parts of the planet are being brought together into “risk communities” that transcend geographical borders.5 Moreover, due to dense media and information flows, knowledge of impeding catastrophes can instantaneously reach the four corners of the earth – sometimes well before individuals in one place experience the actual consequences of a crisis originating in another. My contention is that civic associations are engaging in dialogical, public, and transnational forms of ethico-political action that contribute to the creation of a fledgling global civil society existing ‘below’ the official and institutionalized architecture of international relations. The work of preventive foresight consists of forging ties between citizens; participating in the circulation of flows of claims, images, and information across borders; promoting an ethos of farsighted cosmopolitanism; and forming and mobilizing weak publics that debate and struggle against possible catastrophes. Over the past few decades, states and international organizations have frequently been content to follow the lead of globally- minded civil society actors, who have been instrumental in placing on the public agenda a host of pivotal issues (such as nuclear war, ecological pollution, species extinction, genetic engineering, and mass human rights violations).

#### Not root cause – war causes their impacts

**Goldstein** **‘1**—Professor of International Relations at American University, 2001 (Joshua S., War and Gender: How Gender Shapes the War System and Vice Versa, pp.411-412)

First, peace activists face a dilemma in thinking about causes of war and working for peace. Many peace scholars and activists support the approach, “if you want peace, work for justice”. Then if one believes that sexism contributes to war, one can work for gender justice specifically (perhaps among others) in order to pursue peace. This approach brings strategic allies to the peace movement (women, labor, minorities), but rests on the assumption that injustices cause war. The evidence in this book suggests that causality runs at least as strongly the other way. War is not a product of capitalism, imperialism, gender, innate aggression, or any other single cause, although all of these influences wars’ outbreaks and outcomes. Rather, war has in part fueled and sustained these and other injustices.  So, “if you want peace, work for peace.” Indeed, if you want justice (gener and others), work for peace. Causality does not run just upward through the levels of analysis from types of individuals, societies, and governments up to war. It runs downward too. Enloe suggests that changes in attitudes toward war and the military may be the most important way to “reverse women’s oppression/” The dilemma is that peace work focused on justice brings to the peace movement energy, allies and moral grounding, yet, in light of this book’s evidence, the emphasis on injustice as the main cause of war seems to be empirically inadequate.

#### The alt does nothing - individual rejection fails

**Milbrath 96** (Lester, Professor of PoliSci and Sociology at SUNY-Buffalo, “In Building Sustainable Societies,” p.289)

In some respects personal change cannot be separated from societal change. Societal transformation will not be successful without change at the personal level; such change is a necessary but not sufficient step on the route to sustainability. People hoping to live sustainably must adopt new beliefs, new values, new lifestyles, and new worldview. But lasting personal change is unlikely without simultaneous transformation of the socioeconomic/political system in which people function. Persons may solemnly resolve to change, but that resolve is likely to weaken as they perform day-to-day within a system reinforcing different beliefs and values. Change agents typically are met with denial and great resistance. Reluctance to challenge mainstream society is the major reason most efforts emphasizing education to bring about change are ineffective. If societal transformation must be speedy, and most of us believe it must, pleading with individuals to change is not likely to be effective.

#### Methods don’t come first-The alt justifies mass suffering

**Fearon and Wendt 2k James, Professor of Poli Sci at Stanford, Alexander, Professor of IR at Ohio State, Handbook of International Relations, ed. Carlsnaes, p. 68**

It should be stressed that in advocating a pragmatic view we are not endorsing method-driven social science. Too much research in international relations chooses problems of things to be explained with a view to whether the analysis will provide support for one or another methodological “ism”. But the point of IR scholarship should be to answer questions about international politics that are of great normative concern, not to validate methods. Methods are means, not ends in themselves. As a matter of personal scholarly choice it may reasonable to stick with one method and see how far it takes us. But since we do not know how far that is, if the goal of the discipline is insight into world politics then it makes little sense to rule out one or the other approach on a priori grounds. In that case a method indeed becomes a tacit ontology, which may lead to neglect of whatever problems it is poorly suited to address. Being conscious about these choices is why it is important to distinguish between the ontological, empirical, and pragmatic levels of the rationalist – constructivist debate. We favor the pragmatic approach on heuristic grounds, but we

### CP

#### CP doesn’t solve and links to the net-benefit- Congressional statues would be reviewed by the Supreme Court, but wouldn’t be effective and would take years to solidify

Eviatar 10 (Daphne- Senior Associate in Human Rights First’s Law and Security Program, June 10, “Judges to Congress: Don't Legislate Indefinite Detention”, http://www.huffingtonpost.com/daphne-eviatar/judges-to-congress-dont-l\_b\_607801.html)

For months now, certain commentators and legislators have been arguing that Congress needs to pass a new law authorizing the indefinite detention without charge or trial of suspected terrorists and their supporters. On its face, that would seem to violate some basic tenets of the U.S. Constitution. But the U.S. government is already detaining hundreds of suspects captured abroad at Guantanamo Bay and elsewhere. The question is whether Congress should expand that authority and define it in more detail. Writers such as Benjamin Wittes of the Brookings Institution and lawmakers such as Senator Lindsey Graham of South Carolina argue that even though hundreds of people have been detained over the last eight years at Guantanamo Bay, the law that justifies their detention or mandates their release isn't clear, and Congress needs to step in and make new rules. In fact, as a new report issued today by 16 former federal judges makes clear, that's nonsense. The people in the best position to decide when military detention is legal are already doing just that. The new report, published by Human Rights First and the Constitution Project, explains exactly how that process is working -- and demonstrates that it's actually working very well. Responding to a series of habeas corpus petitions, where Guantanamo detainees have asked the federal court to review the legality of their detentions, federal district court judges in Washington, D.C., have already issued written opinions concerning 50 different detainees that set out the legal standard for indefinite wartime detention, and which cases do and do not meet it. The claim by Wittes and Graham that judges are somehow overstepping their bounds and usurping the role of Congress reflects a fundamental misunderstanding of how the federal courts and judges work. In fact, the courts are doing just what they're supposed to do: interpret the law. The reason judges are so well-situated to explain the contours of U.S. detention authority is because, according to judicial rulings, the right to detain arises out of existing laws, including the Authorization for Use of Military Force against Terrorists, or AUMF, passed by Congress in 2001; the traditional law of war; and the U.S. Constitution. Traditionally, a government at war can detain fighting members of the enemy's forces, under humane conditions, until the war is over. Although that authority is less clear when the government is fighting a loose coalition of insurgent forces around the world rather than another country, the Supreme Court has said that at least in some circumstances, pursuant to the AUMF, the United States can detain enemy fighters seized on the battlefield. It's the Supreme Court's rulings on the subject, combined with the law of war and the mandates of the U.S. Constitution, that highly experienced federal judges have been applying to the habeas corpus cases that have come before them. Applying those rulings, they've developed a clear and consistent body of law that explains what kind of evidence the government needs to have amassed against a suspected insurgent to justify his military detention. Under the D.C. District Court's rulings, for example, Fouad Al Rabiah, a 43-year-old, 240-pound, Kuwaiti Airways executive with a long history of volunteering for Islamic charities who'd been discharged from compulsory military service in Kuwait due to a knee injury, and who suffered from high blood pressure and chronic back pain, did not meet the requirement of being "part of" or having "substantially supported" al Qaeda, the Taliban or associated forces. Although seized while attempting to leave Afghanistan in 2001, by the time of Al Rabiah's hearing, even the government had decided the witnesses who claimed he'd helped al Qaeda weren't credible. The government's own interrogators didn't believe his "confessions," which the court determined had been coerced and were "entirely incredible." On the other hand, Fawzi Al Odah, also Kuwaiti, did meet the law's detention standards. The same judge found that he'd attended a Taliban training camp, learned to use an AK-47, traveled with other armed fighters on a route common to jihadists, and took directions from Taliban leaders - all making it more likely than not that he was a member of Taliban fighting forces. Still, despite the courts' careful analysis in these cases, Congress could step in and write its own new law on indefinite detention. But how can any one statute possibly address all the vastly different factual scenarios, many spanning several countries and decades, that constitute the government's claims that any particular individual is detainable? What's more, any new law will still have to meet the requirements of the U.S. Constitution, and the Supreme Court gets the ultimate say on that. Any new statute passed by Congress, then, would likely be challenged as soon as it's applied, causing more confusion about what the law really is until the U.S. Supreme Court weighs in on that new statute several years later. The federal judges of the D.C. District Court and Court of Appeals are already way ahead of that game. In addition to the trial court opinions, the appellate court recently issued its own opinion setting out the law of detention and the government's constitutional authority. That decision may be appealed to the Supreme Court, whose opinion would set out the binding standard that every judge and future U.S. administration will have to follow. The upshot of all this is that if Congress legislates some new detention standard now, it will actually take a lot longer to get a clearly-defined and binding law that guides the government than it would if Congress just let the courts continue to play the role they're supposed to: deciding the legality of government detention. Wittes, Graham and others may secretly be hoping that Congress will legislate in this area anyway and try to expand the government's indefinite detention autuhority beyond Guantanamo Bay to reach even suspects arrested on U.S. soil. But that would create a whole new constitutional firestorm, resulting in exactly the opposite of what they say they're after: a clear and reliable statement of the law.

