# 1NC

## off

Restrictions on production must mandate a decrease in the quantity produced

Anell 89

Chairman, WTO panel

 "To examine, in the light of the relevant GATT provisions, the matter referred to the

CONTRACTING PARTIES by the United States in document L/6445 and to make such findings as will assist the CONTRACTING PARTIES in making the recommendations or in giving the rulings provided for in Article XXIII:2." 3. On 3 April 1989, the Council was informed that agreement had been reached on the following composition of the Panel (C/164): Composition Chairman: Mr. Lars E.R. Anell Members: Mr. Hugh W. Bartlett Mrs. Carmen Luz Guarda CANADA - IMPORT RESTRICTIONS ON ICE CREAM AND YOGHURT Report of the Panel adopted at the Forty-fifth Session of the CONTRACTING PARTIES on 5 December 1989 (L/6568 - 36S/68)

http://www.wto.org/english/tratop\_e/dispu\_e/88icecrm.pdf

The United States argued that Canada had failed to demonstrate that it effectively restricted domestic production of milk. The differentiation between "fluid" and "industrial" milk was an artificial one for administrative purposes; with regard to GATT obligations, the product at issue was raw milk from the cow, regardless of what further use was made of it. The use of the word "permitted" in Article XI:2(c)(i) required that there be a limitation on the total quantity of milk that domestic producers were authorized or allowed to produce or sell. The provincial controls on fluid milk did not restrict the quantities permitted to be produced; rather dairy farmers could produce and market as much milk as could be sold as beverage milk or table cream. There were no penalties for delivering more than a farmer's fluid milk quota, it was only if deliveries exceeded actual fluid milk usage or sales that it counted against his industrial milk quota. At least one province did not participate in this voluntary system, and another province had considered leaving it. Furthermore, Canada did not even prohibit the production or sale of milk that exceeded the Market Share Quota. The method used to calculate direct support payments on within-quota deliveries assured that most dairy farmers would completely recover all of their fixed and variable costs on their within-quota deliveries. The farmer was permitted to produce and market milk in excess of the quota, and perhaps had an economic incentive to do so. 27. The United States noted that in the past six years total industrial milk production had consistently exceeded the established Market Sharing Quota, and concluded that the Canadian system was a regulation of production but not a restriction of production. Proposals to amend Article XI:2(c)(i) to replace the word "restrict" with "regulate" had been defeated; what was required was the reduction of production. The results of the econometric analyses cited by Canada provided no indication of what would happen to milk production in the absence not only of the production quotas, but also of the accompanying high price guarantees which operated as incentives to produce. According to the official publication of the Canadian Dairy Commission, a key element of Canada's national dairy policy was to promote self-sufficiency in milk production. The effectiveness of the government supply controls had to be compared to what the situation would be in the absence of all government measures.

The plan changes how energy is produced, rather than restricting how much is produced

This conflation ruins the topic:

1. Including regulations is a limits disaster

Doub 76

 Energy Regulation: A Quagmire for Energy Policy

Annual Review of Energy

Vol. 1: 715-725 (Volume publication date November 1976)

DOI: 10.1146/annurev.eg.01.110176.003435LeBoeuf, Lamb, Leiby & MacRae, 1757 N Street NW, Washington, DC 20036

http://0-www.annualreviews.org.library.lausys.georgetown.edu/doi/pdf/10.1146/annurev.eg.01.110176.003435

 Mr. Doub is a principal in the law firm of Doub and Muntzing, which he formed in 1977. Previously he was a partner in the law firm of LeBoeuf, Lamb, Leiby and MacRae. He was a member of the U.S. Atomic Energy Commission in 1971 - 1974. He served as a member of the Executive Advisory Committee to the Federal Power Commission in 1968 - 1971 and was appointed by the President of the United States to the President's Air Quality Advisory Board in 1970. He is a member of the American Bar Association, Maryland State Bar Association, and Federal Bar Association. He is immediate past Chairman of the U.S. National Committee of the World Energy Conference and a member of the Atomic Industrial Forum. He currently serves as a member of the nuclear export policy committees of both the Atomic Industrial Forum and the American Nuclear Energy Council. Mr. Doub graduated from Washington and Jefferson College (B.A., 1953) and the University of Maryland School of Law in 1956. He is married, has two children, and resides in Potomac, Md. He was born September 3, 1931, in Cumberland, Md.

FERS began with the recognition that federal energy policy must result from concerted efforts in all areas dealing with energy, not the least of which was the manner in which energy is regulated by the federal government. Energy selfsufficiency is improbable, if not impossible, without sensible regulatory processes, and effective regulation is necessary for public confidence. Thus, the President directed that "a comprehensive study be undertaken, in full consultation with Congress, to determine the best way to organize all energy-related regulatory activities of the government." An interagency task force was formed to study this question. With 19 different federal departments and agencies contributing, the task force spent seven months deciphering the present organizational makeup of the federal energy regulatory system, studying the need for organizational improvement, and evaluating alternatives. More than 40 agencies were found to be involved with making regulatory decisions on energy. Although only a few deal exclusively with energy, most of the 40 could significantly affect the availability and/or cost of energy. For example, in the field of gas transmission, there are five federal agencies that must act on siting and land-use issues, seven on emission and effluent issues, five on public safety issues, and one on worker health and safety issues-all before an onshore gas pipeline can be built. The complexity of energy regulation is also illustrated by the case of Standard Oil Company (Indiana), which reportedly must file about 1000 reports a year with 35 different federal agencies. Unfortunately, this example is the rule rather than the exception.

2. Precision: Only direct prohibition is a restriction – key to predictability

Sinha 6

<http://www.indiankanoon.org/doc/437310/>

 Supreme Court of India Union Of India & Ors vs M/S. Asian Food Industries on 7 November, 2006 Author: S.B. Sinha Bench: S Sinha, Mark, E Katju CASE NO.: Writ Petition (civil) 4695 of 2006 PETITIONER: Union of India & Ors. RESPONDENT: M/s. Asian Food Industries DATE OF JUDGMENT: 07/11/2006 BENCH: S.B. Sinha & Markandey Katju JUDGMENT: J U D G M E N T [Arising out of S.L.P. (Civil) No. 17008 of 2006] WITH CIVIL APPEAL NO. 4696 OF 2006 [Arising out of S.L.P. (Civil) No. 17558 of 2006] S.B. SINHA, J :

 We may, however, notice that this Court in State of U.P. and Others v. M/s. Hindustan Aluminium Corpn. and others [AIR 1979 SC 1459] stated the law thus:

"It appears that a distinction between regulation and restriction or prohibition has always been drawn, ever since Municipal Corporation of the City of Toronto v. Virgo. Regulation promotes the freedom or the facility which is required to be regulated in the interest of all concerned, whereas prohibition obstructs or shuts off, or denies it to those to whom it is applied. The Oxford English Dictionary does not define regulate to include prohibition so that if it had been the intention to prohibit the supply, distribution, consumption or use of energy, the legislature would not have contented itself with the use of the word regulating without using the word prohibiting or some such word, to bring out that effect."

2. It promotes multidirectionality, destroying topic coherence

McKie 84

 Professor James W. McKie, distinguished member of the economics department at The University of Texas at Austin for many years

McKie, J W

Annual Review of Environment and Resource , Volume 9 (1)

Annual Reviews – Nov 1, 1984

 THE MULTIPLE PURPOSES OF ENERGY REGULATION AND PROMOTION Federal energy policy since World War II has developed into a vast and multidirectional program of controls, incentives, restraints, and promotions. This development accelerated greatly during the critical decade after 1973, and has become a pervasive and sometimes controlling influence in the energy economy. Its purposes, responding to a multitude of interests and aims in the economy, have frequently been inconsistent, if not obscure, and the results have often been confusing or disappointing.

## off

#### Lowering restrictions on licenses undermines the NRC model – expert consensus

Physicians for Social Responsibility, quotes a wreck of qualified people, 6/23/2010

(“Experts warn proposed climate/energy legislation would deregulate new nuclear reactors in much the same way that oil drilling oversight was ‘streamlined’ before BP spill,” <http://www.psr.org/nuclear-bailout/resources/062310-release.pdf>)

As the industry’s proponents in Congress tout **the nuclear regulatory structure** as superior to that used for oil drilling and even **as a possible model** for oversight of the petrochemical industry, the same individuals are quietly working behind the scenes to push through **BP-like regulatory rollbacks that would dramatically reshape safety and environmental requirements for new reactors**. These provisions might be incorporated into a climate bill or a narrower “energy-only” bill that could be voted on by the U.S. Senate as early as next month.

Leading experts are worried that these little-discussed provisions in proposed climate/energy legislation would further **undermine** Nuclear Regulatory Commission (**NRC**) **safety reviews** for new reactors **by truncating the licensing process for new reactors**, **scaling back environmental impact reviews**, **and limiting public involvement in reactor licensing decisions**. **These measures would relax the healthy pressure** that nuclear reactor neighbors can put **on regulators to serve the public’s interest first**, **rather than that of the industry**. (See details below on the proposed legislative provisions that set the stage for the BP-style deregulation of the nuclear industry.)

#### Extinction

Shultz, former U.S. Secretary of State and PhD in industrial economics, et al, 10/2/2012

(George, and Sidney Drell – PhD in physics, arms control specialist and senior fellow at the Hoover Institution at Stanford University and a professor of theoretical physics emeritus at Stanford’s SLAC National Accelerator Laboratory, Steven P. Andreasen -- lecturer at the Humphrey School of Public Affairs at the University of Minnesota, “Reducing the Global Nuclear Risk” October 2, 2012, Policy Review, No. 175, Hoover Institution)

We begin with the most reassuring outcome of our deliberations: It’s the sense generally held that the U.S. nuclear enterprise currently meets very high standards in its commitment to safety and security. That has not always been the case in all aspects of the U.S. nuclear enterprise. But safety begins at home, and while the U.S. will need to remain focused to guard against nuclear risks, the picture here looks relatively good.

Our greatest concern is that the same cannot be said of the nuclear enterprise globally. Governments, international organizations, industry, and media must recognize and address the nuclear challenges and mounting risks posed by a rapidly changing world.

The biggest concerns with nuclear safety and security are in countries relatively new to the nuclear enterprise, and the po­tential loss of control to terrorist or criminal gangs of the fissile material that exists in such abundance around the world. In a number of countries, confidence in civil nuclear energy production was severely shaken in the spring of 2011 by the Fukushima nuclear reactor plant disaster. And in the military sphere, the doctrine of deterrence that remains primarily dependent on nuclear weapons is seen in decline due to the importance of nonstate actors such as al-Qaeda and terrorist affiliates that seek destruc­tion for destruction’s sake. We have two nuclear tigers by the tail.

When risks and consequences are unknown, undervalued, or ignored, our nation and the world are dangerously vulnerable. Nowhere is this risk/consequence calculation more relevant than with respect to the nucleus of the atom.

From Hiroshima to Fukushima

The nuclear enterprise was introduced to the world by the shock of the devastation produced by two atomic bombs hitting Hiroshima and Nagasaki. Modern nuclear weapons are far more powerful than those early bombs, which presented their own hazards. Early research depended on a program of atmospheric testing of nuclear weapons. In the early years following World War II, the impact and the amount of radioactive fallout in the atmosphere generated by above-ground nuclear explosions was not fully appreciated. During those years, the United States and the Soviet Union conducted several hundred tests in the atmosphere that created fallout.

A serious regulatory weak point from that time still exists in many places today, as the Fukushima disaster clearly indicates. The U.S. Atomic Energy Commission (aec) was initially assigned conflicting responsibilities: to create an arsenal of nuclear weapons for the United States to confront a grow­ing nuclear-armed Soviet threat; and, at the same time, to ensure public safety from the effects of radioactive fallout. The aec was faced with the same conundrum with regard to civilian nuclear power generation. It was charged with promoting civilian nuclear power and simultane­ously protecting the public.

Progress came in 1963 with the negotiation and signing of the Limited Test Ban Treaty (ltbt) banning all nuclear explosive testing in the atmosphere (initially by the United States, the Soviet Union, and the United Kingdom). With the successful safety record of the U.S. nuclear weapons program, domestic anxiety about nuclear weapons receded somewhat. Meanwhile, public attitudes toward nuclear weapons reflected recognition of their key role in establishing a more stable nuclear deter­rent posture in the confrontation with the Soviet Union.

The nuclear safety picture looks relatively good; the same cannot be said of the nuclear enterprise globally.

The positive record on safety of the nuclear weapons enterprise in the United States — there have been accidents involving nuclear weapons, but none that led to the release of nuclear energy — was the result of a strong effort and continuing commitment to include safety as a pri­mary criterion in new weapons designs, as well as careful production, handling, and deployment procedures. The key to the health of today’s nuclear weapons enterprise is confidence in the safety of its operations and in the protection of special nuclear materials against theft. One can imagine how different the situation would be today if there had been a recognized theft of material sufficient for a bomb, or if one of the two four-megaton bombs that fell from a disabled b-52 Strategic Air Com­mand bomber overflying Goldsboro, North Carolina, in 1961 had deto­nated. In that event, a single switch in the arming sequence of one of the bombs, by remaining in its “off” position while the aircraft was dis­integrating, was all that prevented a full-yield nuclear explosion. A close call indeed.

In the 26 years since the meltdown of the nuclear reactor at Chernobyl in Soviet-era Ukraine, the nuclear power industry has strengthened its safety practices. Over the past decade, growing concerns about global warming and energy independence have actually strengthened support for nuclear energy in the United States and many nations around the world. Yet despite these trends, the civil nuclear enterprise remains fragile. Following Fukushima, opinion polls gave stark evidence of the public’s deep fears of the invisible force of nuclear radiation, shown by public opposition to the construction of new nuclear power plants in close proximity. It is not simply a matter of getting bet­ter information to the public but of actually educating the public about the true nature of nuclear radiation and its risks. Of course, the imme­diate task of the nuclear power component of the enterprise is to strive for the best possible safety record. The overriding objective could not be more clear: no more Fukushimas.

Another issue that must be resolved involves the continued effectiveness of a policy of deterrence that remains primarily dependent on nuclear weapons, and the hazards these weapons pose due to the spread of nuclear technology and material. There is growing apprehension about the determination of terrorists to get their hands on weapons or, for that matter, on the special nuclear material — plutonium and highly enriched uranium — that fuels them in the most challenging step toward develop­ing a weapon.

The global effects of a regional war between nuclear-armed adversaries such as India and Pakistan would also wield an enormous impact, potentially involving radioactive fallout at large distances caused by a limited number of nuclear explosions.

This is true as well for nuclear radiation from a reactor explosion — fallout at large distances would have a serious societal impact on the nuclear enterprise. There is little understanding of the reality and poten­tial danger of consequences if such an event were to occur halfway around the world. An effort should be made to prepare the public by providing information on how to respond to such an event.

An active nuclear diplomacy has grown out of the Cold War efforts to regulate testing and reduce superpower nuclear arsenals. There is now a welcome focus on rolling back nuclear weapons proliferation. Additional important measures include the Nunn-Lugar program, started in 1991 to reduce the nuclear arsenal of the former Soviet Union. Such initiatives have led to greater investment by the United States and other governments in better security for nuclear weapons and material globally, including billions of dollars through the g8 Global Partnership Against the Spread of Weapons and Materials of Mass Destruction. The commitment to improving security of all dangerous nuclear material on the globe within four years was made by 47 world leaders who met with Presi­dent Obama in Washington, D.C., in April 2010; this commitment was reconfirmed in March 2012 at the Nuclear Security Summit in Seoul, South Korea. Many specific commitments made in 2010 relating to the removal of nuclear materials and conversion of nuclear research reactors from highly enriched uranium to low-enriched uranium fuel have already been accomplished, along with increasing levels of voluntary commitments from a diverse set of states, improving prospects for achieving the four-year goal.