#### Only SCOTUS action revitalizes the rule of law

Pearlstein 3 (Deborah N.- Deputy Director of the U.S. Law and Security Program at the Lawyers Committee for Human Rights, and a Visiting Fellow at the Stanford University Center for Democracy, Development and the Rule of Law, , “The Role of the Courts in Protecting Civil Liberties and Human Rights for the Post-9/11 United States”, 2nd Pugwash Workshop on Terrorism: External and Domestic Consequences of the War on Terrorism, <http://www.pugwash.org/reports/nw/terrorism2003-pearlstein.htm>)

In each of the historical examples just given, the judiciary ultimately played a critical role in evaluating the legality of executive action. In the Civil War case, Lambdin Milligan, who had led armed uprisings against Union forces in Indiana, appealed his military tribunal prosecution to the U.S. Supreme Court. In Ex Parte Milligan (1865), the U.S. Supreme Court held Milligan's military prosecution unconstitutional, holding that as long as the civilian "courts are open and their process unobstructed, . . . they can never be applied to civilians in states which have upheld the authority of the government." In Ex Parte Quirin (1942), the Supreme Court reviewed the military prosecution of the German army spies for violations of the laws of war and concluded that it was within the executive's power. Unlike the civilian subject to military justice in Ex Parte Milligan, the Quirin defendants were members of the army of a nation with which the United States was in declared war. And critically, Congress had expressly authorized military commission trials for the offenses for which they were accused. The Supreme Court likewise upheld the exclusion of Japanese-Americans from their homes in Korematsu v. United States (1944), explaining: "Korematsu was not excluded from the military area because of hostility to him or his race. He was excluded because we are at war with the Japanese Empire, because the properly constituted military authorities feared an invasion of our West Coast and felt constrained to take proper security measures, and finally, because Congress, reposing its confidence in this time of war in our military leaders - as inevitably it must - determined that they should have the power to do just this." As these examples demonstrate, the U.S. Supreme Court has not always acted to enforce positive legal protections in favor of the individual against the government's exercise of 'wartime' power. Nonetheless, the Court's structural involvement conveyed a critical political message that executive power remained subject to the rule of law. In addition, the Court's published majority opinions clarified the nature of the executive action taken in response to perceived wartime threats, providing a basis for comparative analysis of subsequent executive conduct. In vigorous and public dissenting opinions accompanying each decision, minority justices gave expression to the strong opposing arguments on the resolution of the legal questions presented. Perhaps most important, the judicial decisions provided Congress, legal scholars, and the American public a means for understanding and, in the relative calm of post-war decision-making, for reevaluating the political wisdom of the challenged actions. Thus, for example, a federal court eventually granted a writ of coram nobis in Mr. Korematsu's case as a result of executive misrepresentations. (Korematsu v. United States (N.D. Cal. 1984)). In 1971, to rein in what was by then broadly recognized as executive excesses, Congress passed 18 U.S.C. § 4001(a), providing: "No citizen shall be . . . detained by the United States except pursuant to an Act of Congress." And in 1988, Congress awarded reparations to the remaining survivors and descendants of those interned during World War II as a result of the military exclusion order.

### Court Stripping

#### No court stripping

Gibson 12 (James L. Gibson, Sidney W. Souers Professor of Government (Department of Political Science), Professor of African and African-American Studies, and Director of the Program on Citizenship and Democratic Values (Weidenbaum Center on the Economy, Government, and Public Policy) at Washington University in St. Louis; and Fellow at the Centre for Comparative and International Politics and Professor Extraordinary in Political Science at Stellenbosch University (South Africa), 7/15/12, “Public Reverence for the United States Supreme Court: Is the Court Invincible?”, <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2107587>)

Some threats to the legitimacy of the Supreme Court do exist. Some members of Congress routinely introduce “court-curbing” legislation, often focusing on the Court’s soft underbelly, its dependence on Congress for its case jurisdiction. Yet such efforts typically draw the support of only the most radical members of Congress and legislation of this ilk is rarely even brought to the floor for debate. Generally, with the possible exception of the failure to raise the salaries of federal judges, few serious threats to the institutional integrity of the Supreme Court have surfaced. And there is no evidence that such proposals by gadflies have any degree of support among the American people.

#### Doesn’t turn the case—even if the Courts are stripped, the precedent of the plan remains

**American Judicature Society 09**

[“Curtailment of Jurisdiction”, 2009, http://www.ajs.org/cji/cji\_jurisdiction.asp]

Congress can also use its power over federal and Supreme Court jurisdiction to demonstrate its dissatisfaction with certain rulings.kk As Professor Gerald Gunther of Stanford Law School points out, this is inappropriate and ineffective. “Appellate jurisdiction-stripping laws are not truly effective means for implementing congressional dissatisfaction with Court rulings because disfavored rulings would remain on the books as influential precedents.” [iv] When Congress uses its power to determine jurisdiction it is often attempting to change constitutional law without complying with the procedural rules for amending the constitution. Since constitutional amendments are difficult to get passed, Congress will often attempt to alter court decisions by changing jurisdiction. Congressional attempts to circumvent the established means of registering dissatisfaction with the courts do not effectively remove the offensive ruling.

**Other variables account for peace between democracies—DPT is statistically flawed**

Rosato 11 Sebastian, Dept of Political Science at Notre Dame. “The Handbook on the Political Economy of War”, Google Books

15.3.2 Militarized Disputes There are at least two reasons to doubt the claim that pairs of democracies are less prone to conflict than other pairs of states. First, despite their assertions, it is not clear that democratic peace theorists have established the existence of a powerful association between joint democracy and peace. Second, there is good evidence that factors other than democracy -many of them consistent with realist expectations - account for the peace among democratic states.14 Significance Democratic peace theorists have yet to provide clearcut evidence that there is a significant relationship between their independent and dependent variables, joint democracy and peace. It is now clear, for example, that Maoz and Russett's analysis of the Cold War period, which claims to establish the existence of a joint, separate peace, does not in fact do so. In a reassessment of that analysis, which follows the original as closely as possible save for the addition of a control for economic interdependence, Oneal ct al. (1996) find that a continuous measure of democracy is not significantly correlated with peace. Moreover, a supplementary analysis of contiguous dyads those that experience most of the conflicts also finds no significant relationship between a continuous measure of joint democracy and peace whenever a control for economic interdependence is included or not. This finding is particularly damaging because democratic peace theorists argue that "most theoretical explanations of the separate peace imply a continuous effect: the more democratic a pair of states, the less likely they are to become involved in conflict" (Oneal and Ray 1997, p. 752). Oneal and Ray (1997, pp. 756-7) conclude that the original Maoz and Russett finding does not survive reanalysis because it is based on a joint democracy variable that, although widely used, is poorly calculated and constructed- and they therefore propose a new democracy measure that they claim does achieve statistical significance. Their new measure of joint democracy uses the democracy score of the less democratic state in a dyad on the assumption that conflict is a function of the regime type of the less constrained of two interacting states. This "weak link" specification appears to provide powerful support for the democratic peace finding: "As the less democratic state becomes more democratic, the likelihood of conflict declines. This is clear evidence of the pacific benefits of democracy." The new variable provides "corroboration of the democratic peace" (Oneal and Ray 1997, pp. 764-5). Oneal and Russett concur with this conclusion in a separate analysis that also uses the weak link assumption. An increase in democracy in the state that is "freer lo resort to violence, reduces the likelihood of dyadic conflict" (Oneal and Russett 1997, p. 279). Although the weak link measure is widely accepted as the gold standard in studies of the relationship between democracy and a variety of international outcomes, it does not provide evidence that joint democracy is significantly related lo peacefff. Even as they developed it, Oneal and Ray admitted that the weak link was not a pure measure of joint democracy. What it really revealed was that the probability of conflict was "a function of the average level of democracy in a dyad ... [and] also the political distance separating the states along the democracy-autocracy continuum" (1997, p. 768, emphasis added). The problem, of course, is that the logics advanced to explain the democratic peace refer to the effects of democracy on state behavior; none refer to the effects of political similarity. Thus findings generated using the weak link specification - which is to say all the major assessments of the democratic peace - may not actually support the central democratic peace claim that it is something about the norms and institutions of democracies that enables them to remain at peace. This is precisely the conclusion that Errol Henderson reaches in his compelling assessment of Oneal and Russctt's work. His analysis replicates theirs precisely with two minor modifications: he includes only the first year of any dispute because democratic peace theory is about the incidence of disputes, not their duration, and he introduces a political similarity variable in order to disentangle the effects of joint democracy and political distance on conflict. His central result is striking: democracy ;\*is not significantly associated with the probability of dispute onset." "What is apparent from the results," he concludes, "is that in the light of quite reasonable, modest, and straightforward modifications of Oneal and Russett's . . . research design, there is no statistically significant relationship between joint democracy and a decreased likelihood of militarized interstate conflict" (Henderson 2002, pp. 37-9). Mark Souva (2004) reaches essentially the same conclusion in an analysis of the relationship between domestic institutions and interstate conflict using the weak link specification. In a model that includes variables for political and economic institutional similarity, both of which are significantly associated with peace, there is no significant relationship between joint democracy and the absence of conflict.

### Court Capital

#### Normal means is the DC circuit court acting and SCOTUS denying cert to make the aff a law- no link to the DA

Horowitz 13 (J.D. Candidate, 2014, Fordham University School of Law. Captain, U.S. Army, participating in the Funded Legal Education Program, April, “SYMPOSIUM: THE GOALS OF ANTITRUST: NOTE: CREATING A MORE MEANINGFUL DETENTION STATUTE: LESSONS LEARNED FROM HEDGES V. OBAMA”, Lexis)

This part examines how the D.C. District and Circuit courts struggled with the legal boundaries of detention while evaluating the habeas corpus petitions of detainees from 2008 to 2012. It focuses on how the D.C. courts analyzed what would become the three criteria for detention in section 1021(b)(2) of the NDAA: (1) being "part of" Al Qaeda or the Taliban; (2) "substantially supporting" Al Qaeda or the Taliban; and (3) being part of "associated forces" of Al Qaeda or the Taliban. n143 The Supreme Court has not decided the merits of a detention case since Boumediene in 2008. n144 Additionally, in 2011 the Supreme Court denied certiorari to six different Guantanamo detainee cases appealed from the [\*2872] D.C. Circuit. n145 As a result of its continued abstention, the Supreme Court has had little impact in shaping the substantive parameters of executive detention. n146 The substantive law of executive detention has been primarily created by the D.C. District Court and the D.C. Circuit as they evaluate habeas corpus petitions from detainees held at Guantanamo Bay. n147 As the law has evolved since 2008, the D.C. courts have often applied different or changing standards, and some believe that "the D.C. Circuit's opinions almost uniformly favor the government." n148 Additionally, some commentators have expressed concerns about "the habeas process as a lawmaking device" and fear that the standards established by the D.C. Courts are "interim steps" or "a kind of draft" until the Supreme Court eventually steps in to resolve the issues. n149 The judges of the D.C. courts recognize that they are creating law. In their opinions, they have often commented on the lack of guidance from the Supreme Court n150 and their significant role in shaping substantive detention law with each decision. n151 The subsections below focus on the three detention criteria listed in section 1021(b)(2) of the NDAA. Although these criteria were codified in the NDAA in late 2011, the D.C. courts struggled with their meaning in the years after the Boumediene decision in 2008. As one court admitted in [\*2873] 2010, "much of what our Constitution requires for this context remains unsettled." n152

#### Capital is bulletproof

Gibson 12 (James L. Gibson, Sidney W. Souers Professor of Government (Department of Political Science), Professor of African and African-American Studies, and Director of the Program on Citizenship and Democratic Values (Weidenbaum Center on the Economy, Government, and Public Policy) at Washington University in St. Louis; and Fellow at the Centre for Comparative and International Politics and Professor Extraordinary in Political Science at Stellenbosch University (South Africa), 7/15/12, “Public Reverence for the United States Supreme Court: Is the Court Invincible?”, <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2107587>)

Political scientists and legal scholars continue to be obsessed with the so-called countermajoritarian dilemma created by the United States Supreme Court’s lack of accountability, particularly when coupled with its immense policy-making powers. Especially when the Supreme Court makes decisions that seem to fly in the face of public preferences—as in Kelo v. New London 1 and Citizens United v. Federal Election Commission 2—concerns about the function of the institution within American democracy sharpen. Indeed, some seem to believe that by making policies opposed by the majority of the American people the Court undermines its fundamental legitimacy, its most valuable political capital. The underlying assumption of these worries about the Supreme Court’s legitimacy is that dissatisfaction with the Court’s decisions leads to the withdrawal, or at least diminution, of support for the institution. So when the Court decides a high profile case like Citizens United in a widely unpopular direction, it is logical to assume that the Court’s legitimacy suffers. Again, the assumption is that legitimacy flows from pleasing decisions, but it is undermined by displeasing decisions. At least some empirical evidence directly contradicts this assumption. In what is perhaps the most salient and politically significant decision of the last few decades, the Supreme Court’s decision in Bush v. Gore 3 effectively awarded the presidency to George W. Bush. One might have expected that this decision would undermine the Court’s legitimacy, at least with Democrats and probably with African-Americans as well. Yet several empirical research projects have indicated that, if anything, the Court’s legitimacy was boosted by this decision, even among Democrats and African-Americans. 4 Bush v. Gore had great potential to chip away at the Court’s legitimacy—it was a deeply divided 5-4 decision; divided by the justices’ partisanships as well; it extended the Court’s authority into an area of law in which the Court had generally deferred to the states; the decision was severely criticized by some, with many in the legal academy describing the decision as a “self-inflicted wound”; 5 and, of course, it was a decision of immense political importance. If Bush v. Gore did not subtract from the Court’s institutional legitimacy, it is difficult to imagine less momentous decisions undermining judicial legitimacy. Political scientists have been studying the legitimacy of the Supreme Court for decades now, and several well-established empirical findings have emerged. The findings relevant to the countermajoritarian dilemma can be summarized in a series of nutshells: ● The Supreme Court is the most legitimate political institution within the contemporary United States. Numerous studies have shown that the American mass public extends great legitimacy to the Court; typically, Congress is depicted as being dramatically less legitimate than the Supreme Court. Indeed, some have gone so far as to describe the Supreme Court as “bulletproof,” and therefore able to get away with just about any ruling, no matter how unpopular. And indeed, the United States Supreme Court may be one of the most legitimate high courts in the world.