Three principles

It is evident that globally, the nuclear enterprise faces new and increasingly difficult challenges. Successful leadership in national security policy will require a continu­ous, diligent, and multinational assessment of these newly emerging risks and consequences. In view of the seriousness of the potentially deadly consequences associated with nuclear weapons and nuclear power, we emphasize the importance of three guiding principles for efforts to reduce those risks globally:

First, the calculations used to assess nuclear risks in both the military and the civil sectors are fallible. Accurately analyzing events where we have little data, identifying every variable associated with risk, and the possibility of a single variable that goes dangerously wrong are all factors that complicate risk calculations. Governments, industry, and concerned citizens must constantly reexamine the assumptions on which safety and security measures, emergency preparations, and nuclear energy production are based. When dealing with very low-probability and high-consequence operations, we typically have little data as a basis for making quantitative analyses. It is therefore difficult to assess the risk of a nuclear accident and what would contribute to it, and to identify effective steps to reduce that risk.

It's important to remember that the calculations used to assess nuclear risks in the military and civil sectors are fallible.

In this context, it is possible that a single variable could exceed expec­tations, go dangerously wrong, and simply overwhelm safety systems and the risk assessments on which those systems were built. This is what happened in 2011 when an earthquake, followed by a tsunami — both of which exceeded expectations based on history — overwhelmed the Fuku­shima complex, breaching a number of safeguards that had been built into the plant and triggering reactor core meltdowns and radiation leaks. This in turn exposed the human factor, which is hard to assess and can dramatically change the risk equation. Cultural habits and regulatory inadequacy inhibited rapid decision-making and crisis management in the Fukushima disaster. A more nefarious example of the human factor would be a determined nuclear terrorist attack specifically targeting either the military or civilian component of the nuclear enterprise.

Second, risks associated with nuclear weapons and nuclear power will likely grow substantially as nuclear weapons and civilian nuclear energy production technology spread in unstable regions of the world where the potential for conﬂict is high. States that are new to the nuclear enterprise may not have effective nuclear safeguards to secure nuclear weapons and materials — including a developed fabric of early warning systems and nuclear confidence-building measures that could increase warn­ing and decision time for leaders in a crisis — or the capability to safely manage and regulate the construction and operation of new civilian reactors. Hence there is a growing risk of accidents, mistakes, or miscal­culations involving nuclear weapons, and of regional wars or nuclear ter­rorism. The consequences would be horrific: A Hiroshima-size nuclear bomb detonated in a major city could kill a half-million people and result in $1 trillion in direct economic damage.

On the civil side of the nuclear ledger, the sobering paradox is this: While an accident would be con­siderably less devastating than the detonation of a nuclear weapon, the risk of an accident occurring is probably higher. Currently, 1.4 billion people live without electricity, and by 2030 the global demand for energy is projected to rise by about 25 percent. With the added need to mini­mize carbon emissions, nuclear power reactors will become increasingly attractive alternative sources for electric power, especially for develop­ing nations. These countries, in turn, will need to meet the challenge of developing appropriate governmental institutions and the infrastruc­ture, expertise, and experience to support nuclear power efforts with a suitably high standard of safety. As the world witnessed in Fukushima, a nuclear power plant accident can lead to the spread of dangerous radia­tion, massive civil dislocations, and billions of dollars in cleanup costs. Such an event can also fuel widespread public skepticism about nuclear institutions and technology.

Some developed nations — notably Germany — have interpreted the Fukushima accident as proof that they should abandon nuclear power altogether, primarily by prolonging the life of existing nuclear reactors while phasing out nuclear-produced electricity and developing alternative energy sources.

Third, we need to understand that no nation is immune from risks involving nuclear weapons and nuclear power within their borders. There were 32 so-called “Broken Arrow” accidents — nuclear accidents that do not pose a danger of an outbreak of nuclear war — involving U.S. weapons between 1950 and 1980, mostly involving U.S. Strategic Air Command bombers and earlier bomb designs not yet incorporating modern nuclear detonation safety designs. The U.S. no longer maintains a nuclear-armed, in-air strategic bomber force, and the record of incidents is greatly reduced. In several cases, accidents such as the North Caro­lina bomber incident came dangerously close to triggering catastrophes, with disaster averted simply by luck.

The United States has had an admirable safety record in the area of civil nuclear power since the 1979 Three Mile Island accident in Pennsylvania, yet safety concerns persist. One of the critical assumptions in the design of the Fukushima reactor complex was that, if electrical power was lost at the plant and back-up generators failed, power could be restored within a few hours. The combined one-two punch of the earthquake and tsunami, however, made the necessary repairs impossible. In the United States today, some nuclear power reactors are designed with a comparably short window for restoring power. After Fukushima, this is an issue that deserves action — especially in light of our own Hurricane Katrina expe­rience, which rendered many affected areas inaccessible for days in 2005, and the August 2011 East Coast earthquake that shook the North Anna nuclear power plant in Mineral, Virginia, beyond expectations based on previous geological activity.

Reducing risks

To reduce these nuclear risks, we offer four related recommendations that should be adopted by the nuclear enterprise, both military and civilian, in the United States and abroad.

First, the reduction of nuclear risks requires every level of the nuclear enterprise and related military and civilian organizations to embrace the importance of safety and security as an overarching operating rule. This is not as easy as it sounds. To a war fighter, more safety and control can mean less reliability and availability and greater costs. For a com­pany or utility involved in the construction or operation of a nuclear power plant, more safety and security can mean greater regulation and higher costs.

The absence of a culture of safety and security is perhaps the most reliable indicator of an impending disaster.

But the absence of a culture of safety and security, in which priorities and meaningful standards are set and rigorous discipline and accountability are enforced, is perhaps the most reliable indicator of an impending disaster. In August 2007, after a b-52 bomber loaded with six nuclear-tipped cruise missiles flew from North Dakota to Louisiana without anyone realizing there were live weapons on board, then Secretary of Defense Robert Gates fired both the military and civilian heads of the U.S. Air Force. His action was an example of setting the right priorities and enforcing accountability, but the reality of the incident shows that greater incorporation of a safety and security culture is needed.

Second, independent regulation of the nuclear enterprise is crucial to setting and enforcing the safety and security rule. In the United States today, the nuclear regulatory system — in particular, the Nuclear Regu­latory Commission (NRC) — is credited with setting a uniquely high standard for independent regulation of the civil nuclear power sector. This is one of the keys to a successful and safe nuclear program. Effec­tive regulation is even more crucial when there are strong incentives to keep operating costs down and keep an aging nuclear reactor fleet in operation, a combination that could create conditions for a catastrophic nuclear power plant failure. Careful attention is required to protect the NRC from regulatory capture by vested interests in government and industry, the latter of which funds a high percentage of the nrc’s budget.

In too many countries, strong, independent regulatory agencies are not the norm. The independent watchdog organization advising the Japanese government was working with Japanese utilities to influence public opin­ion in favor of nuclear power. Strengthening the International Atomic Energy Agency (iaea) so that it can play a greater role in civil nuclear safety and security would also help reduce risks, and will require substan­tially greater authorities to address both safety and security, and most importantly, more resources for an agency whose budget is only €333 million, with only one-tenth of that total devoted to nuclear safety and security. In addition, exporting “best practices” of the U.S. Nuclear Regulatory Commission — that is, lessons of nuclear regulation, oversight, and safety learned over many decades — to other countries would pay a huge safety dividend**.**

## off

#### Obama has the leverage to win a deal on the fiscal cliff now

Cohn, 11/7

(Columnist-New Republic, “How the Election Reset the "Fiscal Cliff" Debate,” http://www.tnr.com/blog/plank/109904/boehner-statement-fiscal-cliff-revenue-election-obama-leverage)

Of course, it’s not clear how much ground Boehner really conceded. His statement was ambiguous, just like the signals he sent during the 2010 negotiations over whether and how to raise the nation's debt ceiling. He could simply have been describing a tax plan that, according to discredited supply-side economic theories, would generate new revenue from additional economic growth. Says one senior Democratic aide in the Senate: Boehner is clearly trying to sound a conciliatory note in the wake of an election that didn’t go their way. That much is welcome. But if you unpack what he was saying, it’s not really a new position on taxes. He only opened the door to revenues through “dynamic scoring” as opposed to good, old-fashioned revenues that aren’t based on a supply-side economic theory and that can be scored by [the Joint Committee on Taxation]. A more detailed parsing by Suzy Khimm yields a similar conclusion: Boehner doesn't appear to be offering more than he did in the summer of 2011. That might not be surprising, given the pressure Boehner faces from conservatives within his caucus. But, given the political circumstances, it's still a remarkable statement about how Republicans plan to approach this negotiation. After all, this election didn’t simply put Obama back into office. It also **altered the political environment for the deficit debate**, in a way that should **make Obama and the Democrats much stronger.** Remember, when Obama and the Republicans were debating these issues in 2011, Obama was at his weakest. A few months earlier, the Democrats had recently suffered a devastating, humiliating defeat in the midterm elections. The recovery had stalled and unemployment, at 9.5 percent, was about to start rising again. Obama’s approval rating was bottoming out at about 45 percent. Today, by contrast, the recovery seems to be well underway, with unemployment below 8 percent and, most likely, on the way down. Obama’s approval rating is up to 48 percent. He just won a presidential election, with a sizeable margin in the electoral college and a surprisingly comfortable margin in the popular vote. At last count, Obama was beating Romney by 50 percent to 48 percent, or a difference of nearly 3 million votes. Democrats didn’t take control of the House, which is to be expected given gerrymandering. But, to almost everybody’s surprise, they picked up two seats in Senate. And, as Greg Sargent points out, "the influx of new arrivals means a **more liberal and energetic Democratic caucus.**" That’s no small thing: Throughout the first two years of Obama’s presidency, the need to appease conservative Democrats in the Senate constrained Obama’s maneuvering room. Most important of all, perhaps, a major issue in the presidential election was the question of whether to raise taxes on the wealthy. It was a theme of all the big convention speeches, a regular staple of Obama’s campaign appearances, and a point Obama invoked at every one of the debates. The other big change since last time is the policy circumstances. During the 2011 debate, which was about whether to raise the debt ceiling, Republicans held the leverage. Both sides feared the consequences of doing nothing, given the economic repercussions if the government had to start defaulting on bills. But some Republicans were so opposed to spending they considered inaction the lesser of evils. And Obama, as a sitting president about to seek reelection, knew he’d bear political responsibility for the resulting economic damage. This time, Republicans probably feel they have more to lose. The automatic cuts affect a wide variety of programs, but they hit defense spending particularly hard. Obama doesn’t have to run for reelection anymore. And he wants taxes on the wealthy to go up. Allowing the Bush tax cuts to expire would accomplish that, although Obama would likely react by trying to restore—or effectively replace—the cuts for the middle class. As folks like Jonathan Chait have been saying for a while, **Obama appears to have a much stronger bargaining position** this time around. And during a press conference on Wednesday, Vice President Biden seemed to say he agreed. “There was a clear, a clear sort of mandate," Biden said, "about people coming much closer to our view about how to deal with tax policy.” But liberals will be watching closely—very closely—to make sure the White House and congressional Democrats put this leverage to good use. Neera Tanden, president of the Center for American Progress and occasional TNR contributor, puts it this way: It would be deeply discouraging to all those who have worked so hard over the last two years to elect the president and expand the Democratic majority in the senate to simply reset the fiscal cliff negotiations back to where it was a year and a half ago, with too little revenue on the table and too many hits to beneficiaries. And that is why I expect that any final negotiation will better reflect the priorities of the American people.

New nuclear production causes massive political backlash and saps capital – any evidence pre 2011 is irrelevant

Alex Trembath, Policy Fellow in AEL’s New Energy Leaders Project, 11 [“Nuclear Power and the Future of Post-Partisan Energy Policy,” Lead Energy, Feb 4, http://leadenergy.org/2011/02/the-nuclear-option-in-a-post-partisan-approach-on-energy/]

Nuclear power is unique among clean energy technologies in that Democrats tend to be more hesitant towards its production than Republicans. Indeed, it has a reputation for its appeal to conservatives -Senators Kerry, Graham and Lieberman included provisions for nuclear technology in their ultimately unsuccessful American Power Act (APA) with the ostensible goal of courting Republican support. The urgency with which Democrats feel we must spark an energy revolution may find a perfect partner with Republicans who support nuclear power. But is there anything more than speculative political evidence towards its bipartisan viability?¶ If there is one field of the energy sector for which **certainty of political will** **and government policy is essential**, it is nuclear power. High up front costs for the private industry, extreme regulatory oversight and public wariness necessitate a committed government partner for private firms investing in nuclear technology. In a new report on the potential for a “nuclear renaissance,” Third Way references the failed cap-and-trade bill, delaying tactics in the House vis-a-vis EPA regulations on CO₂, and the recent election results to emphasize the difficult current political environment for advancing new nuclear policy. The report, “The Future of Nuclear Energy,” makes the case for political certainty:¶ “It is difficult for energy producers and users to estimate the relative price for nuclear-generated energy compared to fossil fuel alternatives (e.g. natural gas)–an essential consideration in making the major capital investment decision necessary for new energy production that will be in place for decades.”¶ Are our politicians willing to match the level of certainty that the nuclear industry demands? Lacking a suitable price on carbon that may have been achieved by a cap-and-trade bill removes one primary policy instrument for making nuclear power more cost-competitive with fossil fuels. The impetus on Congress, therefore, will be to shift from demand-side “pull” energy policies (that increase demand for clean tech by raising the price of dirty energy) to supply-side “push” policies, or industrial and innovation policies. Fortunately, there are signals from political and thought leaders that a package of policies may emerge to incentivize alternative energy sources that include nuclear power.¶ One place to start is the recently deceased American Power Act, addressed above, authored originally by Senators Kerry, Graham and Lieberman. Before its final and disappointing incarnation, the bill included provisions to increase loan guarantees for nuclear power plant construction in addition to other tax incentives. Loan guarantees are probably the most important method of government involvement in new plant construction, given the high capital costs of development. One wonders what the fate of the bill, or a less ambitious set of its provisions, would have been had Republican Senator Graham not abdicated and removed any hope of Republican co-sponsorship.¶ But **that was last year. The** **changing of the guard in Congress makes this a whole different game**, and the once feasible support for nuclear technology on either side of the aisle must be reevaluated. A New York Times piece in the aftermath of the elections forecast **a difficult road ahead for nuclear energy policy**, but did note Republican support for programs like a waste disposal site and loan guarantees.¶ Republican support for nuclear energy has roots in the most significant recent energy legislation, the Energy Policy Act of 2005, which passed provisions for nuclear power with wide bipartisan support. Reaching out to Republicans on policies they have supported in the past should be a goal of Democrats who wish to form a foundational debate on moving the policy forward. There are also signals that key Republicans, notably Lindsey Graham and Richard Lugar, would throw their support behind a clean energy standard that includes nuclear and CCS.¶ Republicans in Congress will find intellectual support from a group that AEL’s Teryn Norris coined “innovation hawks,” among them Steven Hayward, David Brooks and George Will. Will has been particularly outspoken in support of nuclear energy, writing in 2010 that “it is a travesty that the nation that first harnessed nuclear energy has neglected it so long because fads about supposed ‘green energy’ and superstitions about nuclear power’s dangers.”¶ The extreme reluctance of Republicans to cooperate with Democrats over the last two years is only the first step, as any legislation will have to overcome Democrats’ traditional opposition to nuclear energy. However, here again there is reason for optimism. Barbara Boxer and John Kerry bucked their party’s long-time aversion to nuclear in a precursor bill to APA, and Kerry continued working on the issue during 2010. Jeff Bingaman, in a speech earlier this week, reversed his position on the issue by calling for the inclusion of nuclear energy provisions in a clean energy standard. The Huffington Post reports that “the White House reached out to his committee [Senate Energy] to help develop the clean energy plan through legislation.” This development in itself potentially mitigates two of the largest obstacle standing in the way of progress on comprehensive energy legislation: lack of a bill, and lack of high profile sponsors. Democrats can also direct Section 48C of the American Recovery and Reinvestment Act of 2009 towards nuclear technology, which provides a tax credit for companies that engage in clean tech manufacturing.¶ Democrats should not give up on their policy goals simply because they no longer enjoy broad majorities in both Houses, and Republicans should not spend all their time holding symbolic repeal votes on the Obama Administration’s accomplishments. The lame-duck votes in December on “Don’t Ask, Don’t Tell,” the tax cut deal and START indicate that at least a few Republicans are willing to work together with Democrats in a divided Congress, and that is precisely what **nuclear energy** needs moving forward. It **will require an aggressive push from the White House**, and a concerted effort from both parties’ leadership, but the road for forging bipartisan legislation is not an impassable one.