#### Turn popularity- The public overwhelming supports the aff

Greenwald 9 (Glenn- former Constitutional and civil rights litigator and is the author of three New York Times Bestselling books: two on the Bush administration's executive power and foreign policy abuses, and his latest book, With Liberty and Justice for Some, an indictment of America's¶ two-tiered system of justice. Greenwald was named by The Atlantic as one of the 25 most influential political commentators in the nation. He is the recipient of the first annual I.F. Stone Award for Independent Journalism, and is the winner of the 2010 Online Journalism Association Award for his investigative work on the arrest and oppressive detention of Bradley Manning, citing NYT/CBS Poll, June 18, “Overwhelming majority oppose preventive detention without charges”, http://www.salon.com/2009/06/18/detention/)

¶ A new NYT/CBS News poll just released today asked a question designed to test support for Obama’s proposal to indefinitely detain Guantanamo detainees without charges — and it found overwhelming opposition to that plan (click to enlarge):¶ ¶ ¶ The view that detainees should be charged with crimes or released is often depicted as the fringe “Far Left” view. Like so many views that are similarly depicted, it is — in reality — the overwhelming consensus view among Americans (68%). As is so often the case, it is the view depicted as the Serious Centrist position — the U.S. should keep people in cages for as long as it wants without charging them with any crime — that is the fringe view held by only a small minority (24%). While some may express surprise at the outcome of this question, it really shouldn’t be surprising: Americans are taught from childhood that one of the primary distinctions between free countries and tyrannies is that, in the former, the state lacks the power to imprison people without charging and convicting them of a crime. Is it really that surprising that an overwhelming majority of Americans see such charge-free imprisonment as wrong even when it comes to Guantanamo detainees, probably the single most dehumanized group on the planet?¶

#### That’s key to court capital

Hoekstra 3 [Valerie J. Hoekstra, Associate Professor of Political Science at ASU, *Public Reactions to Supreme Court Decisions* Cambridge University Press 2003]

In some respects, comparisons with Congress or the presidency are neither appropriate nor fair. Unlike its democratically selected and accountable counterparts, the Supreme Court appears relatively isolated from and unconstrained by public opinion. Its members do not run for election, and once in office, they essentially serve for life. While this certainly places them in an enviable position, the justices must rely on public support for the implementation of their policies since they possess “neither the purse nor the sword.” The Court’s lack of many enforcement mechanisms makes public support even more essential to the Court than it is to the other institutions. This public support may generate an important source of political capital for the Court (Choper 1980).

#### Controversial decisions increase court capital

Nelson **Lund**, George Mason University School of Law Professor of Law, March, 20**02**, “SYMPOSIUM: VOTES AND VOICES: REEVALUATIONS IN THE AFTERMATH OF THE 2000 PRESIDENTIAL ELECTION: THE UNBEARABLE RIGHTNESS OF BUSH V. GORE,” 23 Cardozo L. Rev. 1219

Breyer forgot to mention that this argument about avoiding the "political thicket" was exactly the argument that the Court had rejected in the vote-dilution cases on which the majority relied. 118 [\*1256] Moreover, the notion of a general duty to avoid decisions that might undermine the public's confidence in the Court is not one that anybody actually believes. In fact, many of the Court's most intensely admired decisions are exactly those that were most controversial when decided. Brown v. Board of Education, 119 which forbade racially segregated schools. Engel v. Vitale, 120 which forbade prayer in the schools. Miranda v. Arizona, 121 which forbade the use of voluntary confessions at trial unless preceded by a series of judicially created warnings. Reynolds v. Sims, 122 which required equality of population in state legislative districts. Roe v. Wade, 123 which established a right to abortion. Texas v. Johnson, 124 which protected a right to desecrate the American flag. Notwithstanding the sound of Breyer's rhetoric, the theory underlying his call for judicial restraint is actually not one that would preclude any of the decisions in this list. On the contrary, it is a theory meant to foster just such controversial decisions, along with their frequently profound political effects, even or perhaps especially when those effects are so profound as to shake the public's confidence in the Court. The real theory, well known to sophisticated students of law and political science, is that the Supreme Court should refuse to decide certain politically sensitive cases, especially those involving the constitutional allocation of power between the federal and state governments, in order to conserve the Court's political resources for more important tasks, especially those involving the protection of certain "individual liberties." 125 In practice, what this means is that the Court should [\*1257] sometimes allow the Constitution to be violated when Congress infringes on the rights of the states, while protecting judicially selected "individual liberties" that often have no basis in the Constitution.

#### No Israeli attack- we cite research- just blustering

Rubin ‘12 (Barry Rubin, Professor at the Interdisciplinary Center in Herzliya, Israel, the Director of the Global Research and International Affairs (GLORIA) Center, and a Senior Fellow at the International Policy Institute for Counterterrorism, “Israel Isn’t Going to Attack Iran and Neither Will the United States.” <http://pjmedia.com/barryrubin/2012/01/26/israel-is-not-about-to-attack-iran-and-neither-is-the-united-states-get-used-to-it/>, 2012)

The radio superhero The Shadow had the power to “cloud men’s minds.” But nothing clouds men’s minds like anything that has to do with Jews or Israel. This year’s variation on that theme is the idea that Israel is about to attack Iran. Such a claim repeatedly appears in the media. Some have criticized Israel for attacking Iran and turning the Middle East into a cauldron of turmoil (not as if the region needs any help in that department) despite the fact that it hasn’t even happened. On the surface, of course, there is apparent evidence for such a thesis. Israel has talked about attacking Iran and one can make a case for such an operation. Yet any serious consideration of this scenario — based on actual research and real analysis rather than what the uninformed assemble in their own heads or Israeli leaders sending a message to create a situation where an attack isn’t necessary — is this: It isn’t going to happen. Indeed, the main leak from the Israeli government, by an ex-intelligence official who hates Prime Minister Benjamin Netanyahu, has been that the Israeli government already decided not to attack Iran. He says that he worries this might change in the future but there’s no hint that this has happened or will happen. Defense Minister Ehud Barak has publicly denied plans for an imminent attack as have other senior government officials. Of course, one might joke that the fact that Israeli leaders talk about attacking Iran is the biggest proof that they aren’t about to do it. But Israel, like other countries, should be subject to rational analysis. Articles written by others are being spun as saying Israel is going to attack when that’s not what they are saying. I stand by my analysis and before December 31 we will see who was right. I’m not at all worried about stating very clearly that Israel is not going to go to war with Iran. So why are Israelis talking about a potential attack on Iran’s nuclear facilities? Because that’s a good way – indeed, the only way Israel has — to pressure Western countries to work harder on the issue, to increase sanctions and diplomatic efforts. If one believes that somehow pushing Tehran into slowing down or stopping its nuclear weapons drive is the only alternative to war, that greatly concentrates policymakers’ minds. Personally, I don’t participate — consciously or as an instrument — in disinformation campaigns, even if they are for a good cause. Regarding Ronen Bergman’s article in the New York Times, I think the answer is simple: Israeli leaders are not announcing that they are about to attack Iran. They are sending a message that the United States and Europe should act more decisively so that Israel does not feel the need to attack Iran in the future. That is a debate that can be held but it does not deal with a different issue: Is Israel about to attack Iran? The answer is “no.”