#### Obama must use capital to secure a fiscal cliff solution—key to avoid global depression

Sullivan, 11/9

(The Daily Dish, “Now, Govern,” http://andrewsullivan.thedailybeast.com/2012/11/now-govern.html)

I'm as amazed as everyone else by the results on Tuesday night, and they're still sinking in. The new America won; and the 1980s lost. Not everything can be solved by cutting taxes and dropping bombs, a majority of Americans have resolved; the Great Recession was not an ordinary one; the way forward not as glib or as easy for the right as Mr Iraq War would have you believe. But it would be a huge error, it seems to me, if the president decided to bask in his stunning victory, rather than seeing it as a **precious moment for the expenditure of political capital**. We are facing automatic massive tax hikes and huge, crude spending cuts starting January 1 if we cannot get a bipartisan deal on Bowles-Simpson lines (of course there is room for tweaking and bargaining). **A failure to get that kind of deal would tip the US and the world into a new global depression.** We need to think of the fiscal cliff as we did the Super Storm Sandy. It's unlike anything we have encountered in recent times. But when Chris Christie threw partisanship to the literal winds and embraced the president in an emergency (and vice-versa), we saw a glimpse of what can happen, of what Obama actually promised all along he could bring about, and what he has yet failed to do. His re-election has re-capitalized him. He should use that capital, it seems to me, **immediately, when it is at its peak. There are obvious contours for a deal**: the parameters that both the president and the Speaker came close to in the summer of 2011. The Speaker has publicly reiterated that he is open to new revenues; the president has said he is aware of the need to cut the cost of entitlements in the future. The cost-controls in the ACA may help, and should be aggressively tested, but we have no more proof of their success than we did when Bush promised that huge tax cuts would generate growth and employment for the middle class. That's why they had a sunset on them. Some kind of premium support option or later retirement age are by no means unreasonable complements to innovative rethinking of healthcare, given the exponential growth of spending on everything we now call "health." Tax reform along 1986 lines is obviously the most productive common ground. Get us to three simple rates; get rid of the myriad deductions, including those for mortgage interest and state taxation. End all those corporate loopholes. Some of this will hurt the middle class - but rates can stay the same even as revenues rise; and there is simply no way to get to fiscal sanity without some sacrifice from the middle as well as the top. I think Obama has every reason to put the successful and wealthy back near the tax bracket Bill Clinton left us with. But equally, doing so without radical tax reform is a non-starter for the GOP, and they have a legitimate constitutional veto. Then take an axe to the Pentagon, as Simpson-Bowles did. The perpetual war machine has become a kind of entitlement in itself, draining the country of resources we need at home, in pursuit of global hegemony that is becoming counter-productive to actual, you know, self-defense. Then we have to consider increasing premiums for the elderly who are better off, and to put back into Obamacare that end-of-life power-of-attorney discussion for everyone on Medicare that Sarah Palin called "death panels". A mandatory discussion of power-of-attorney issues for Medicare is not a "death panel." It's a wise nudge for people to be able to control their lives in advance. To invest so many resources into extending a dying person's life by a few days (when we don't even know for sure in many cases if the person wants that extra care), is completely irrational, when we desperately need to invest in education for the young. And yes, that is a choice we have to make, and we are making it now. We are now putting the last gasps of the old over the first steps of the young. That needs re-balancing a bit. Many Democrats will argue that they have a mandate for higher tax rates for the wealthy. I think they have a mandate for more revenues from the wealthy and a fairer, simpler tax code. The GOP retained the House and they are a part of this country's leadership. Start afresh. Bring them in fully for this deal. Reach out to Ryan as well as Boehner. Many Democrats cannot bear the idea of cutting Medicare benefits, but I want to echo Kevin Drum in saying: it's gotta happen. Many Republicans abhor the idea of drawing down from a Cold War posture in defense. They need to get over themselves too. The only question is if the president will aggressively take the lead on this, treating it with the same urgency he did a super-storm, and fulfill his promise of breaking through the red-blue divide for pragmatic solutions to our actual problems. He deserves a brief rest, of course. Everyone does. But Americans re-capitalized their president for a reason: to govern, to forge the legislative compromises that can set our fiscal course toward sanity again. This time, he does not have the time to lead from behind. We need him out front, telling us the fiscal truth and showing a way forward. He does not need to be elected again. He can be a mediator between both parties rather than the representative of one. He has to give the House GOP an honorable way out of their Tea Party nonsense, and tax reform is the obvious way to do it. This must be doable. And if it is achieved, Obama's true promise of getting us past these inane ideological battles toward a workable future will be secure. And contra Krugman, I do believe that renewed confidence in America's long-term fiscal standing will help investment and employment and growth again. **But the president needs to be bold;** and magnanimous. **And fast**.

#### Extinction

Kemp 10

Geoffrey Kemp, Director of Regional Strategic Programs at The Nixon Center, served in the White House under Ronald Reagan, special assistant to the president for national security affairs and senior director for Near East and South Asian affairs on the National Security Council Staff, Former Director, Middle East Arms Control Project at the Carnegie Endowment for International Peace, 2010, The East Moves West: India, China, and Asia’s Growing Presence in the Middle East, p. 233-4

The second scenario, called Mayhem and Chaos, is the opposite of the first scenario; everything that can go wrong does go wrong. The world economic situation weakens rather than strengthens, and India, China, and Japan suffer a major reduction in their growth rates, further weakening the global economy. As a result, energy demand falls and the price of fossil fuels plummets, leading to a financial crisis for the energy-producing states, which are forced to cut back dramatically on expansion programs and social welfare. That in turn leads to political unrest: and nurtures different radical groups, including, but not limited to, Islamic extremists. The internal stability of some countries is challenged, and there are more “failed states.” Most serious is the collapse of the democratic government in Pakistan and its takeover by Muslim extremists, who then take possession of a large number of nuclear weapons. The danger of war between India and Pakistan increases significantly. Iran, always worried about an extremist Pakistan, expands and weaponizes its nuclear program. That further enhances nuclear proliferation in the Middle East, with Saudi Arabia, Turkey, and Egypt joining Israel and Iran as nuclear states. Under these circumstances, the potential for nuclear terrorism increases, and the possibility of a nuclear terrorist attack in either the Western world or in the oil-producing states may lead to a further devastating collapse of the world economic market, with a tsunami-like impact on stability. In this scenario, major disruptions can be expected, with dire consequences for two-thirds of the planet’s population.

## off

#### Using indeterminacy as a negative tool cedes politics and narrative to conservatives – that normalizes mass violence

Engström, professor of philosophy – Rochester Institute of Technology, ‘93

(Timothy, “The Postmodern Sublime?: Philosophical Rehabilitations and Pragmatic Evasions,” *boundary 2*, 20:2)

The formality of the philosophical sublime can be seen, for example, in its mathematical figuration: as vastness, as a magnitude that escapes measurement. We can conceptualize but not present infinity; it can't be grasped in its totality on the strictly cognitive level. The concept, however, is modulated significantly when the sublime becomes an estimate of power, in its vastness, in its destructiveness, as force beyond normal experience. By shifting the terrain from eighteenth-century faculty-psychology to post- modernity, we shift to an analysis of the cultural discourses and artifacts with which power is conceived and presented. This is precisely where Lyotard is ambivalent about whether he wants to remain a metaphysician or not. If the sublime is not going to be used to identify transcendental boundaries of human cognition and imagination, then it is to be used to articulate the metaphysical limits of narrative and to dramatize a different, but equally necessary, antithesis—the permanently "revolutionary" antinarrative. This is, indeed, the link between Kant and the avant-garde: the metaphysical nature of the sublime is now the metaphysical need for an avant-garde aesthetic, for "the continuously revolutionary." The convenience of this sort of oppositionally constructed idiom might lead one to suspect that there is more philosophical recurrence than revision here.

 3. A Question of Narratizability in General

The move from psychology to cultural politics is beneficial insofar as it locates the issue of presentation not in the Subject (and a theory of his imagination) but in the domain of discourse and traditions of discourse; it is also beneficial insofar as we would like to think that conceptualizing de- structive excess should not be compatible with our (in the Kuhnian sense) normal or normalizing cultural discourses. We don't want our narratives to be capable of normalizing horror. Lyotard doesn't want them to be com- plicitous, and the sublime offers the way out. I allude to Kuhn, because a distinction between the sublime and the narratizable, like Kuhn's between the anomalous and the normal, need not amount to anything of great meta- physical moment. We don't need a metaphysics of all narrative—as the ineluctable desire to totalize; nor, therefore, do we need to valorize the anomaly, the sublime, or the revolutionary—as the only legitimate goal of the correctly sensitized presenter—as Lyotard tends to do. The pragmatic and less metaphysical (or modernist) point is that we sense sublimity only by relative comparison to what is culturally paradigmatic (or normal), that we work or play in the spaces between paradigms and their margins as these become figured (i.e., when artifactual producers—scientific, aesthetic, and/ or their culture-critics—succeed in generating or illuminating some sort of ill-fit, when they get us to be interested in and to attend to a compelling difference). Sublimity, in general, seems to refer more to one's rhetorical skill in managing the normal than to a revolutionary, metaphysical fracture in the narratizable altogether. (I will return to the rhetoric of the sublime, to a pre-Kantian and less metaphysically momentous tradition, in a moment.) Conceptualizing the sublime in terms of its functional difference from nor- mative narrative needn't lead to a grandly antinarrative metaphysic—of the sublime—but, rather, to a pragmatic engagement with the fluid boundaries and exchanges between the normal and the abnormal, between one figure or form and another. The concern here is that Lyotard's concentration on the philosophical sublime, on that which is unpresentable and beyond the narratizable, runs the risk of putting beyond narrative, beyond critical and discursive reach, the sorts of pains and excesses that narratives produce and all-too-easily normalize. Far from being unique instances of aberration, or refusing to follow the rules, the horrific and sublime may be quite non- chalantly normalized: a death camp here, the odd effort at genocide there, a quick napalm run over some distant peasants down below. The issue is not whether we need a postmodern sensitivity to the unpresentable but whether valorizing unpresentability might amount to an evasion, an abdi- cation from competing narrative for narrative and figure for figure with the sorts of discourses that subjugate and overpower, less because they have committed the Lyotardian sin of totalizing but because they are simply the most powerful, functioning narratives in the field. Enthusiasm for the Lyo- tardian sublime thus becomes the luxury of the aesthete all over again; it protects a postmodern (or late-modernist) sensibility (for the sublime) that Lyotard doesn't wish to see constrained and contaminated by any sort of narrative. This sort of sublimity may, indeed, be all too close to Kantian transcendentalism and formalism.

4. The Bogeyman of Totality

Of course, there may be extremes (of destructive power, for example) that in their destructiveness exceed our imaginative and discursive capacity to present in their totality. This construct of totality is, however, a dialectical bogeyman. The avant-garde sublime is elevated in contrast, or opposition, to a conceptual, or narrative, totality that philosophers—mostly after Kant— have seen as an unfulfillable discursive ambition in the first place. Totality is a dialectical point of contrast that is no point. Yet, Lyotard regularly as- similates narrative to the desire for complete totality. Here, the dialectical metaphysic becomes blurred with Lyotard's ethical critique of certain sorts of narrative: for example, Habermas's. Yes, we do have concepts of infinity, horror, and excess. The question is whether we have places within our cul- tural narratives and/or aesthetic styles that can figure them in a way that achieves the desired effect.5 Otherwise, it is difficult to understand how such unpresentables could have any function or intelligible effect without a narra- tive context being presupposed or without figural presentation. Something becomes designated as sublime only insofar as it competes with a narra- tive and with other things that have entered some field of representation. Attaching what is often a political compliment to a presentation as sublime presupposes a narrative background of interests. Even if it is a narrative that is being stretched beyond its normal capacity, this is not a violation of narratizability in general.

#### Specifically, using the terrorist to unmask the sublime nature of language is easily coopted. Instead of forcing deep reflection, the 1AC causes conservative retrenchment and reifies American imperial dominance

O’Gorman, assistant professor of speech communication – University of Illinois, ‘6

(Ned, “The Political Sublime: An Oxymoron,” Millennium: Journal of International Studies, Vol. 34, No. 3, p. 889-915)

During the two o’clock hour on the afternoon of 11 September 2001, CNN’s ‘breaking news’ anchor A a ron Brown interviewed George Schultz, who had been US Secretary of State under Ronald Reagan. BROWN: We mentioned a moment ago, there were 50,000 people who come to work each day at the World Trade Center. There are literally tens of thousands more who come into the city, each of them aff e c t e d . But the effect of this, we suspect, is much broader than that, that it will a ffect everyone in the country. Former Secretary of State Georg e Schultz, to say American life been changed forever seems a bit farther than I want to go, but has American life been changed today? SCHULTZ: American life will pick up. We have to look to our security, obviously, and be careful about it. But we’re not going to allow these terrible people to change our way of life. They just aren’t going to be able to do it. We’ll defend ourselves adequately, we will find out who they are. We will get rid of them and we’ll learn how to preempt these attacks. But we’re not going to change our way of life because of these people. I reject that entirely.48

There is in this exchange a clear construal of ‘America’ at a limit situation, and Brown’s question seems to want to lead the interviewee to probe what philosopher Tsang Lap-cheun refers to as the bottom-limit of the sublime, the borders of non-existence.49 Brown’s question is both expansive and deep. Formally, it starts with the smallest number – 50,000 – and then takes two steps outward, through ‘tens of thousands more’ to ‘everyone in the country’. But its tone probes depths. Brown asks Schultz to articulate the ways in which American life might fundamentally be changed with intonations that suggest decline. Schultz, however, insists that it will not be changed. He promises adequate defence and decisive triumph. In this way, Schultz invokes a rhetoric of the top-limit, emphasising the nation’s inevitable victory and ability to transcend historical contingencies themselves. This short, highly formulaic exchange is significant because it captures the form of a movement which was repeated throughout CNN’s coverage of ‘September 11’. The movement is from two polar ends, cataclysmic fall to imminent ultimate triumph. For Americans, watching CNN’s coverage was on the one hand to watch the spectacular denouement of America (a fantasy of the Left?). On the other hand, however, it was to watch America elevated like a phoenix to new military-won heights (a fantasy of the Right?). Yet, what these two visions share is the assumption of the limits of a kind of politics vis-à-vis September 11. Neither cast a picture of a future where democratic political processes would be in play. Both represent the meaning of September 11 as falling outside such political arts of possibility, contingency, and collective debate and negotiation. CNN shuns the significant, but not radical, indeterminacy built into democratic politics in favour of a totalising narrative. As such the coverage both declares the limit of a kind of politics and establishes a more totalising and intensely ideological political order. Integral to this dynamic was ‘war’. War functioned in CNN’s narrative as a bridge from the extremes of national apocalypse to that of triumphant nationalism. The word itself was used 234 times in the first 12 hours of the coverage.50 Most of these uses came in interviews with o fficials re p resenting the US government. For example, in an interview with CNN’s Wolf Blitzer in the early afternoon, Senator John McCain announced, ‘This is obviously an act of war that has been committed on the United States ofAmerica.’ US Representative CurtWeldon said, ‘We ’ re at war. We ’ re absolutely at war.’ (Earlier, just after the first tower collapsed, Tom Brokawannounced on NBC, ‘There’s been a declaration of war by terrorists.’) A drastic example of the use of ‘war’ came in the teno’clock hour, when Brown asked correspondent John King to describe what the government’s national security apparatus was doing. King described theWhite House situation room, where, he said, ‘a President or a Vice President can direct a war, can direct a full scale world war . . . The White House situation room is pre p a red just for a situation like this.’ A subtler example of the way war filled the reportage of the terrorist attacks was seen in its more metaphorical use. For example, in a mid-morning interview with Howard Safer, the former New York City Police C o m m i s s i o n e r, Brown asked, ‘Mr. Safer, what do you see?’ Scenes of d e s t ruction played on the television screen as Safer replied, ‘I see something that is unimaginable.’ Brown asked, ‘Does the [city’s e m e rgency] plan cover the scope of what appears to have happened here ? ’ ‘No,’ Safer continued, ‘nobody ever would contemplate that we would lose the two World Trade Centers and in this manner.’ Brown then asked Safer to describe what is happening at the scene of the towers’ collapse. Safer answered, ‘[I]t’s like a war zone, and you have to logistically treat it like a war zone.’ Here and elsewhere, war functioned as a metaphor, a way of seeing the disaster. It functioned as a central logistical symbol to bring order to the day’s events. At importantmoments in CNN’s coverage like this, war seemed to be the only way both to make sense out of the day’s devastations and to get out of those same devastations. Amidst the rhetoric of war, a particular ideologically inflected image of war dominated the coverage. Primarily through a host of off i c i a l interviewees, CNN presented an ultimately triumphant construction of American war. Congressmen and former congressmen, ambassadors and former ambassadors, security experts, re t i red generals, and international leaders all promised American triumph over enemies. They spoke in terms of revitalisation, rebuilding, retaliation, and an ultimate military-led v ctory. The rhetorical authority of these promises depended upon a symbolic performance of upward, transcendent movements by A m e r i c a . The claims of American conquest depended upon signs of pre-eminent US p o w e r. Two signs functioned as warrants for the ideologically inflected triumphal image of war that dominated the coverage. First, there were persistent re f e rences to Pearl Harbor. Official interviewees especially invoked the memory of Pearl Harbor, often in response to Brown, who f requently asked these guests for ‘historical perspective’. For example, James Kallstrom, former Assistant Director of the FBI, claimed that the t e r rorist attackswere ‘everything that Pearl Harborwas andmore’. Senator Christopher Dodd claimed that the attack ‘rivals if not exceeds’ Pearl H a r b o r. Anchors, dignitaries, and a few survivors interviewed on the s t reets of New York City each recalled Pearl Harbor. No doubt, Pearl Harbor was, in a certain sense, a fitting analogy – like September 11, it was a surprise attack with devastating consequences. However, embedded, as almost all of the re ferences were, in the discourse of figures repre senting the US government, PearlHarbor came tomean something more than this: it suggested a vertical movement, moving from America at its bottom-limit (America attacked unexpectedly and vulnerably exposed) to the country at its top-limit (imminent and heroic victory over the enemy).51

#### The alternative is to refuse to embrace terrorism as a vessel of unknowability.

#### Choosing not to calculate the unknown solves the case, but it doesn’t utilize the sublime as a political/aesthetic strategy

Engström, professor of philosophy – Rochester Institute of Technology, ‘93

(Timothy, “The Postmodern Sublime?: Philosophical Rehabilitations and Pragmatic Evasions,” *boundary 2*, 20:2)

The rhetorical, as opposed to the philosophical, sublime—for ex- ample, that described by Longinus—offers a different precedent, precisely because the rhetorical tradition never was anything but incredulous toward philosophical "master narratives"; it was, therefore, less compelled to pro- pose a metaphysic of unpresentability along philosophical lines.6 Sublimity traditionally was a question of comparative stylistics (which may be what Lyotard's argument amounts to, as well); it was a question of working with what had already entered discourse. The sublime was a species of "high style," as it is primarily a species of high art for Lyotard. In both cases, the sublime belongs to traditions (and to critiques of traditions, which is the same thing), and these are traditions that figure, or use figures, for reasons of presentational effect. The rhetorical sublime is employed for its effect; to knock the reader or viewer out. In this sense, it is a question of con- vention, style, and subject matter, linked less to beyondness than to the institutional training needed to evoke it and read it effectively. For Longinus, the enemies of the sublime are things like pedantry, frigidity, and frivolity, not narrativity in general; nor is the sublime conceived in metaphysical con- trast to beauty in general. There is no theology of awe or metaphysics of the possibility (or impossibility) of presentation but simply a concern for the tactics of presentation, a concern for how—and with reference to a not- completely-determinate set of conventions, rules, and interests—to wow your audience. Sublimity need not, contra Lyotard, entail the breaking of all the rules, for rhetorical invention doesn't concede rule-bound closure or governance to a narrative or to a tradition in the first place. Accessibility and emulation of precedent can, for the rhetorician, be just as legitimate as the Lyotardian elevation of experimentation.7 The effective figuring of the sublime may, of course, involve the ap- parent disappearance of the figure, hidden in the immediacy, or urgency, of its effect; but this is a tactical and stylistic judgment, a rhetorical craft, and not a magnificent war with all totality. If, on the other hand, sublimity is prevented or destroyed, this, too, is essentially a question of bad style: obscurity, affectation, excessive brevity, crudeness, and the like. This brisk allusion to Longinus's sublime—as rhetorical, pragmatic, and stylistic—is a way to say that we need not have handed it over to the transcendentalism of Kant at all. It is a way to say that Lyotard's view—that Kant establishes the terrain on which the postmodern must necessarily work out the issue of sublimity—gives Kant too much credit and his philosophy too much univer- sality. Such praise also serves, as previously mentioned, as a way to elevate late modernism to the same level of necessity, as if it—as a genre—were beyond being simply a rhetorical and/or stylistic option and had become a necessary stage in the developmental history of sublimity.8 Lyotard's post- modernizing of the concept of the sublime puts the important dimensions of discourse, history, and politics more to its foreground and to the fore- ground of the aesthetic; but his concept is also bound (under the cover of metaphysical necessity) to a provincial aesthetic ideology.

## off

#### Counter-advocacy: we should embrace the trauma of a terror attack on the U.S.

## trauma

#### The culture is saturated with trauma so one instance won’t solve

Schwartz 2

 American Imago 59.3 (2002) 367-384

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We speak of trauma incessantly these days, so much so that when a recent story in The New York Times about troubles in the Catholic church casually refers to "the now familiar trauma of a sexual abuse scandal" (5/14/02), we may not pause to reflect on the many questions the phrase implies. In what sense can a trauma be "familiar"? Is the scandal itself traumatic, or the fact of its occurrence, or is it the sexual abuse alone? For whom is this abuse traumatic? To what extent has the scandal simply occurred and in what ways is it a media creation, defined for its political and economic uses? And is not "abuse," like trauma, another term incessantly used to refer to or evoke an enormous variety of experiences? Elastic uses of loaded terms seem symptomatic of our times, and the list could go on. Add "addiction," for example, or "victim." The events of September 11, 2001, have certainly exacerbated the stretch marks of linguistic usage, but the problem of locating sources and meanings of overwhelming experiences and psychic dangers was felt urgently long before that disruptive day.

#### Psychoanalysis can’t explain international politics

Sharpe, lecturer, philosophy and psychoanalytic studies, and Goucher, senior lecturer, literary and psychoanalytic studies – Deakin University, ‘10

(Matthew and Geoff, Žižek and Politics: An Introduction, p. 182 – 185, Figure 1.5 included)

Can we bring some order to this host of criticisms? It is remarkable that, for all the criticisms of Žižek’s political Romanticism, no one has argued that the ultra- extremism of Žižek’s political position might reflect his untenable attempt to shape his model for political action on the curative final moment in clinical psychoanalysis. The differences between these two realms, listed in Figure 5.1, are nearly too many and too great to restate – which has perhaps caused the theoretical oversight. The key thing is this. Lacan’s notion of traversing the fantasy involves the radical transformation of people’s subjective structure: a refounding of their most elementary beliefs about themselves, the world, and sexual difference. This is undertaken in the security of the clinic, on the basis of the analysands’ voluntary desire to overcome their inhibitions, symptoms and anxieties.

As a clinical and existential process, it has its own independent importance and authenticity. The analysands, in transforming their subjective world, change the way they regard the objective, shared social reality outside the clinic. But they do not transform the world. The political relevance of the clinic can only be (a) as a supporting moment in ideology critique or (b) as a fully- fl edged model of politics, provided that the political subject and its social object are ultimately identical. Option (*b*), Žižek’s option, rests on the idea, not only of a subject who becomes who he is only through his (mis) recognition of the objective sociopolitical order, but whose ‘traversal of the fantasy’ is immediately identical with his transformation of the socio- political system or Other. Hence, according to Žižek, we can analyse the institutional embodiments of this Other using psychoanalytic categories. In Chapter 4, we saw Žižek’s resulting elision of the distinction between the (subjective) Ego Ideal and the (objective) Symbolic Order. This leads him to analyse our entire culture as a single subject–object, whose perverse (or perhaps even psychotic) structure is expressed in every manifestation of contemporary life. Žižek’s decisive political- theoretic errors, one substantive and the other methodological, are different (see Figure 5.1)

The *substantive problem* is to equate any political change worth the name with the total change of the subject–object that is, today, global capitalism. This is a type of change that can only mean equating politics with violent regime change, and ultimately embracing dictatorial government, as Žižek now frankly avows (*IDLC* 412–19). We have seen that the ultra- political form of Žižek’s criticism of everyone else, the theoretical Left and the wider politics, is that no one is sufficiently radical for him – even, we will discover, Chairman Mao. We now see that this is because Žižek’s model of politics proper is modelled on a pre- critical analogy with the total transformation of a subject’s entire subjective structure, at the end of the talking cure. For what could the concrete consequences of this governing analogy be?

We have seen that Žižek equates the individual fantasy with the collective identity of an entire people. The social fantasy, he says, structures the regime’s ‘inherent transgressions’: at once subjects’ habitual ways of living the letter of the law, and the regime’s myths of origin and of identity. If political action is modelled on the Lacanian cure, it must involve the complete ‘traversal’ – in Hegel’s terms, the abstract versus the determinate negation – of all these lived myths, practices and habits. Politics must involve the periodic founding of



entire new subject–objects. Providing the model for this set of ideas, the fi rst Žižekian political subject was Schelling’s divided God, who gave birth to the entire Symbolic Order before the beginning of time (*IDLC* 153; *OB* 144–8).

But can the political theorist reasonably hope or expect that subjects will simply give up on all their inherited ways, myths and beliefs, all in one world- creating moment? And can they be legitimately asked or expected to, on the basis of a set of ideals whose legitimacy they will only retrospectively see, after they have acceded to the Great Leap Forward? And if they do not – for Žižek laments that today subjects are politically disengaged in unprecedented ways – what means can the theorist and his allies use to move them to do so?

#### No empirical basis for applying psychology to state action

Epstein, senior lecturer in government and IR – University of Sydney, ‘10

(Charlotte, “Who speaks? Discourse, the subject and the study of identity in international politics,” European Journal of International Relations XX(X) 1–24)

One key advantage of the Wendtian move, granted even by his critics (see Flockhart, 2006), is that it simply does away with the level-of-analysis problem altogether. If states really are persons, then we can apply everything we know about people to understand how they behave. The study of individual identity is not only theoretically justified but it is warranted. This cohesive self borrowed from social psychology is what allows Wendt to bridge the different levels of analysis and travel between the self of the individual and that of the state, by way of a third term, ‘group self’, which is simply an aggregate of individual selves. Thus for Wendt (1999: 225) ‘the state is simply a “group Self” capable of group level cognition’. Yet that the individual possesses a self does not logically entail that the state possesses one too. It is in this leap, from the individual to the state, that IR’s fallacy of composition surfaces most clearly.

Moving beyond Wendt but maintaining the psychological self as the basis for theorizing the state

Wendt’s bold ontological claim is far from having attracted unanimous support (see nota­bly, Flockhart, 2006; Jackson, 2004; Neumann, 2004; Schiff, 2008; Wight, 2004). One line of critique of the states-as-persons thesis has taken shape around the resort to psy­chological theories, specifically, around the respective merits of Identity Theory (Wendt) and SIT (Flockhart, 2006; Greenhill, 2008; Mercer, 2005) for understanding state behav­iour.9 Importantly for my argument, that the state has a self, and that this self is pre-social, remains unquestioned in this further entrenching of the psychological turn. Instead questions have revolved around how this pre-social self (Wendt’s ‘Ego’) behaves once it encounters the other (Alter): whether, at that point (and not before), it takes on roles prescribed by pre-existing cultures (whether Hobbessian, Lockean or Kantian) or whether instead other, less culturally specific, dynamics rooted in more universally human char­acteristics better explain state interactions. SIT in particular emphasizes the individual’s basic need to belong, and it highlights the dynamics of in-/out-group categorizations as a key determinant of behaviour (Billig, 2004). SIT seems to have attracted increasing interest from IR scholars, interestingly, for both critiquing (Greenhill, 2008; Mercer, 1995) and rescuing constructivism (Flockhart, 2006).

For Trine Flockart (2006: 89–91), SIT can provide constructivism with a different basis for developing a theory of agency that steers clear of the states-as-persons thesis while filling an important gap in the socialization literature, which has tended to focus on norms rather than the actors adopting them. She shows that a state’s adherence to a new norm is best understood as the act of joining a group that shares a set of norms and val­ues, for example the North Atlantic Treaty Organization (NATO). What SIT draws out are the benefits that accrue to the actor from belonging to a group, namely increased self-esteem and a clear cognitive map for categorizing other states as ‘in-’ or ‘out-group’ members and, from there, for orientating states’ self–other relationships.

Whilst coming at it from a stance explicitly critical of constructivism, for Jonathan Mercer (2005: 1995) the use of psychology remains key to correcting the systematic evacuation of the role of emotion and other ‘non-rational’ phenomena in rational choice and behaviourist analyses, which has significantly impaired the understanding of inter­national politics. SIT serves to draw out the emotional component of some of the key drivers of international politics, such as trust, reputation and even choice (Mercer, 2005: 90–95; see also Mercer, 1995). Brian Greenhill (2008) for his part uses SIT amongst a broader array of psychological theories to analyse the phenomenon of self–other recog­nition and, from there, to take issue with the late Wendtian assumption that mutual recognition can provide an adequate basis for the formation of a collective identity amongst states.