#### And no impact to first strike

Bronner ‘12 (Ethan, NYT staff reporter, 1/26/12, http://www.nytimes.com/2012/01/27/world/middleeast/israelis-see-irans-threats-of-retaliation-as-bluff.html?\_r=1&hp)

JERUSALEM — Israeli intelligence estimates, backed by academic studies, have cast doubt on the widespread assumption that a military strike on Iranian nuclear facilities would set off a catastrophic set of events like a regional conflagration, widespread acts of terrorism and sky-high oil prices. Prime Minister Benjamin Netanyahu has said he thinks Iranian citizens will welcome an attack. The estimates, which have been largely adopted by the country’s most senior officials, conclude that the threat of Iranian retaliation is partly bluff. They are playing an important role in Israel’s calculation of whether ultimately to strike Iran, or to try to persuade the United States to do so, even as Tehran faces tough new economic sanctions from the West. “A war is no picnic,” Defense Minister Ehud Barak told Israel Radio in November. But if Israel feels itself forced into action, the retaliation would be bearable, he said. “There will not be 100,000 dead or 10,000 dead or 1,000 dead. The state of Israel will not be destroyed.” The Iranian government, which says its nuclear program is for civilian purposes, has threatened to close the Strait of Hormuz — through which 90 percent of gulf oil passes — and if attacked, to retaliate with all its military might. But Israeli assessments reject the threats as overblown. Mr. Barak and Prime Minister Benjamin Netanyahu have embraced those analyses as they focus on how to stop what they view as Iran’s determination to obtain nuclear weapons. No issue in Israel is more fraught than the debate over the wisdom and feasibility of a strike on Iran. Some argue that even a successful military strike would do no more than delay any Iranian nuclear weapons program, and perhaps increase Iran’s determination to acquire the capability. Security officials are increasingly kept from journalists or barred from discussing Iran. Much of the public talk is as much message delivery as actual policy. With the region in turmoil and the Europeans having agreed to harsh sanctions against Iran, strategic assessments can quickly lose their currency. “They’re like cartons of milk — check the sell-by date,” one senior official said. But conversations with eight current and recent top Israeli security officials suggested several things: since Israel has been demanding the new sanctions, including an oil embargo and seizure of Iran’s Central Bank assets, it will give the sanctions some months to work; the sanctions are viewed here as probably insufficient; a military attack remains a very real option; and postattack situations are considered less perilous than one in which Iran has nuclear weapons. “Take every scenario of confrontation and attack by Iran and its proxies and then ask yourself, ‘How would it look if they had a nuclear weapon?’ ” a senior official said. “In nearly every scenario, the situation looks worse.” The core analysis is based on an examination of Iran’s interests and abilities, along with recent threats and conflicts. Before the United States-led war against Iraq in 1991, Saddam Hussein vowed that if attacked he would “burn half of Israel.” He fired about 40 Scud missiles at Israel, which did limited damage. Similar fears of retaliation were voiced before the Iraq war in 2003 and in 2006, during Israel’s war against Hezbollah in southern Lebanon. In the latter, about 4,000 rockets were fired at Israel by Hezbollah, most of them causing limited harm. “If you put all those retaliations together and add in the terrorism of recent years, we are probably facing some multiple of that,” a retired official said, speaking on the condition of anonymity, citing an internal study. “I’m not saying Iran will not react. But it will be nothing like London during World War II.” A paper soon to be published by the Institute for National Security Studies at Tel Aviv University, written by Amos Yadlin, former chief of military intelligence, and Yoel Guzansky, who headed the Iran desk at Israel’s National Security Council until 2009, argues that the Iranian threat to close the Strait of Hormuz is largely a bluff. The paper contends that, despite the risks of Iranian provocation, Iran would not be able to close the waterway for any length of time and that it would not be in Iran’s own interest to do so. “If others are closing the taps on you, why close your own?” Mr. Guzansky said. Sealing the strait could also lead to all-out confrontation with the United States, something the authors say they believe Iran wants to avoid. A separate paper just published by the Begin-Sadat Center for Strategic Studies says that the fear of missile warfare against Israel is exaggerated since the missiles would be able to inflict only limited physical damage. Most Israeli analysts, like most officials and analysts abroad, reject these arguments. They say that Iran has been preparing for an attack for some years and will react robustly, as will its allies, Hezbollah and Hamas. Moreover, they say, an attack will at best delay the Iranian program by a couple of years and lead Tehran to redouble its efforts to build such a weapon. But Mr. Barak and Mr. Netanyahu believe that those concerns will pale if Iran does get a nuclear weapon. This was a point made in a public forum in Jerusalem this week by Maj. Gen. Amir Eshel, chief of the army’s planning division. Speaking of the former leaders of Libya and Iraq, he said, “Who would have dared deal with Qaddafi or Saddam Hussein if they had a nuclear capability? No way.”

#### The Tea Party is over

Friedman 1-22

Brad, 'Tea Party' Brand Now a Liability to 'Tea Party' ... and Republicans

American blogger, journalist, actor, radio broadcaster, director and software programmer, most known for his criticism of election integrity issues in the USA, http://www.bradblog.com/?p=9827#more-9827

But it's little wonder these folks are running from the name. Their popularity, and their name brand, is now plummeting along with the fortunes of the Congressional Republican Party. As Bennet notes, even Rightwing pollsters like Rasmussen are finding that support for the "Tea Party" movement is absolutely cratering... Rasmussen, a favorite polling firm of conservatives, found in a survey this month that only 8 percent of voters identify themselves as tea party members, down from a high of 2fff4 percent shortly after passage of the federal health care law in 2010. The Rasmussen poll found 30 percent of voters had a favorable view of the tea party and 49 percent had a negative view. ... An October Rasmussen poll found 44 percent of voters considered “tea party” a negative label, eclipsing “liberal” as the most potent negative adjective. And, again, he's the Republican pollster. NBC News/Wall Street Journal finds, according to Benen, that attitudes about the "Tea Party" are "abysmal". "Just 9% have a 'very positive' impression of the so-called movement --- an all-time low," he writes, "while 32% have a 'very negative' impression --- an all-time high. All told, the Tea Party's favorability rating is down to just 23%, which is even lower than the GOP's support and that of the NRA." "If the 'movement' still exists," Benen argues, "it's gasping for air --- and relevance." But the problems for the Republican Party itself are much deeper than simply their association with the tainted "Tea Party". Benen explains, for example, that "After discovering that there aren't any Republicans left in the center," the Republican Main Street Partnership, a D.C. outfit promoting moderate GOP lawmakers and policies, "dropped the 'R' word and became simply the Main Street Partnership."

#### The election killed the Tea Party

Greenblatt 12-31

Is The Party Over For The Tea Party?

Alan, NPR, <http://www.npr.org/blogs/itsallpolitics/2012/12/31/168196092/why-the-tea-party-stands-at-a-crossroads>

It's a little bit early, but the Tea Party is hitting its sophomore slump. A few of the prominent members of Congress elected as part of the Tea Party wave in 2010 lost their seats in November. With the end-of-year budget negotiations going nowhere, the Tea Party has been described variously as standing on the sidelines and losing its clout. fff"We could end up with taxes going up for everybody and Republicans getting the blame, which from the standpoint of the Tea Party is the worst of all possible outcomes," says Jack Pitney, a government professor at Claremont McKenna College in California. One group closely aligned with the Tea Party, FreedomWorks, suffered a near-meltdown this summer, with a power struggle leading to the ouster of its chair, Dick Armey, a former House majority leader. Putting aside the difficulties of the present moment, members of Congress associated with the Tea Party face a larger question. Like other large classes elected in the past, they're finding that it's easier to talk about changing Washington than actually doing it.

### State Secrets

#### No relations impact

Leonard ‘12 (Mark Leonard is co-founder and director of the European Council on Foreign Relations, the first pan-European think tank., 7/24/2012, "The End of the Affair", www.foreignpolicy.com/articles/2012/07/24/the\_end\_of\_the\_affair)

But Obama's stellar personal ratings in Europe hide the fact that the Western alliance has never loomed smaller in the imagination of policymakers on either side of the Atlantic. Seen from Washington, there is not a single problem in the world to be looked at primarily through a transatlantic prism. Although the administration looks first to Europeans as partners in any of its global endeavors -- from dealing with Iran's nuclear program to stopping genocide in Syria -- it no longer sees the European theater as its core problem or seeks a partnership of equals with Europeans. It was not until the eurozone looked like it might collapse -- threatening to bring down the global economy and with it Obama's chances of reelection -- that the president became truly interested in Europe. Conversely, Europeans have never cared less about what the United States thinks. Germany, traditionally among the most Atlanticist of European countries, has led the pack. Many German foreign-policy makers think it was simply a tactical error for Berlin to line up with Moscow and Beijing against Washington on Libya. But there is nothing accidental about the way Berlin has systematically refused even to engage with American concerns over German policy on the euro. During the Bush years, Europeans who were unable to influence the strategy of the White House would give a running commentary on American actions in lieu of a substantive policy. They had no influence in Washington, so they complained. But now, the tables are turned, with Obama passing continual judgment on German policy while Chancellor Angela Merkel stoically refuses to heed his advice. Europeans who for many years were infantilized by the transatlantic alliance, either using sycophancy and self-delusion about a "special relationship" to advance their goals or, in the case of Jacques Chirac's France, pursuing the even more futile goal of balancing American power, have finally come to realize that they can no longer outsource their security or their prosperity to Uncle Sam. On both sides of the Atlantic, the ties that held the alliance together are weakening. On the American side, Obama's biography links him to the Pacific and Africa but not to the old continent. His personal story echoes the demographic changes in the United States that have reduced the influence of Americans of European origin. Meanwhile, on the European side, the depth of the euro crisis has crowded out almost all foreign policy from the agenda of Europe's top decision-makers. The end of the Cold War means that Europeans no longer need American protection, and the U.S. financial crisis has led to a fall in American demand for European products (although U.S. exports to Europe are at an all-time high). What's more, Obama's lack of warmth has precluded him from establishing the sorts of human relationships with European leaders that animate alliances. When asked to name his closest allies, Obama mentions non-European leaders such as Recep Tayyip Erdogan of Turkey and Lee Myung-bak of South Korea. And his transactional nature has led to a neglect of countries that he feels will not contribute more to the relationship -- within a year of being elected, Obama had managed to alienate the leaders of most of Europe's big states, from Gordon Brown to Nicolas Sarkozy to Jose Luis Rodriguez Zapatero. Americans hardly remember, but Europe's collective nose was put out of joint by Obama's refusal to make the trip to Europe for the 2010 EU-U.S. summit. More recently, Obama has reached out to allies to counteract the impression that the only way to get a friendly reception in Washington is to be a problem nation -- but far too late to erase the sense that Europe matters little to this American president. Underlying these superficial issues is a more fundamental divergence in the way Europe and the United States are coping with their respective declines. As the EU's role shrinks in the world, Europeans have sought to help build a multilateral, rule-based world. That is why it is they, rather than the Chinese or the Americans, that have pushed for the creation of institutionalized global responses to climate change, genocide, or various trade disputes. To the extent that today's world has not collapsed into the deadlocked chaos of a "G-zero," it is often due to European efforts to create a functioning institutional order. To Washington's eternal frustration, however, Europeans have not put their energies into becoming a full partner on global issues. For all the existential angst of the euro crisis, Europe is not as weak as people think it is. It still has the world's largest market and represents 17 percent of world trade, compared with 12 percent for the United States. Even in military terms, the EU is the world's No. 2 military power, with 21 percent of the world's military spending, versus 5 percent for China, 3 percent for Russia, 2 percent for India, and 1.5 percent for Brazil, according to Harvard scholar Joseph Nye. But, ironically for a people who have embraced multilateralism more than any other on Earth, Europeans have not pooled their impressive economic, political, and military resources. And with the eurozone's need to resolve the euro crisis, the EU may split into two or more tiers -- making concerted action even more difficult. As a result, European power is too diffuse to be much of a help or a hindrance on many issues. On the other hand, Obama's United States -- although equally committed to liberal values -- thinks that the best way to safeguard American interests and values is to craft a multipartner world. On the one hand, Obama continues to believe that he can transform rising powers by integrating them into existing institutions (despite much evidence to the contrary). On the other, he thinks that Europe's overrepresentation in existing institutions like the World Bank and the International Monetary Fund is a threat to the consolidation of that order. This is leading a declining America to increasingly turn against Europe on issues ranging from climate change to currencies. The most striking example came at the 2009 G-20 in Pittsburgh, when Obama worked together with the emerging powers to pressure Europeans to give up their voting power at the IMF. As Walter Russell Mead, the U.S. international relations scholar, has written, "[I]ncreasingly it will be in the American interest to help Asian powers rebalance the world power structure in ways that redistribute power from the former great powers of Europe to the rising great powers of Asia today." But the long-term consequence of the cooling of this unique alliance could be the hollowing out of the world order that the Atlantic powers have made. The big unwritten story of the last few decades is the way that a European-inspired liberal economic and political order has been crafted in the shell of the American security order. It is an order that limits the powers of states and markets and puts the protection of individuals at its core. If the United States was the sheriff of this order, the EU was its constitutional court. And now it is being challenged by the emerging powers. Countries like Brazil, China, and India are all relatively new states forged by movements of national liberation whose experience of globalization has been bound up with their new sense of nationhood. While globalization is destroying sovereignty for the West, these former colonies are enjoying it on a scale never experienced before. As a result, they are not about to invite their former colonial masters to interfere in their internal affairs. Just look at the dynamics of the United Nations Security Council on issues from Sudan to Syria. Even in the General Assembly, the balance of power is shifting: 10 years ago, China won 43 percent of the votes on human rights in the United Nations, far behind Europe's 78 percent. But in 2010-11, the EU won less than 50 percent to China's nearly 60 percent, according to research by the European Council on Foreign Relations. Rather than being transformed by global institutions, China's sophisticated multilateral diplomacy is changing the global order itself. As relative power flows Eastward, it is perhaps inevitable that the Western alliance that kept liberty's flame alight during the Cold War and then sought to construct a liberal order in its aftermath is fading fast. It was perhaps inevitable that both Europeans and Americans should fail to live up to each other's expectations of their respective roles in a post-Cold War world. After all, America is still too powerful to happily commit to a multilateral world order (as evidenced by Congress's reluctance to ratify treaties). And Europe is too physically safe to be willing to match U.S. defense spending or pool its resources. What is surprising is that the passing of this alliance has not been mourned by many on either side. The legacy of Barack Obama is that the transatlantic relationship is at its most harmonious and yet least relevant in 50 years. Ironically, it may take the election of someone who is less naturally popular on the European stage for both sides to wake up and realize just what is at stake.

## 1AR

#### Massive increase in drone usage now

Bengali and Cloud ’13 (Shashank Bengali and David S. Cloud, Los Angeles Times, “U.S. drone strikes up sharply in Afghanistan”, <http://articles.latimes.com/2013/feb/21/world/la-fg-afghanistan-drones-20130222>, February 21, 2013)

The U.S. military launched 506 strikes from unmanned aircraft in Afghanistan last year, according to Pentagon data, a 72% increase from 2011 and a sign that American commanders may begin to rely more heavily on remote-controlled air power to kill Taliban insurgents as they reduce the number of troops on the ground. Though drone strikes represented a fraction of all U.S. air attacks in Afghanistan last year, their use is on the rise even as American troops have pulled back from ground and air operations and pushed Afghan soldiers and police into the lead. In 2011, drone strikes accounted for 5% of U.S. air attacks in Afghanistan; in 2012, the figure rose to 12%. Military spokesmen in Kabul and at the Pentagon declined to explain the increase. But officers familiar with the operation said it was due in part to the growing number of armed Reaper and Predator drones in Afghanistan and better availability of live video feeds beamed directly to troops on the ground. The increase has coincided with a shift by the Obama administration toward a new strategy in Afghanistan that relies on a smaller military footprint to go after the Taliban and remaining Al Qaeda fighters. The use of armed drones is likely to accelerate as most of the 66,000 U.S. troops in the country are due to withdraw by the end of 2014. The remotely piloted long-range aircraft, which kill targets with virtually no risk to American lives, carry an unmistakable attraction for military commanders. "With fewer troops, and even with fewer manned aircraft flying overhead, it's harder to get traditional support in combat missions," said Joshua Foust, a Washington-based analyst who has advised the U.S. military in Afghanistan. "Drones provide a good way to do that without importing a bunch of pilots and the support infrastructure they'd need to remain based there." The strategy isn't without risk: Drone strikes can kill civilians, as underscored by the Sept. 23 incident that claimed Bacha Zarina's life. After Marine Gen. John R. Allen, the former coalition commander, issued an order limiting airstrikes in populated areas last year, U.S. and NATO forces reduced civilian casualties in air attacks by 42% in 2012, according to United Nations figures. But after an airstrike this month that reportedly killed 10 civilians in addition to four Taliban leaders, Afghan President Hamid Karzai banned his forces from requesting coalition airstrikes in residential areas, a decree that also would apply to drones. Defenders of drones say they are more accurate and less prone to causing civilian casualties than manned aircraft, because they can watch a potential target longer and often use smaller munitions.