The main problem with this psychological turn is the very utilitarian, almost mecha­nistic, approach to non-rational phenomena it proposes, which tends to evacuate the role of meaning. In other words, it further shores up the pre-social dimension of the concept of self that is at issue here. Indeed norms (Flockhart, 2006), emotions (Mercer, 2005) and recognition (Greenhill, 2008) are hardly appraised as symbolic phenomena. In fact, in the dynamics of in- versus out-group categorization emphasized by SIT, language counts for very little. Significantly, in the design of the original experiments upon which this approach was founded (Tajfel, 1978), whether two group members communicate at all, let alone share the same language, is non-pertinent. It is enough that two individuals should know (say because they have been told so in their respec­tive languages for the purposes of the experiment) that they belong to the same group for them to favour one another over a third individual. The primary determinant of individual behaviour thus emphasized is a pre-verbal, primordial desire to belong, which seems closer to pack animal behaviour than to anything distinctly human. What the group stands for, what specific set of meanings and values binds it together, is unimportant. What matters primarily is that the group is valued positively, since posi­tive valuation is what returns accrued self-esteem to the individual. In IR Jonathan Mercer’s (2005) account of the relationship between identity, emotion and behaviour reads more like a series of buttons mechanically pushed in a sequence of the sort: posi­tive identification produces emotion (such as trust), which in turn generates specific patterns of in-/out-group discrimination.

Similarly, Trine Flockhart (2006: 96) approaches the socializee’s ‘desire to belong’ in terms of the psychological (and ultimately social) benefits and the feel-good factor that accrues from increased self-esteem. At the far opposite of Lacan, the concept of desire here is reduced to a Benthamite type of pleasure- or utility-maximization where mean­ing is nowhere to be seen. More telling still is the need to downplay the role of the Other in justifying her initial resort to SIT. For Flockhart (2006: 94), in a post-Cold War con­text, ‘identities cannot be constructed purely in relation to the “Other”’. Perhaps so; but not if what ‘the other’ refers to is the generic, dynamic scheme undergirding the very concept of identity. At issue here is the confusion between the reference to a specific other, for which Lacan coined the concept of *le petit autre*, and the reference to *l’Autre*, or Other, which is that symbolic instance that is essential to the making of *all* selves. As such it is not clear what meaning Flockhart’s (2006: 94) capitalization of the ‘Other’ actually holds.

The individual self as a proxy for the state’s self

Another way in which the concept of self has been centrally involved in circumventing the level-of-analysis problem in IR has been to treat the self of the individual as a proxy for the self of the state. The literature on norms in particular has highlighted the role of individuals in orchestrating norm shifts, in both the positions of socializer (norm entre­preneurs) and socializee. It has shown for example how some state leaders are more sus­ceptible than others to concerns about reputation and legitimacy and thus more amenable to being convinced of the need to adopt a new norm, of human rights or democratization, for example (Finnemore and Sikkink, 1998; Keck and Sikkink, 1998; Risse, 2001). It is these specific psychological qualities pertaining to their selves (for example, those of Gorbachev; Risse, 2001) that ultimately enable the norm shift to occur. Once again the individual self ultimately remains the basis for explaining the change in state behaviour.

To summarize the points made so far, whether the state is literally considered as a person by ontological overreach, whether so only by analogy, or whether the person stands as a proxy for the state, the ‘self’ of that person has been consistently taken as the reference point for studying state identities. Both in Wendt’s states-as-persons thesis, and in the broader psychological turn within constructivism and beyond, the debate has con­sistently revolved around the need to evaluate which of the essentialist assumptions about human nature are the most useful for explaining state behaviour. It has never ques­tioned the validity of starting from these assumptions in the first place. That is, what is left unexamined is this assumption is that what works for individuals will work for states too. This is IR’s central fallacy of composition, by which it has persistently eschewed rather than resolved the level-of-analysis problem. Indeed, in the absence of a clear dem­onstration of a logical identity (of the type A=A) between states and individuals, the assumption that individual interactions will explain what states do rests on little more than a leap of faith, or indeed an analogy.

#### No impact

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Freud introduces the death drive in order to explain all behaviour that is not in accordance with the pleasure principle. He does so by offering a theoretical construct in the form of an aggressive drive but also posits the Nirvana principle as the aim of all organic systems to rid themselves of excitation and strive towards complete rest. This leads to contradictory formulations of the death drive. Part of the function of the death drive is to unify a variety of aggressive phenomena such as destructiveness, sadism, masochism and hate. But Freud is also proposing a more general metaphysical speculation about life as a conflict between life and death drives. This position raises serious problems: 1. Positing the death drive reduces all forms of aggression to one source. Could a single drive explain all types of aggression and destructiveness? Or are there vital details in the individual origins and characteristics of each aggressive phenomenon that are subsumed by the reductive hypothesis of the death drive? 2. Even if we were to accept such a reductive concept, its explanatory value is not clear. What does the notion of the death drive add to the already unifying concept of aggression? Assembling various forces under the auspices of the death drive makes it an unstable category whose meaning can only be derived from the specific context of its application. The death drive has no autonomous meaning. Since the death drive derives its meaning from the concrete situation, it does not contribute to an understanding of the given phenomenon (aggression or destructiveness). Rather, it is the death drive that gets explained by its instances, but it ultimately lacks autonomous content. Freud subsumes under the concept of the death drive two essentially contradictory tendencies: the Nirvana principle striving to eliminate all tension, and aggression creating tension. How can the death drive explain both the tendency towards elimination of tension and aggression that increases tension? A more specific problem is that of masochism (discussed in The Economic Problem of Masochism). If masochism is a manifestation of the death drive as self-directed aggression aiming at unpleasure, how does that square with Freud's view that the death drive is equivalent to the Nirvana principle, which aims to discharge all tension? Freud's attempts to posit a two-drive model arc unsuccessful both theoretically and empirically. Is there really a difference between Eros and Thanatos? If so, why do they keep collapsing into one another?

#### Even if they’re right about drives, the repression-lashout link has been disproven

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Secondly, the constancy principle on which these ideas are based is incompatible with observational data. Once the passive model of the nervous system has been discarded, there was no need for external excitation in order for discharge to take place, and more generally, "the behavioural picture seemed to negate the notion of drive, as a separate energizer of behaviour" {Hcbb. 1982. p.35). According to Holt, the nervous system is not passive; it does not take in and conduct out energy from the environment, and it shows no tendency to discharge its impulses. 'The principle of constancy is quite without any biological basis" (1965, p. 109). He goes on to present the difficulties that arise from the pleasure principle as linked to a tension-reduction theory. The notion of tension is "conveniently ambiguous": it has phenomenological, physiological and abstract meaning. But empirical evidence against the theory of tension reduction has been "mounting steadily" and any further attempts to link pleasure with a reduction of physiological tension are "decisively refuted" (1965, pp. 1102). Additionally, the organism and the mental system are no longer considered closed systems. So the main arguments for the economic view collapse, as does the entropic argument for the death drive (1965, p. 114). A final, more general criticism of Freud's economic theory is sounded by Compton, who argues, "Freud fills in psychological discontinuities with neurological hypotheses" (1981, p. 195). The Nirvana principle is part and parcel of the economic view and the incomplete and erroneous assumptions about the nervous system (Hobson, 1988, p.277). It is an extension ad extremis of the pleasure principle, and as such is vulnerable to all the above criticisms. The overall contemporary view provides strong support for discarding the Nirvana principle and reconstructing the death drive as aggression.

#### Threat construction isn’t sufficient to cause wars

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(Stuart J, “Narratives and Symbols in Violent Mobilization: The Palestinian-Israeli Case,” *Security Studies* 18:3, 400 – 434)

Even when hostile narratives, group fears, and opportunity are strongly present, war occurs **only if these factors are harnessed.** Ethnic narratives and fears must combine to create significant ethnic hostility among mass publics. Politicians must also seize the opportunity to manipulate that hostility, evoking hostile narratives and symbols to gain or hold power by riding a wave of chauvinist mobilization. Such mobilization is often spurred by prominent events (for example, episodes of violence) that increase feelings of hostility and make chauvinist appeals seem timely. If the other group also mobilizes and if each side's felt security needs threaten the security of the other side, the result is a security dilemma spiral of rising fear, hostility, and mutual threat that results in violence. **A virtue of** this **symbolist theory is that symbolist logic explains why** ethnic **peace is more common than ethnonationalist war.** Even if hostile narratives, fears, and opportunity exist, severe violence usually can still be avoided if ethnic elites skillfully define group needs in moderate ways and collaborate across group lines to prevent violence: this is consociationalism.17 War is likely only if hostile narratives, fears, and opportunity spur hostile attitudes, chauvinist mobilization, and a security dilemma.

#### EPA will avoid ambient air quality standards – deference is key

Chettiar and Schwartz, 9

[ Inimai M. Chettiar, legal fellow at the Institute for Policy Integrity at NYU School of Law, Jason A Schwartz , research assistant at IPI - graduated magna cum laude from New York University School of Law. Report No. 3, “ The Road Ahead EPA’s Options and Obligations for Regulating Greenhouse Gases,” April 2009 ]

The seminal case interpreting the requirements of Section 108(a)(1), Natural Resources Defense Council v. Train, was decided over thirty years ago by the U.S. Court of Appeals for the Second Circuit.283 In Train, the court held that, once all other conditions for listing lead as a criteria pollutant had been met, EPA could not decline to list lead by invoking the final phrase of Section 108(a)(1)(C). In other words, EPA cannot escape its statutory duty simply by claiming that it does not “plan[ ] to issue air quality criteria” for the pollutant in question. According to the court, the plain language, structure, and legislative history of the Clean Air Act dictated that conclusion.284 Train still represents good case law, and a strict application of its holding would mandate the listing of all GHGs as criteria pollutants. However, over the last three decades, the Clean Air Act has been amended significantly,285 and new canons of statutory interpretation have evolved.286 Moreover, adding GHGs as criteria pollutants would invoke slightly different statutory language than the terms analyzed in Train. Train’s holding, then, may be distinguishable in light of these developments.287 Plain Language Is Ambiguous on EPA’s Discretion The Second Circuit noted in Train that Section 108 states that EPA “shall . . . publish . . . a list.” If the phrase “for which he plans to issue air quality criteria” always gave EPA discretion not to list pollutants, “then the mandatory language of [Section] 108(a)(1)(A) would become mere surplusage.”288 Instead, the phrase “for which he plans” should only app ly to the limited list of pollutants that EPA had already determined, before 1970, endangered the public and were generated by multiple sources. The Second Circuit cited the district court opinion on this point; the district court in turn had cited the Senate Report on the Clean Air Act of 1970: [Section] 108 requires the initial list to “include all those pollution agents which have, or can be expected to have, an adverse effect on health and welfare and which are emitted from widely distributed mobile and stationary sources, and all those for which air quality criteria are planned.”289 In short, the courts viewed Section 108 as creating two distinct tracks for becoming a criteria pollutant: (1) pollutants emitted by multiple sources that endanger the public must be listed as criteria pollutants, with no room for EPA discretion; and (2) pollutants for which, in 1970, EPA already planned to issue air quality criteria should also be listed as criteria pollutants.290 Ultimately, the Second Circuit acknowledged that “the literal language of [Section] 108(a)(1)(C) is somewhat ambiguous.”291 The court did its best to resolve that ambiguity. But Train was decided in 1976, eight years before the Supreme Court ruled on Chevron v. NRDC.292 In that later case, the Court held that when faced with ambiguous statutory language, “the court does not simply impose its own construction on the statute”; rather, the court reviews whether the agency’s interpretation of the statute is “permissible” and “reasonable.”293 While these principles of statutory interpretation already existed when the Second Circuit ruled in Train, the Supreme Court formalized and strengthened the principles in Chevron.294 Given the deference afforded to agency interpretations of ambiguous statutes after Chevron, a court today might have come to a different conclusion than Train did regarding EPA discretion under Section 108(a)(1)(C). Of course, that alone is not sufficient justification to erase Train’s holding from the books. On the other hand, Train is somewhat distinguishable from the present circumstances involving GHGs. The Second Circuit was interpreting Section 108(a)(1)(C) as it related to the language “shall publish,” a phrase which created an obligation to list within thirty days of enactment all pollutants that, in 1970, already satisfied the conditions of Section 108. Indeed, it was Congress’s intention and the court’s belief that EPA should have listed lead as a criteria pollutant thirty days after the 1970 Amendments were enacted.295 The decision in Train did not discuss in depth the meaning of the phrase “shall from time to time thereafter revise.”296 Since greenhouse gases can only be listed as criteria pollutants through such a revision, “shall publish” is not the relevant statutory language. While both phrases contain the typically mandatory command “shall,” the words “from time to time” do grant EPA at least some discretion on timing. A court today might be willing to reexamine how the ambiguous language of Section 108(a)(1)(C) interacts with the slightly more discretionary phrase “shall from time to time thereafter revise,” and could perhaps distinguish Train on such grounds. Indeed, legislative history and statutory structure support that—while Train’s holding remains unimpeachable on the non‐discretionary duty to publish an initial list—agency discretion on subsequent decisions to add pollutants may in fact be consistent with a permissible and reasonable interpretation of the statute.297 Legislative History Does Not Foreclose EPA Discretion Train cited congressional reports to show that “the Congress expect[ed] criteria to be issued for” certain pollutants (including lead) within a precise timetable.298 In other words, Congress thought Section 108 created mandatory obligations for listing criteria pollutants.299 However, the same legislative history cited by the Second Circuit to prove the mandatory nature of the initial listings allowed much more flexibility on revising the list:  “Others may be added to this group as knowledge increases”;  “He can add to the list periodically”; and  “If the Secretary subsequently should find that there are other pollution agents for which the ambient air quality standards procedure is appropriate, he could list those agents.”300 The legislative history does not clearly indicate that Congress intended additions to be mandatory. Statutory Structure Has Substantially Changed Since Train Finally, Train points to the structure of the Clean Air Act to support its conclusions. If EPA always had discretion to list or not list criteria pollutants as it chose, what was the purpose of the rigid deadlines Congress created in the statutory procedures for setting NAAQS? The court felt that if EPA could simply choose not to list qualifying pollutants and to regulate them instead under some other provision of the Act, Congress would have attached similar deadlines to those other provisions. If the goal of the Clean Air Act was to reduce pollution, at least some provisions must be mandatory. In short, the court felt that the NAAQS structure was the primary and mandatory means for controlling pollution; other provisions were supplements to NAAQS, but they were not alternatives.301 However, the court’s interpretation of statutory structure in 1976 may no longer apply after the 1977 Amendments to the Act. For example, in the Clean Air Act of 1970, New Source Performance Standards (“NSPS”) were probably not intended as an alternative to NAAQS. In 1970, NSPS dealt with pollution contributing to the “endangerment of public health or welfare,” whereas NAAQS originally focused on “adverse effect[s].”302 Though the comparative rigor of those two standards is unclear, the courts were certain that they represented different standards.303 The provisions were not interchangeable regulatory options, and the existence of one did not excuse the failure to comply with the mandatory obligations of another. But in the 1977 Amendments, the standard for harm under NAAQS was changed to the more precautionary “endanger public health or welfare.”304 The standards for NAAQS and NSPS now matched. Yet, the statutory provisions for NSPS (Section 111) clearly still contemplate there will be some pollutants that endanger public health or welfare but are not listed as criteria pollutants.305 Section 111(d) allows EPA to apply its New Source Performance Standards to existing sources “for any air pollutant . . . for which air quality criteria have not been issued or which is not included on a list published under section 108(a) [or 112(b)].”306 In fact, EPA has given such pollutants a name: “designated pollutants.”307 Examples of designated pollutants include sulfuric acid mist, fluorides, cadmium, and furans, as emitted by aluminum plants, paper mills, fertilizer plants, and solid waste incinerators.308 Perhaps these pollutants simply are not emitted by enough “numerous or diverse” sources to qualify as criteria pollutants under Section 108(a)(1)(B).309 Nevertheless, the potential for alternative options under the Act to regulate the same dangerous air pollutants renders inoperative the argument in Train that NAAQS must be obligatory because there is no alternative.310 Additionally, Congress created Section 122 in 1977 specifically to direct EPA on the “Listing of Certain Unregulated Pollutants”: (a) Not later than one year after date of enactment of this section . . ., the Administrator shall review all available relevant information and determine whether or not emissions of radioactive pollutants . . . cadmium, arsenic and polycyclic organic matter into the ambient air will cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health. If the Administrator makes an affirmative determination with respect to any such substance, he shall simultaneously with such determination include such substance in the list published under section 108(a)(1)…or shall include each category of stationary sources emitting such substance in significant amounts in the list published under section 111(b)(1)(A), or take any combination of such actions. (b) Nothing in subsection (a) shall be construed to affect the authority of the Administrator to revise any list referred to in subsection (a) with respect to any substance (whether or not enumerated in subsection (a)). This Section suggests two important conclusions. First, Congress directed EPA to undertake an endangerment finding for a specific list of pollutants, but otherwise did not change EPA’s “authority” to revise the list of criteria pollutants. Second, even if EPA made a positive endangerment finding for these particular pollutants, the agency could choose whether to use NAAQS (under Section 108) or NSPS (under Section 111) or some combination of regulatory options. Section 122 recognizes not only that EPA has discretion to revise its list of criteria pollutants, but also that developing NAAQS is just one possible response EPA can take upon a positive endangerment finding.311 A final point relevant to statutory structure comes from Judge Tatel’s dissenting opinion in the D.C. Circuit ruling on Massachusetts v. EPA (an opinion cited favorably by the Supreme Court on appeal). Responding to EPA’s argument that carbon dioxide should not be regulated under the Clean Air Act because applying NAAQS to the pollutant would be too difficult, Tatel said: “Even assuming that states’ limited ability to meet CO2 NAAQS renders these provisions unworkable as to CO2, the absurd‐results canon would justify at most an exception limited to the particular unworkable provision, i.e., the NAAQS provision.”312 In other words, EPA could perhaps claim, under the “absurd results canon,” an exception to any mandatory obligation to issue NAAQS for carbon dioxide if the resulting regulatory regime would prove too unworkable. To the extent NAAQS is difficult to apply to greenhouse gases,313 this canon of statutory construction may provide EPA with additional justification for claiming discretion. However, because courts are typically reluctant to apply the absurd results canon,314 exclusive reliance on this argument to justify EPA’s discretion may not be wise. A.3. Assuming Discretion under Section 108 Is Risky but Defensible In conclusion, Train still represents good case law, and a strict application of Train’s holding would require EPA to list GHGs as criteria pollutants. But given significant amendments to the Clean Air Act and the rise of Chevron‐deference, Train may be distinguishable, and EPA may be able to assert discretion not to list otherwise qualifying criteria pollutants. Still, the case for discretion is far from clear‐cut, and any attempt not to list greenhouse gases as criteria pollutants could be subject to legal challenge. On the other hand, many of the parties most likely to challenge EPA’s failure to regulate pollutants actually agree that listing GHGs as criteria pollutants may be undesirable.315 Environmental groups mostly have adopted the position that EPA has deference not to list GHGs as criteria pollutants, since they want EPA to concentrate on more workable alternatives to regulate greenhouse gases under the Clean Air Act. In contrast, industry groups have asserted that EPA lacks any deference under Section 108, thereby demonstrating the parade of horribles that they believe will result from regulating greenhouse gases under the Clean Air Act; yet as the regulated party, industry is unlikely to bring suit to compel such regulation.

#### Any exceptions to Chevron deference gut the doctrine

Scalia, 1

[Antonin, Supreme Court Justice, UNITED STATES, PETITIONER v. MEAD CORPORATION on writ of certiorari to the united states court of appeals for the federal circuit [June 18, 2001] <http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&vol=000&invol=99-1434>]

 And finally, the majority's approach compounds the confusion it creates by breathing new life into the anachronism of Skidmore, which sets forth a sliding scale of deference owed an agency's interpretation of a statute that is dependent "upon the thoroughness evident in [the agency's] consideration, the validity of its reasoning, its consistency with earlier and later pronouncements, and all those factors which give it power to persuade, if lacking power to control"; in this way, the appropriate measure of deference will be accorded the "body of experience and informed judgment" that such interpretations often embody, 323 U. S., at 140. Justice Jackson's eloquence notwithstanding, the rule of Skidmore deference is an empty truism and a trifling statement of the obvious: A judge should take into account the well-considered views of expert observers. It was possible to live with the indeterminacy of Skidmore deference in earlier times. But in an era when federal statutory law administered by federal agencies is pervasive, and when the ambiguities (intended or unintended) that those statutes contain are innumerable, totality-of-the-circumstances Skidmore deference is a recipe for uncertainty, unpredictability, and endless litigation. To condemn a vast body of agency action to that regime (all except rulemaking, formal (and informal?) adjudication, and whatever else might now and then be included within today's intentionally vague formulation of affirmative congressional intent to "delegate") is irresponsible. II The Court's pretense that today's opinion is nothing more than application of our prior case law does not withstand analysis. It is, to be sure, impossible to demonstrate that any of our cases contradicts the rule of decision that the Court prescribes, because the Court prescribes none. More precisely, it at one and the same time (1) renders meaningless its newly announced requirement that there be an affirmative congressional intent to have ambiguities resolved by the administering agency, and (2) ensures that no prior decision can possibly be cited which contradicts that requirement, by simply announcing that all prior decisions according Chevron deference exemplify the multifarious ways in which that congressional intent can be manifested: "[A]s significant as notice-and-comment is in pointing to Chevron authority, the want of that procedure here does not decide the case, for we have sometimes found reasons for Chevron deference even when no such administrative formality was required and none was afforded," ante, at 10-11.4 The principles central to today's opinion have no antecedent in our jurisprudence. Chevron, the case that the opinion purportedly explicates, made no mention of the "relatively formal administrative procedure[s]," ante, at 10, that the Court today finds the best indication of an affirmative intent by Congress to have ambiguities resolved by the administering agency. Which is not so remarkable, since Chevron made no mention of any need to find such an affirmative intent; it said that in the event of statutory ambiguity agency authority to clarify was to be presumed. And our cases have followed that prescription. Six years ago, we unanimously accorded Chevron deference to an interpretation of the National Bank Act, 12 U. S. C. §24 Seventh (1988 ed. and Supp. V), contained in a letter to a private party from a Senior Deputy Comptroller of the Currency. See NationsBank of N. C., N. A. v. Variable Annuity Life Ins. Co., 513 U. S. 251, 255, 257 (1995). We did so because the letter represented (and no one contested) that it set forth the official position of the Comptroller of the Currency, see id., at 263. Several cases decided virtually in the wake of Chevron, which the Court conveniently ignores, demonstrate that Congress could not (if it was reading our opinions) have acted in reliance on a background assumption that Chevron deference would generally be accorded only to agency interpretations arrived at through formal adjudication, notice-and-comment rulemaking, or other procedures assuring "fairness and deliberation," ante, at 10. In FDIC v. Philadelphia Gear Corp., 476 U. S. 426, 438-439 (1986), we accorded Chevron deference to the Federal Deposit Insurance Corporation's interpretation of the statutory term "deposit" reflected in a course of unstructured administrative actions, and gave particular weight to the agency's "contemporaneous understanding" reflected in the response given by an FDIC official to a question asked at a meeting of FDIC and bank officials. It was clear that the position reflected the official position of the agency, and that was enough to command Chevron deference. In Young v. Community Nutrition Institute, 476 U. S. 974 (1986), the statutory ambiguity at issue pertained to a provision that "the Secretary [of Health and Human Services] shall promulgate regulations limiting the quantity [of any poisonous or deleterious substance added to any food] to such extent as he finds necessary for the protection of public health." The Secretary had regularly interpreted the phrase "to such extent as he finds necessary" as conferring discretion not to issue a rule, rather than merely discretion regarding the quantity that the rule would permit. This interpretation was not, of course, reflected in any formal adjudication, and had not been the subject of any informal rulemaking--it was the Secretary's understanding consistently applied in the course of the Department's practice. We accorded it Chevron deference, as unquestionably we should have. And in Mead Corp. v. Tilley, 490 U. S. 714 (1989), a private suit by retirees against their former employer under the Employee Retirement Income Security Act of 1974 (ERISA), we accorded Chevron deference to the Pension Benefit Guaranty Corporation's interpretation of §4044(a) of the Act, 29 U. S. C. §1344(a) (1982 ed. and Supp. V), that was reflected only in an amicus brief to this Court and in several Opinion Letters issued without benefit of any prescribed procedures. See 490 U. S., at 722. I could continue to enumerate cases according Chevron deference to agency interpretations not arrived at through formal proceedings--for example, Pension Benefit Guaranty Corporation v. LTV Corp., 496 U. S. 633, 642-643, 647-648 (1990) (according Chevron deference to the PBGC's interpretation of the requirements for its restoring a terminated plan under §4047 of ERISA, 29 U. S. C. §1347 (1988 ed.), which interpretation was reflected in nothing more than the agency's act of issuing a notice of restoration). Suffice it to say that many cases flatly contradict the theory of Chevron set forth in today's opinion, and with one exception not a single case can be found with language that supports the theory. That exception, a very recent one, deserves extended discussion. In Christensen v. Harris County, 529 U. S. 576 (2000), the Court said the following: "[W]e confront an interpretation contained in an opinion letter, not one arrived at after, for example, a formal adjudication or notice-and-comment rulemaking. Interpretations such as those in opinion letters--like interpretations contained in policy statements, agency manuals, and enforcement guidelines, all of which lack the force of law--do not warrant Chevron-style deference." Id., at 587. This statement was dictum, unnecessary to the Court's holding. Since the Court went on to find that the Secretary of Labor's position "ma[de] little sense" given the text and structure of the statute, id., at 585-586, Chevron deference could not have been accorded no matter what the conditions for its application. See 529 U. S., at 591 (Scalia, J., concurring in part and concurring in judgment). It was, moreover, dictum unsupported by the precedent that the Court cited. The Christensen majority followed its above-quoted dictum with a string citation of three cases, none of which sustains its point. In Reno v. Koray, 515 U. S. 50 (1995), we had no occasion to consider what level of deference was owed the Bureau of Prisons' interpretation of 18 U. S. C. §3585(b) set forth in an internal agency guideline, because our opinion made clear that we would have independently arrived at the same interpretation on our own, see 515 U. S., at 57-60. And although part of one sentence in Koray might be read to suggest that the Bureau's "Program Statemen[t]" should be accorded a measure of deference less than that mandated by Chevron, this aside is ultimately inconclusive, since the sentence ends by observing that the Statement was "a `permissible construction of the statute' " under Chevron, 515 U. S., at 61 (quoting Chevron, 467 U. S., at 843). In the second case cited, EEOC v. Arabian American Oil Co., 499 U. S. 244 (1991), it was again unnecessary to our holding whether the agency's interpretation of the statute warranted Chevron deference, since the "longstanding ... `canon of [statutory] construction' " disfavoring extraterritoriality, 499 U. S., at 248, would have required the same result even if Chevron applied. See 499 U. S., at 260 (Scalia, J., concurring in part and concurring in judgment). While the opinion did purport to accord the Equal Employment Opportunity Commission's informally promulgated interpretation only Skidmore deference, it did so because the Court thought itself bound by its pre-Chevron, EEOC-specific decision in General Elec. Co. v. Gilbert, 429 U. S. 125 (1976), which noted that " `Congress, in enacting Title VII, did not' " intend to give the EEOC substantive authority to resolve statutory ambiguities, Arabian American Oil, supra, at 257 (quoting Gilbert, supra, at 141). Lastly, in Martin v. Occupational Safety and Health Review Comm'n, 499 U. S. 144 (1991), the question of the level of deference owed the Secretary of Labor's interpretation of the Occupational Safety and Health Act of 1970, 84 Stat. 1590, as amended, 29 U. S. C. §651 et seq., was neither presented by the case nor considered in our opinion. The only question before the Court was which of two competing interpretations of 29 CFR §1910.1029 (1990)--the Secretary's or the Occupational Safety and Health Review Commission's--should have been deferred to by the court below. See 499 U. S., at 150. The dicta the Christensen Court cited, 529 U. S., at 587 (citing 499 U. S., at 157), opined on the measure of deference owed the Secretary's interpretation, not of the statute, but of his own regulations, see generally Manning, Constitutional Structure and Judicial Deference to Agency Interpretations of Agency Rules, 96 Colum. L. Rev. 612 (1996). To make matters worse, the arguments marshaled by Christensen in support of its dictum--its observation that "interpretations contained in policy statements, agency manuals, and enforcement guidelines, all ... lack the force of law," and its citation of 1 K. Davis & R. Pierce, Administrative Law Treatise §3.5 (3d ed. 1994), 529 U. S., at 587--are not only unpersuasive but bear scant resemblance to the reasoning of today's opinion. Davis and Pierce, and Professor Robert Anthony upon whom they rely, see Anthony, Which Agency Interpretations Should Bind Citizens and the Courts?, 7 Yale J. on Reg. 1 (1990), do indeed set forth the argument I have criticized above, that congressional authorization of informal rulemaking or formal (and perhaps even informal) adjudication somehow bespeaks a congressional intent to "delegate" power to resolve statutory ambiguities. But their analysis does not permit the broad add-ons that the Court's opinion contains--"some other [procedure] indicati[ng] comparable congressional intent," ante, at 7, and "we have sometimes found reasons for Chevron deference even when no such administrative formality was required and none was afforded," ante, at 11. III To decide the present case, I would adhere to the original formulation of Chevron. " ` The power of an administrative agency to administer a congressionally created ... program necessarily requires the formulation of policy and the making of rules to fill any gap left, implicitly or explicitly, by Congress,' " 467 U. S., at 843 (quoting Morton v. Ruiz, 415 U. S. 199, 231 (1974)). We accordingly presume--and our precedents have made clear to Congress that we presume--that, absent some clear textual indication to the contrary, "Congress, when it left ambiguity in a statute meant for implementation by an agency, understood that the ambiguity would be resolved, first and foremost, by the agency, and desired the agency (rather than the courts) to possess whatever degree of discretion the ambiguity allows," Smiley, 517 U. S., at 740-741 (citing Chevron, supra, at 843-844). Chevron sets forth an across-the-board presumption, which operates as a background rule of law against which Congress legislates: Ambiguity means Congress intended agency discretion. Any resolution of the ambiguity by the administering agency that is authoritative--that represents the official position of the agency--must be accepted by the courts if it is reasonable.