#### Plan’s precedent solves—deference is the legal justification of rendition

Richards 06 [Nelson, JD Cand @ Berkeley, “The Bricker Amendment and Congress’s Failure to Check the Inflation of the Executive’s Foreign Affairs Powers,” 94 Calif. L. Rev. 175, January, LN//uwyo-ajl]

H. Jefferson Powell has posited that the Supreme Court has all but ceded the creation of a foreign affairs and national security legal framework to the OLC. Indeed, he goes so far as to assert that OLC legal opinions, not Supreme Court opinions, are the first sources the executive branch looks to when researching foreign affairs and national security law. Another set of John Yoo's writings support the validity of Powell's claim: the infamous memos declaring enemy combatants outside the protection of the Geneva Conventions. These, combined with the "Torture Memos," the expanding practice of "extraordinary rendition," and the current Administration's blase response to the Supreme Court's ruling that prisoners held at Guantanamo Bay are entitled to judicial access, have brought peculiar focus to the weight and seriousness of the OLC's legal authority. In the realm of foreign affairs, the Court has written off its obligation, claimed in Marbury, as the authoritative interpreter of the Constitution. While it may have reviewed some of the legal premises put forth in the above-mentioned OLC opinions, it has not curbed the OLC's claim to power over foreign affairs. The Court is more than capable of challenging the President. It has the power to send messages to the President, but it has done so only in two narrow contexts: when U.S. citizens are labeled enemy combatants (Hamdi v. Rumsfeld ) and when prisoners are held in U.S. facilities (Rasul v. Bush). The Hamdi and Rasul decisions, which amount to piecemeal restraints on the President's freedom to act, accord with the Court's general failure to check the executive's use of power abroad.

#### Epistemology not first

Owen 2 (David Owen, Reader of Political Theory at the Univ. of Southampton, Millennium Vol 31 No 3 2002 p. 655-7)

Commenting on the ‘philosophical turn’ in IR, Wæver remarks that ‘[a] frenzy for words like “epistemology” and “ontology” often signals this philosophical turn’, although he goes on to comment that these terms are often used loosely.4 However, loosely deployed or not, it is clear that debates concerning ontology and epistemology play a central role in the contemporary IR theory wars. In one respect, this is unsurprising since it is a characteristic feature of the social sciences that periods of disciplinary disorientation involve recourse to reflection on the philosophical commitments of different theoretical approaches, and there is no doubt that such reflection can play a valuable role in making explicit the commitments that characterise (and help individuate) diverse theoretical positions. Yet, such a philosophical turn is not without its dangers and I will briefly mention three before turning to consider a confusion that has, I will suggest, helped to promote the IR theory wars by motivating this philosophical turn. The first danger with the philosophical turn is that it has an inbuilt tendency to prioritise issues of ontology and epistemology over explanatory and/or interpretive power as if the latter two were merely a simple function of the former. But while the explanatory and/or interpretive power of a theoretical account is not wholly independent of its ontological and/or epistemological commitments (otherwise criticism of these features would not be a criticism that had any value), it is by no means clear that it is, in contrast, wholly dependent on these philosophical commitments. Thus, for example, one need not be sympathetic to rational choice theory to recognise that it can provide powerful accounts of certain kinds of problems, such as the tragedy of the commons in which dilemmas of collective action are foregrounded. It may, of course, be the case that the advocates of rational choice theory cannot give a good account of why this type of theory is powerful in accounting for this class of problems (i.e., how it is that the relevant actors come to exhibit features in these circumstances that approximate the assumptions of rational choice theory) and, if this is the case, it is a philosophical weakness—but this does not undermine the point that, for a certain class of problems, rational choice theory may provide the best account available to us. In other words, while the critical judgement of theoretical accounts in terms of their ontological and/or epistemological sophistication is one kind of critical judgement, it is not the only or even necessarily the most important kind. The second danger run by the philosophical turn is that because prioritisation of ontology and epistemology promotes theory-construction from philosophical first principles, it cultivates a theory-driven rather than problem-driven approach to IR. Paraphrasing Ian Shapiro, the point can be put like this: since it is the case that there is always a plurality of possible true descriptions of a given action, event or phenomenon, the challenge is to decide which is the most apt in terms of getting a perspicuous grip on the action, event or phenomenon in question given the purposes of the inquiry; yet, from this standpoint, ‘theory-driven work is part of a reductionist program’ in that it ‘dictates always opting for the description that calls for the explanation that flows from the preferred model or theory’.5 The justification offered for this strategy rests on the mistaken belief that it is necessary for social science because general explanations are required to characterise the classes of phenomena studied in similar terms. However, as Shapiro points out, this is to misunderstand the enterprise of science since ‘whether there are general explanations for classes of phenomena is a question for social-scientific inquiry, not to be prejudged before conducting that inquiry’.6 Moreover, this strategy easily slips into the promotion of the pursuit of generality over that of empirical validity. The third danger is that the preceding two combine to encourage the formation of a particular image of disciplinary debate in IR—what might be called (only slightly tongue in cheek) ‘the Highlander view’—namely, an image of warring theoretical approaches with each, despite occasional temporary tactical alliances, dedicated to the strategic achievement of sovereignty over the disciplinary field. It encourages this view because the turn to, and prioritisation of, ontology and epistemology stimulates the idea that there can only be one theoretical approach which gets things right, namely, the theoretical approach that gets its ontology and epistemology right. This image feeds back into IR exacerbating the first and second dangers, and so a potentially vicious circle arises.

#### Perm do the plan and all parts of the alternative that aren’t vote negative – the alternative fails because explanations of security rely on insecurity and termination of all threats is not possible but if it were it would end the state.

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And this line of thinking takes us back to the state of nature, because if¶ there are no threats there is no justification for state security, for the sacrifice of individuals in the name of the modern state. Therefore we are¶ faced with a contradiction which Buzan does not address directly but¶ points to timidly: without threats there is no security, insecurity is the¶ condition for the state to be born according to Buzan’s reading of Hobbes¶ and, contrary to the common explanation of security policies, it is insecurity,¶ threats and vulnerabilities which form the constituting element of security¶ itself. Without insecurity, security cannot exist. Security, therefore,¶ has to remain a promise or, in Buzan’s words, “total security is not possible”,¶ but not because threats are endless but, quite on the contrary, because¶ achieving security would imply the termination of the state.