#### Air quality standards destroy EPA regs

Richardson, 9

[Nathan, Visiting Scholar at Resources for the Future, “ Greenhouse Gas Regulation under the Clean Air Act,” Does Chevron v. NRDC Set the EPA Free? December 2009, Stanford Environmental Law Journal, Forthcoming ]

Whether the EPA has this choice is important. Many observers, and the EPA itself, have criticized the NAAQS scheme as ill-suited to regulation of GHGs.42 There are three main reasons for this. First, the NAAQS are in many ways conceptually inconsistent with the GHG problem.43 The program requires the EPA to set a national ambient air quality standard, but it is hard to see what this standard should be for GHGs. GHGs are ubiquitous and cause little harm today, however dangerous business-as-usual emissions will be in the future. Should a GHG NAAQS be set above or below current atmospheric levels? If it were set above current levels, it would imply that current GHG levels are dangerous to public health or welfare, which would be relatively difficult to prove. If it were set below current levels, it would similarly imply that no immediate action is required. The NAAQS program also requires states to create plans showing how the standard would be achieved, but this seems futile given the global character of the climate change problem. Unlike the local and regional pollutants currently regulated under the NAAQS, GHG concentrations are uniform everywhere. States’ contributions to emissions are also relatively small—even if a state reduced its GHG emissions to zero, it would have almost no effect on global GHG concentration or on the risk of climate change. Second, the process of listing a pollutant, setting a NAAQS, and regulating through states also takes a long time. The EPA is required by the CAA to issue a NAAQS within one year of listing a pollutant under §108,44 and states then must create and submit implementation plans for achieving (or maintaining) that standard within three years.45 There would therefore be a delay of up to four years between listing of a pollutant and its regulation. Even if the NAAQS is set at a level below that of current atmospheric GHG concentrations (so that the entire US is “in nonattainment”), states have at least 10 years to come into compliance with the standard.46 Regulation under the NAAQS therefore might not be effective for a decade or more. This does allow the EPA to avoid at least some of the problematic aspects of NAAQS regulation, and gives Congress more time to act to remedy those problems (or create a new GHG regulatory program). In the meantime, however, the agency would still be prevented from regulating under some other CAA programs that are likely preferable alternatives to the NAAQS. This preclusion of other CAA regulatory schemes is the third and possibly most serious of the problems caused by NAAQS regulation of GHGs. The text of the CAA specifically makes some regulatory schemes mutually exclusive with the NAAQS, including the §112 toxic pollutants scheme47 or, most importantly, performance standards for existing sources in §111(d).48 Even those programs that would not be directly precluded by NAAQS regulation might have difficulty operating effectively alongside it. This is perhaps the most significant negative impact if the EPA is forced down the NAAQS path. Regulation through performance standards is a particularly attractive method of CAA regulation of GHGs, and would require use of §111(d) to include existing sources.49 This would be impossible if a GHG NAAQS exists. These statutory preclusions come into effect as soon as a pollutant is listed, exacerbating the problem. The EPA cannot use the delays inherent in NAAQS regulation to institute a more effective and/or efficient GHG regulatory program in the short term if elements of that program are precluded by the first stage of the NAAQS process. The result is that the EPA may not be able to effectively regulate GHGs under the CAA in the short term, and will be distracted by the need to set up a NAAQS program that will be of limited value when it is finally implemented. All of these problems are distinct from and in addition to those most frequently identified as arising from the §202 endangerment finding and CAA GHG regulation in general—permitting (PSD/NSR) requirements for small GHG sources. It is these permitting problems that the EPA’s proposed tailoring rule is designed to address, not those discussed above arising from NAAQS regulation of GHGs. The tailoring rule, even if it is found by the courts to be legal or rendered unnecessary by Congressional action, will unfortunately do nothing to alleviate the problems identified in this paper. A few commentators have argued that a GHG NAAQS could be a useful part of GHG broader regulation,50 and it is true that the NAAQS are not without some advantages. There is precedent, for example, for creating a cap-and-trade style program for pollutants regulated under the NAAQS.51 The prevailing view both within the EPA and among scholars, however, is that air quality standards are a poor fit for GHG regulation, for the reasons discussed above. At best, being forced to regulate through the NAAQS would saddle the EPA (and the country as a whole) with a suboptimal and expensive regulatory scheme. At worst, it would do this while simultaneously crippling the agency’s ability to implement better alternatives.

#### Key to warming

Revesz and Livermore, 9

[ Richard L. Revesz Dean, NYU School of Law Faculty Director, Michael A. Livermore Executive Director Institute for Policy Integrity at NYU, April 2009, “ The Road Ahead EPA’s Options and Obligations for Regulating Greenhouse Gases,” <http://policyintegrity.org/files/publications/TheRoadAhead.pdf>]

 Most of the scientific community believes that climate change poses significant risks that could impose large welfare costs on future generations. While the costs of reducing greenhouse gases may be high, the risks of doing nothing are much higher. While climate change will require a global response, it has become clear that the United States must provide leadership in the creation of a successful international regime. Domestic efforts to address climate change are also significant on their own; the United States is the second largest greenhouse gas emitter and is likely to drive the technological changes needed to reduce aggregate global emissions. Developing domestic climate change policy in the United States is therefore a key linchpin necessary to make progress in addressing global greenhouse gas emissions. In this report, Inimai M. Chettiar and Jason A Schwartz—fellows at the Institute for Policy Integrity—provide an indepth analysis of a particularly important aspect of domestic greenhouse gas policy: the relationship between the Environmental Protection Agency (EPA) and Congress. The U.S. Supreme Court held two years ago that EPA has the power under the Clean Air Act to regulate greenhouse gases as pollutants. This ruling creates a timeline of obligations that will require the agency to act soon in some manner, though EPA retains a good deal of discretion to choose its regulatory strategy. At the same time, Congress has begun addressing the issue in earnest, and we may see the adoption of economy‐wide greenhouse gas legislation in the near future. Avoiding conflicts between regulation under the Clean Air Act and future legislation, while crafting the best policy to begin addressing climate change, is therefore an important priority. Chettiar and Schwartz look into the labyrinthine structure of the Clean Air Act to identify EPA’s obligations under the law and the variety of regulatory options available to the agency. They examine how both required and optional regulatory actions would interact with a legislative cap‐and‐trade system—the most likely candidate for congressional approval. They also examine how closely EPA could approximate a cap‐and‐trade system using only the regulatory tools in the Clean Air Act. Importantly, they find that the broad powers given to EPA by the Act allow the agency to construct a very close approximation of an economy‐wide cap‐and‐trade system, with a few small but important caveats. This finding is extremely important because it indicates that congressional deadlock—a very real possibility—need not result in inaction. In fact, because EPA has the power to create a vi regulatory cap‐and‐trade system, it is possible that the United States could join a global regime through an executive agreement, forgoing the difficult treaty ratification process that halted adoption of the Kyoto Protocol. This report is an important contribution at a critical time. Several environmental law scholars and policy experts have examined the myriad challenges of using the Clean Air Act to address greenhouse gas emissions. The Road Ahead synthesizes and expands on this work to provide a map for EPA through this legal minefield. The political and social consequences of missteps on the part of the agency are grave. But it is even more dangerous for the agency to remain paralyzed. With this report, Chettiar and Schwartz have given us reason to hope that we can navigate this perilous ground successfully.

#### Extinction.

Powell 2K (Corey S. Powell, Adjunct professor of Science Journalism at NYU's Science and Environmental Reporting Program; spent eight years on the Board of Editors at Scientific American; worked at Physics Today and at NASA's Goddard Space Flight Center where he assisted in the testing of gamma-ray telescopes, October 2000, Discover, Vol. 21, No. 10, 20 Ways the World Could End Swept away)

The Earth is getting warmer, and scientists mostly agree that humans bear some blame. It's easy to see how **global warming** could **flood cities** and ruin harvests. More recently, researchers like Paul Epstein of **Harvard Medical School** have raised the alarm that a balmier planet could also assist the **spread of infectious disease** by providing a more suitable climate for **parasites** and spreading the range of tropical **pathogens** (see #8). That could include crop diseases which, combined with substantial climate shifts, might cause **famine.** Effects could be even more dramatic. At present, atmospheric gases trap enough heat close to the surface to keep things comfortable. Increase the global temperature a bit, however, and there could be a bad **feedback effect**, with water evaporating faster, freeing water vapor (a **potent greenhouse gas**), which **traps more heat**, which drives carbon dioxide from the rocks, which drives temperatures still higher. **Earth could end up** much **like Venus**, where the high on a typical day is **900 degrees Fahrenheit.** It would probably take a lot of warming to initiate such a runaway greenhouse effect, but scientists have no clue where exactly the tipping point lies.

## framework

#### Debate has value outside of psychoanalysis—all of their framework arguments presume they win their impact framing. Simulation should involve contestastion of competing policy options

Eijkman 12

The role of simulations in the authentic learning for national security policy development: Implications for Practice / Dr. Henk Simon Eijkman. [electronic resource] <http://nsc.anu.edu.au/test/documents/Sims_in_authentic_learning_report.pdf>. Dr Henk Eijkman is currently an independent consultant as well as visiting fellow at the University of New South Wales at the Australian Defence Force Academy and is Visiting Professor of Academic Development, Annasaheb Dange College of Engineering and Technology in India. As a sociologist he developed an active interest in tertiary learning and teaching with a focus on socially inclusive innovation and culture change. He has taught at various institutions in the social sciences and his work as an adult learning specialist has taken him to South Africa, Malaysia, Palestine, and India. He publishes widely in international journals, serves on Conference Committees and editorial boards of edited books and international journal

Policy simulations stimulate Creativity Participation in policy games has proved to be a highly effective way of developing new combinations of experience and creativity, which is precisely what innovation requires (Geurts et al. 2007: 548). Gaming, whether in analog or digital mode, has the power to stimulate creativity, and is one of the most engaging and liberating ways for making group work productive, challenging and enjoyable. Geurts et al. (2007) cite one instance where, in a National Health Care policy change environment, ‘the many parties involved accepted the invitation to participate in what was a revolutionary and politically very sensitive experiment precisely because it was a game’ (Geurts et al. 2007: 547). Data from other policy simulations also indicate the uncovering of issues of which participants were not aware, the emergence of new ideas not anticipated, and a perception that policy simulations are also an enjoyable way to formulate strategy (Geurts et al. 2007). Gaming puts the players in an ‘experiential learning’ situation, where they discover a concrete, realistic and complex initial situation, and the gaming process of going through multiple learning cycles helps them work through the situation as it unfolds. Policy gaming stimulates ‘learning how to learn’, as in a game, and learning by doing alternates with reflection and discussion. The progression through learning cycles can also be much faster than in real-life (Geurts et al. 2007: 548). The bottom line is that problem solving in policy development processes requires creative experimentation. This cannot be primarily taught via ‘camp-fire’ story telling learning mode but demands hands-on ‘veld learning’ that allow for safe creative and productive experimentation. This is exactly what good policy simulations provide (De Geus, 1997; Ringland, 2006). In simulations participants cannot view issues solely from either their own perspective or that of one dominant stakeholder (Geurts et al. 2007). Policy simulations enable the seeking of Consensus Games are popular because historically people seek and enjoy the tension of competition, positive rivalry and the procedural justice of impartiality in safe and regulated environments. As in games, simulations temporarily remove the participants from their daily routines, political pressures, and the restrictions of real-life protocols. In consensus building, participants engage in extensive debate and need to act on a shared set of meanings and beliefs to guide the policy process in the desired direction

#### Evaluate consequences

Weiss, Prof Poli Sci – CUNY Grad Center, ‘99

(Thomas G, “Principles, Politics, and Humanitarian Action,” *Ethics and International Affairs* 13.1)

Scholars and practitioners frequently employ the term “dilemma” to describe painful decision making but “quandary” would be more apt.27A dilemma involves two or more alternative courses of action with unintended but unavoidable and equally undesirable consequences. If consequences are equally unpalatable, then remaining inactive on the sidelines is an option rather than entering the serum on the field. A quandary, on the other hand, entails tough choices among unattractive options with better or worse possible outcomes. While humanitarians are perplexed, they are not and should not be immobilized. The solution is not indifference or withdrawal but rather appropriate engagement. The key lies in making a good faith effort to analyze the advantages and disadvantages of different alloys of politics and humanitarianism, and then to choose what often amounts to the lesser of evils.

Thoughtful humanitarianism is more appropriate than rigid ideological responses, for four reasons: goals of humanitarian action often conflict, good intentions can have catastrophic consequences; there are alternative ways to achieve ends; and even if none of the choices is ideal, victims still require decisions about outside help. What Myron Wiener has called “instrumental humanitarianism” would resemble just war doctrine because contextual analyses and not formulas are required. Rather than resorting to knee-jerk reactions to help, it is necessary to weigh options and make decisions about choices that are far from optimal.

Many humanitarian decisions in northern Iraq, Somalia, Bosnia, and Rwanda—and especially those involving economic or military sanctions— required selecting least-bad options. Thomas Nagle advises that “given the limitations on human action, it is naive to suppose that there is a solution to every moral problem. “29 Action-oriented institutions and staff are required in order to contextualized their work rather than apply preconceived notions of what is right or wrong. Nonetheless, classicists continue to insist on Pictet’s “indivisible whole” because humanitarian principles “are interlocking, overlapping and mutually supportive. . . . It is hard to accept the logic of one without also accepting the others. “30

The process of making decisions in war zones could be compared to that pursued by “clinical ethical review teams” whose members are on call to make painful decisions about life-and-death matters in hospitals.sl The sanctity of life is complicated by new technologies, but urgent decisions cannot be finessed. It is impermissible to long for another era or to pretend that the bases for decisions are unchanged. However emotionally wrenching, finding solutions is an operational imperative that is challenging but intellectually doable. Humanitarians who cannot stand the heat generated by situational ethics should stay out of the post-Cold War humanitarian kitchen.

Principles in an Unprincipled World

Why are humanitarians in such a state of moral and operational disrepair? In many ways Western liberal values over the last few centuries have been moving toward interpreting moral obligations as going beyond a family and intimate networks, beyond a tribe, and beyond a nation. The impalpable moral ideal is concern about the fate of other people, no matter how far away.szThe evaporation of distance with advances in technology and media coverage, along with a willingness to intervene in a variety of post–Cold War crises, however, has produced situations in which humanitarians are damned if they do and if they don’t. Engagement by outsiders does not necessarily make things better, and it may even create a “moral hazard by altering the payoffs to combatants in such a way as to encourage more intensive fighting.“33

This new terrain requires analysts and practitioners to admit ignorance and question orthodoxies. There is no comfortable theoretical framework or world vision to function as a compass to steer between integration and fragmentation, globalization and insularity. Michael Ignatieff observes, “The world is not becoming more chaotic or violent, although our failure to understand and act makes it seem so. “34Gwyn Prins has pointed to the “scary humility of admitting one’s ignorance” because “the new vogue for ‘complex emergencies’ is too often a means of concealing from oneself that one does not know what is going on. “3sTo make matters more frustrating, never before has there been such a bombardment of data and instant analysis; the challenge of distilling such jumbled and seemingly contradictory information adds to the frustration of trying to do something appropriate fast.

International discourse is not condemned to follow North American fashions and adapt sound bites and slogans. It is essential to struggle with and even embrace the ambiguities that permeate international responses to wars, but without the illusion of a one-size-fits-all solution. The trick is to grapple with complexities, to tease out the general without ignoring the particular, and still to be inspired enough to engage actively in trying to make a difference.

Because more and more staff of aid agencies, their governing boards, and their financial backers have come to value reflection, an earlier policy prescription by Larry Minear and me no longer appears bizarre: “Don’t just do something, stand there! “3sThis advice represented our conviction about the payoffs from thoughtful analyses and our growing distaste for the stereotypical, yet often accurate, image of a bevy of humanitarian actors flitting from one emergency to the next.

#### Util

Harries, 94 – Editor @ The National Interest

(Owen, Power and Civilization, The National Interest, Spring, lexis)

Performance is the test. Asked directly by a Western interviewer, “In principle, do you believe in one standard of human rights and free expression?”, Lee immediately answers, “Look, it is not a matter of principle but of practice.” This might appear to represent a simple and rather crude pragmatism. But in its context it might also be interpreted as an appreciation of the fundamental point made by Max Weber that, in politics, it is “the ethic of responsibility” rather than “the ethic of absolute ends” that is appropriate. While an individual is free to treat human rights as absolute, to be observed whatever the cost, governments must always weigh consequences and the competing claims of other ends. So once they enter the realm of politics, human rights have to take their place in a hierarchy of interests, including such basic things as national security and the promotion of prosperity. Their place in that hierarchy will vary with circumstances, but no responsible government will ever be able to put them always at the top and treat them as inviolable and over-riding. The cost of implementing and promoting them will always have to be considered.