#### Western rule of law promotion is good and Mattei is wrong– no colonialist violence impact

May, 10 [The Rule of Law: its rhetoric and meaning in global politics Christopher May, Professor of Political Economy, Lancaster University, UK email: c.may@lancaster.ac.uk University of Sussex, Department of International Relations Research in Progress seminar, 15th March 2010]

This has not been passive nor reactive development but rather is linked to the professional project of lawyers to promote their expertise and skills (and to reify the law, to ensure it needs interpretation)Working in a long Western political tradition that has in one way or another promoted law as a technical ordering device to promote the good political life, lawyers have emphasised the specialist and technical character of their undertaking, and sought to maintain and increase social status by closely guarding entry to the professionThe professional project of lawyering has involved both the careful fostering of a closed group (the lawyers) alongside the promotion of their tool (law) as a solution to problems of order Thus, one element for understanding the rise of the Rule of Law norm is to attribute at least part of the cause to the number of lawyers entering politics alongside a more general professionalization of the global polity which has moved legal forms of organisation to the forefrontThe political selfmaintenance of the legal profession alongside a trend towards professionalization in modern society have reinforced each other to prompt the increasing normative deployment of the rule of lawHowever, the value of professions to politics is by no means uncontested; Perkin notes that the idea of a scarcity in expertise and professional service (driving the increase of value of the profession’s work) was firmly rejected by the new right in the UK and elsewhere in the 1980s (Perkin 1990: chapter 10)This gives one indication of why much of the work on Rule of Law has been driven by critical and oppositional groups of one sort or anotherWhile the neo-liberal/new right agenda saw law (to simplify a little) as merely a thin procedural mechanism to deliver the order required for capitalist expansion, for those seeking to maintain professional norms the thicker Rule of Law was preferred as a conception of legal development that supports the values of social justice and fairness that continue to lie at the heart of the self-conception of various professions; self-conceptions maintained by the professionals' representative bodies acting in a guild like mannerIf we accept that professionalization has played some role in the establishment of the rule of law as an overarching norm of politics, this cannot merely have happened spontaneously across the worldAnd indeed, we know that there have been, and continue to be, extensive programmes that seek to (re)establish the rule of law in developing countries, in post-conflict societies and elsewhereOnly in the post-colonial period did the form of legal re-engineering move from forced and imposed legal structures to a mode of co-development and assistance in the development of local legal regimesCertainly, some might still regard this as a form of imperialism (see for instance Mattei and Nader 2008), but there has been some semblance of political negotiation and flexibility, that was mostly absent in the imperial period Leaving aside the contentious history of law and development interventions in Latin America (see Gardner, 1980; Trubeck, 2006) it is perhaps little surprise that when legal education once again moved up the international political agenda, development and law assistance was relocated to a range of international organisations (including post-conflict UN Transitional Administrations), and became a key (mostly, but not exclusively regional) activity of the European Union.

#### Legal norms don’t cause wars and the alt can’t solve

David Luban **10**, law prof at Georgetown, Beyond Traditional Concepts of Lawfare: Carl Schmitt and the Critique of Lawfare, 43 Case WResJInt'l L457

Among these associations is the positive, constructive side of politics, the very foundation of Aristotle's conception of politics, which Schmitt completely ignoresPolitics, we often say, is the art of the possibleIt is the medium for organizing all human cooperationPeaceable civilization, civil institutions, and elemental tasks such as collecting the garbage and delivering food to hungry mouths all depend on politicsOf course, peering into the sausage factory of even such mundane municipal institutions as the town mayor's office will reveal plenty of nasty politicking, jockeying for position and patronage, and downright corruptionSchmitt sneers at these as "banal forms of politics, all sorts of tactics and practices, competitions and intrigues" and dismisses them contemptuously as "parasite- and caricature-like formations." n55 The fact is that Schmitt has nothing whatever to say about the constructive side of politics, and his entire theory focuses on enemies, not friendsIn my small community, political meetings debate issues as trivial as whether to close a street and divert the traffic to another streetIt is hard to see mortal combat as even a remote possibility in such disputes, and so, in Schmitt's view, they would not count as politics, but merely administrationYet issues like these are the stuff of peaceable human politicsSchmitt, I have said, uses the word "political" polemically--in his sense, politicallyI have suggested that his very choice of the word "political" to describe mortal enmity is tendentious, attaching to mortal enmity Aristotelian and republican associations quite foreign to itBut the more basic point is that Schmitt's critique of humanitarianism as political and polemical is itself political and polemicalIn a word, the critique of lawfare is itself lawfareIt is self-undermining because to the extent that it succeeds in showing that lawfare is illegitimate, it de-legitimizes itselfWhat about the merits of Schmitt's critique of humanitarianism? His argument is straightforward: either humanitarianism is toothless and [\*471] apolitical, in which case ruthless political actors will destroy the humanitarians; or else humanitarianism is a fighting faith, in which case it has succumbed to the political but made matters worse, because wars on behalf of humanity are the most inhuman wars of allLiberal humanitarianism is either too weak or too savageThe argument has obvious meritWhen Schmitt wrote in 1932 that wars against "outlaws of humanity" would be the most horrible of all, it is hard not to salute him as a prophet of HiroshimaThe same is true when Schmitt writes about the League of Nations' resolution to use "economic sanctions and severance of the food supply," n56 which he calls "imperialism based on pure economic power." n57 Schmitt is no warmonger--he calls the killing of human beings for any reason other than warding off an existential threat "sinister and crazy" n58 --nor is he indifferent to human sufferingBut international humanitarian law and criminal law are not the same thing as wars to end all war or humanitarian military interventions, so Schmitt's important moral warning against ultimate military self-righteousness does not really applyn59 Nor does "bracketing" war by humanitarian constraints on war-fighting presuppose a vanished order of European public lawThe fact is that in nine years of conventional war, the United States has significantly bracketed war-fighting, even against enemies who do not recognize duties of reciprocityn60 This may frustrate current lawfare critics who complain that American soldiers in Afghanistan are being forced to put down their gunsBracketing warfare is a decision--Schmitt might call it an existential decision--that rests in part on values that transcend the friend-enemy distinctionLiberal values are not alien extrusions into politics or evasions of politics; they are part of politics, and, as Stephen Holmes argued against Schmitt, liberalism has proven remarkably strong, not weakn61 We could choose to abandon liberal humanitarianism, and that would be a political decisionIt would simply be a bad one.

#### Value to life is inevitable and subjective

Schwartz 2 (Lisa, professional metaphysician, Medical Ethics: A case based approach, “The Value of Life: Who Decides and How?”, p. 112)

The second assertion made by supporters of the quality of life as a criterion for decision making is closely related to the first, but with an added dimension. This assertion suggests that the determination of the value of the quality of a given life is a subjective determination to be made by the person experiencing that life. The important addition here is that the decision is a personal one that, ideally, ought not to be made externally by another person but internally by the individual involved. Katherine Lewis made this decision for herself based on a comparison between two stages of her life. So did James Brady. Without this element, decisions based on quality of life criteria lack salient information and the patients concerned cannot give informed consent. Patients must be given the opportunity to decide for themselves whether they think their lives are worth living or not. To ignore or overlook patients’ judgment in this matter is to violate their autonomy and their freedom to decide for themselves on the basis of relevant information about their future, and comparative consideration of their past. As the deontological position puts it so well, to do so is to violate the imperative that we must treat persons as rational and as ends in themselves.

#### No impact to disease

Posner ‘5 (Richard A, judge on the U.S. Court of Appeals, Seventh Circuit, and senior lecturer at the University of Chicago Law School, Winter. “Catastrophe: the dozen most significant catastrophic risks and what we can do about them.” http://findarticles.com/p/articles/mi\_kmske/is\_3\_11/ai\_n29167514/pg\_2?tag=content;col1, March 11, 2005)

Yet the fact that Homo sapiens has managed to survive every disease to assail it in the 200,000 years or so of its existence is a source of genuine comfort, at least if the focus is on extinction events. There have been enormously destructive plagues, such as the Black Death, smallpox, and now AIDS, but none has come close to destroying the entire human race. There is a biological reason. Natural selection favors germs of limited lethality; they are fitter in an evolutionary sense because their genes are more likely to be spread if the germs do not kill their hosts too quickly. The AIDS virus is an example of a lethal virus, wholly natural, that by lying dormant yet infectious in its host for years maximizes its spread. Yet there is no danger that AIDS will destroy the entire human race. The likelihood of a natural pandemic that would cause the extiinction of the human race is probably even less today than in the past (except in prehistoric times, when people lived in small, scattered bands, which would have limited the spread of disease), despite wider human contacts that make it more difficult to localize an infectious disease. The reason is improvements in medical science. But the comfort is a small one. Pandemics can still impose enormous losses and resist prevention and cure: the lesson of the AIDS pandemic. And there is always a lust time.