# 2NC

## Limits – Link 2NC

Federal Energy regs are FIVE MILLION RESEARCH HOURS

Tugwell 88

 The Energy Crisis and the American Political Economy:

Politics and Markets in the Management of Natural Resources

 Previously, Dr. Tugwell was the executive director of the Heinz Endowments of Pittsburgh, the founder and president of the Environment Enterprises Assistance Fund, and as a senior consultant for International Projects and Programs at PG&E Enterprises. He served as a deputy assistant administrator at USAID (1980-1981) and as a senior analyst for the energy program at the U.S. Office of Technology Assessment (1979-1980). Dr. Tugwell was also a professor at Pomona College and an adjunct distinguished professor at the Heinz School of Carnegie Mellon University. Additionally, he serves on the Advisory Board and International Committee of the American Council on Renewable Energy and on the Joint Board of Councilors of the China-U.S. Center for Sustainable Development. He also serves on the Board of Eucord (European Cooperative for International Development). Dr. Tugwell received a PhD in political science from Columbia University.

 Finally, administering energy regulations proved a costly and cumbersome endeavor, exacting a price all citizens had to pay. As the energy specialist Paul MacAvoy has noted: "More than 300,000 firms were required to respond to controls, ranging from the three dozen major refining companies to a quarter of a million retailers of petroleum products. The respondents had to file more than half a million reports each year, which probably took more than five mil- lion man-hours to prepare, at an estimated cost alone of $80 mil- lion."64 To these expenditures must be added the additional costs to the government of collecting and processing these reports, monitor- ing compliance, and managing the complex process associated with setting forth new regulations and adjudicating disputes. All to- gether, it seems likely that the administrative costs, private and public, directly attributable to the regulatory process also exceeded $1 billion a year from 1974 to 1980.^

All energy regulation is too big – it’s torture

Edwards 80

 JUDGES: Before EDWARDS, LEAR and WATKINS, JJ. OPINION BY: EDWARDS

 AYOU BOUILLON CORPORATION, ET AL. v. ATLANTIC RICHFIELD COMPANY

 No. 13229 Court of Appeal of Louisiana, First Circuit 385 So. 2d 834; 1980 La. App. LEXIS 3972; 67 Oil & Gas Rep. 240 May 5, 1980 PRIOR HISTORY: [\*\*1] ON APPEAL FROM THE 18TH JUDICIAL DISTRICT COURT, PARISH OF IBERVILLE, HONORABLE EDWARD N. ENGOLIO, JUDGE.

 Comprehending the applicability and complexity of federal energy regulation necessitates both a stroll down the tortuous legislative path and a review of legal challenges so numerous as to require the establishment of a Temporary Emergency Court of Appeals.

## Violation: Environmental Standards

Environmental standards are not restrictions

Dempsey and Keeble 6

http://www.frontline-canada.com/Defence/index\_archives.php?page=1554

 CHALLENGES OF ARCTIC SOVEREIGNTY

 Cdr Paul Dempsey is the Commanding Officer of HMCS Montréal.

Dr Edna Keeble is an Associate Professor of Political Science at Saint Mary’s University.

A longer version of this article appeared in the Canadian Naval Review (Winter 2007) issue. This paper is a scholastic document, and thus contains facts and opinions which the authors alone considered appropriate and correct for the subject. It does not necessarily reflect the policy or the opinion of any agency, including the Government of Canada and the Department of National Defence.

What is important for the Canadian government is to clearly understand and articulate national interests in the Northwest Passage region. Arguably, the government does not want to use limited resources to claim sovereignty for reasons of national pride nor does it want to arbitrarily restrict access to international shippers who might profit from the use of the strait in the future. Rather, the government wants to ensure that the fragile ecology of the region is maintained in ­harmony with globalized commerce over time. Practically speaking, this means that Canada’s national interests aim to have the international community recognize that Canada’s right to regulate, not restrict, the passage of vessels through the Northwest Passage is in keeping with international interests. Setting navigation system and hull construction safety standards, controlling the discharge of liquid and solid waste, and perhaps requiring the embarkation of pilots or the accompaniment of ice breakers for a portion of the transit are all measures that further both Canadian and international interests and goals. To the extent that the Government of Canada wants replacement ships to be able to operate in Arctic waters, it might need to consider the numerous categories of strengthening above Montréal’s Type E hull. In that way, the government would meet its objective of Arctic sovereignty protection while ensuring that the Canadian Navy retains its composition of capable, versatile, flexible ships designed to operate in defence of Canadian national interests at home and worldwide.

## Precision – Link 2NC

Not a regulation—regulation is how you go about doing the thing, restriction is whether or not you can do it

Schackleford, justice – Supreme Court of Florida, 3/12/’17

(J., “ATLANTIC COAST LINE RAILROAD COMPANY, A CORPORATION, *et al., Plaintiff in Error,* v. THE STATE OF FLORIDA, *Defendant in Error,”* 73 Fla. 609; 74 So. 595; 1917 Fla. LEXIS 487)

There would seem to be no occasion to discuss whether or not the Railroad Commissioners had the power and authority to make the order, requiring the three specified railroads running into the City of Tampa to erect a union passenger station in such city, which is set out in the declaration in the instant case and which we have copied above. [\*\*\*29] It is sufficient to say that under the reasoning and the authorities cited in State v. Atlantic Coast Line R. Co., 67 Fla. 441, 458, 63 South. Rep. 729, 65 South. Rep. 654, and State v. Jacksonville Terminal [\*631] Co., supra, it would seem that HN14the Commissioners had power and authority. The point which we are required to determine is whether or not the Commissioners were given the authority to impose the fine or penalty upon the three railroads for the recovery of which this action is brought. In order to decide this question we must examine Section 2908 of the General Statutes of 1906, which we have copied above, in the light of the authorities which we have cited and from some of which we have quoted. It will be observed that the declaration alleges that the penalty imposed upon the three railroads was for the violation of what is designated as "Order No. 282," which is set out and which required such railroads to erect and complete a union depot at Tampa within a certain specified time. If the Commissioners had the authority to make such order, it necessarily follows that they could enforce a compliance with the same by appropriate proceedings in the courts, but [\*\*\*30] it does not necessarily follow that they had the power and authority to penalize the roads for a failure to comply therewith. That is a different matter. HN15Section 2908 of the General Statutes of 1906, which originally formed Section 12 of Chapter 4700 of the Laws of Florida, (Acts of 1899, p. 86), expressly authorizes the imposition of a penalty by the Commissioners upon "any railroad, railroad company or other common carrier doing business in this State," for "a violation or disregard of any rate, schedule, rule or regulation, provided or prescribed by said commission," or for failure "to make any report required to be made under the provisions of this Chapter," or for the violation of "any provision of this Chapter." It will be observed that the word "Order" is not mentioned in such section. Are the other words used therein sufficiently comprehensive to embrace an order made by the Commissioners, such as the one now under consideration? [\*632] It could not successfully be contended, nor is such contention attempted, that this order is covered by or embraced within the words "rate," "schedule" or "any report,' therefore we may dismiss these terms from our consideration and [\*\*\*31] direct our attention to the words "rule or regulation." As is frankly stated in the brief filed by the defendant in error: "It is admitted that an order for the erection of a depot is not a 'rate' or 'schedule' and if it is not a 'rule' or 'regulation' then there is no power in the Commissioners to enforce it by the imposition of a penalty." It is earnestly insisted that the words "rule or regulation" are sufficiently comprehensive to embrace such an order and to authorize the penalty imposed, and in support of this contention the following authorities are cited: Black's Law Dictionary, defining regulation and order; Rapalje & Lawrence's Law Dictionary, defining rule; Abbott's Law Dictionary, defining rule; Bouvier's Law Dictionary, defining order and rule [\*\*602] of court; Webster's New International Dictionary, defining regulation; Curry v. Marvin, 2 Fla. 411, text 515; In re Leasing of State Lands, 18 Colo. 359, 32 Pac. Rep. 986; Betts v. Commissioners of the Land Office, 27 Okl. 64, 110 Pac. Rep. 766; Carter V. Louisiana Purchase Exposition Co., 124 Mo. App. 530, 102 S.W. Rep. 6, text 9; 34 Cyc. 1031. We have examined all of these authorities, as well as those cited by the [\*\*\*32] plaintiffs in error and a number of others, but shall not undertake an analysis and discussion of all of them. While it is undoubtedly true that the words, rule, regulation and order are frequently used as synonyms, as the dictionaries, both English and law, and the dictionaries of synonyms, such as Soule's show, it does not follow that these words always mean the same thing or are interchangeable at will. It is well known that the same word used in different contexts may mean a different thing by virtue of the coloring which the word [\*633] takes on both from what precedes it in the context and what follows after. Thus in discussing the proper constructions to be placed upon the words "restrictions and regulations" as used in the Constitution of this State, then in force, Chap. 4, Sec. 2, No. 1, of Thompson's Digest, page 50, this court in Curry v. Marvin, 2 Fla. 411, text 415, which case is cited to us and relied upon by both the parties litigant, makes the following statement: "The word restriction is defined by the best lexicographers to mean limitation, confinement within bounds, and would seem, as used in the constitution, to apply to the amount and to the time [\*\*\*33] within which an appeal might to be taken, or a writ of error sued out. The word regulation has a different signification -- it means method, and is defined by Webster in his Dictionary, folio 31, page 929, to be 'a rule or order prescribed by a superior for the management of some business, or for the government of a company or society.' This more properly perhaps applies to the mode and form of proceeding in taking and prosecuting appeals and writs of error. By the use of both of those terms, we think that something more was intended than merely regulating the mode and form of proceedings in such cases." Thus, in Carter v. Louisiana Purchase Exposition Co., 124 Mo. App. 530, text 538, 102 S.W. Rep. 6, text 9, it is said, "The definition of a rule or order, which are synonymous terms, include commands to lower courts or court officials to do ministerial acts." In support of this proposition is cited 24 Amer. & Eng. Ency. of Law 1016, which is evidently an erroneous citation, whether the first or second edition is meant. See the definition of regulate and rule, 24 amer. & Eng. Ency. of Law (2nd Ed.) pages 243 to 246 and 1010, and it will be seen that the two words are not always [\*\*\*34] synonymous, much necessarily depending upon the context and the sense in which the words are used. Also see the discussion [\*634] of the word regulation in 34 Cyc. 1031. We would call especial attention to Morris v. Board of Pilot Commissioners, 7 Del. chan. 136, 30 Atl. Rep. 667, text 669, wherein the following statement is made by the court: "These words 'rule' and the 'order,' when used in a statute, have a definite signification. They are different in their nature and extent. A rule, to be valid, must be general in its scope, and undiscriminating in its application; an order is specific and not limited in its application. The function of an order relates more particularly to the execution or enforcement of a rule previously made." Also see 7 Words & Phrases 6271 and 6272, and 4 Words & Phrases (2nd Ser.) 419, 420. As we held in City of Los Angeles v. Gager, 10 Cal. App. 378, 102 Pac. Rep. 17, "The meaning of the word 'rules' is of wide and varied significance, depending upon the context; in a legal sense it is synonymous with 'laws.'" If Section 2908 had contained the word order, or had authorized the Commissioners to impose a penalty for the violation of any order [\*\*\*35] made by them, there would be no room for construction. The Georgia statute, Acts of 1905, p. 120, generally known as the "Steed Bill," entitled "An act to further extend the powers of the Railroad Commission of this State, and to confer upon the commission the power to regulate the time and manner within which the several railroads in this State shall receive, receipt for, forward and deliver to its destination all freight of every character, which may be tendered or received by them for transportation; to provide a penalty for non-compliance with any and all reasonable rules, regulations and orders prescribed by the said commission in the execution of these powers, and for other purposes," expressly authorized the Railroad Commissioners "to provide a penalty for non-compliance with any and all reasonable rules, regulations and orders prescribed by the said Commision." [\*635] See Pennington v. Douglas, A. & G. Ry. Co., 3 Ga. App. 665, 60 S.E. Rep. 485, which we cited with approval in State v. Atlantic Coast Line R. Co., 56 fla. 617, text 651, 47 South. Rep. 969, 32 L.R.A. (N.S.) 639. Under the reasoning in the cited authorities, especially State v. Atlantic Coast Line R. Co., [\*\*\*36] supra, and Morris v. Board of Pilot Commissioners, we are constrained to hold that the fourth and eighth grounds of the demurrer are well founded and that HN16the Railroad Commissioners were not empowered or authorized to impose a penalty upon the three railroads for failure to comply with the order for the erection of a union depot.

## at: nrc

#### Independently, conditions are not restrictions

Pashman, justice – New Jersey Supreme Court, 3/25/’63

(Morris, “ISIDORE FELDMAN, PLAINTIFF AND THIRD-PARTY PLAINTIFF, v. URBAN COMMERCIAL, INC., AND OTHERS, DEFENDANT,” 78 N.J. Super. 520; 189 A.2d 467; 1963 N.J. Super. LEXIS 479)

HN3A title insurance policy "is subject to the same rules of construction as are other insurance policies." Sandler v. N.J. Realty Title Ins. Co., supra, at [\*\*\*11] p. 479. It is within these rules of construction that this policy must be construed.

Defendant contends that plaintiff's loss was occasioned by restrictions excepted from coverage in Schedule B of the title policy. The question is whether the provision in the deed to Developers that redevelopment had to be completed [\*528] within 32 months is a "restriction." Judge HN4 Kilkenny held that this provision was a "condition" and "more than a mere covenant." 64 N.J. Super., at p. 378. The word "restriction" as used in the title policy cannot be said to be synonymous with a "condition." A "restriction" generally refers to "a limitation of the manner in which one may use his own lands, and may or may not involve a grant." Kutschinski v. Thompson, 101 N.J. Eq. 649, 656 (Ch. 1927). See also Bertrand v. Jones, 58 N.J. Super. 273 (App. Div. 1959), certification denied 31 N.J. 553 (1960); Freedman v. Lieberman, 2 N.J. Super. 537 (Ch. Div. 1949); Riverton Country Club v. Thomas, 141 N.J. Eq. 435 (Ch. 1948), affirmed per curiam, 1 N.J. 508 (1948). It would not be inappropriate to say that the word "restrictions," as used [\*\*\*12] by defendant insurers, is ambiguous. The rules of construction heretofore announced must guide us in an interpretation of this policy. I find that the word "restrictions" in Schedule B of defendant's title policy does not encompass the provision in the deed to Developers which refers to the completion [\*\*472] of redevelopment work within 32 months because (1) the word is used ambiguously and must be strictly construed against defendant insurer, and (2) the provision does not refer to the use to which the land may be put. As the court stated in Riverton Country Club v. Thomas, supra, at p. 440, "HN5equity will not aid one man to restrict another in the uses to which he may put his land unless the right to such aid is clear, and that restrictive provisions in a deed are to be construed most strictly against the person or persons seeking to enforce them." (Emphasis added)

## at: reasonability

#### Reasonability is impossible – it’s arbitrary and undermines research and preparation

Resnick, assistant professor of political science – Yeshiva University, ‘1

(Evan, “Defining Engagement,” Journal of International Affairs, Vol. 54, Iss. 2)

In matters of national security, establishing a clear definition of terms is a precondition for effective policymaking. Decisionmakers who invoke critical terms in an erratic, ad hoc fashion risk alienating their constituencies. They also risk exacerbating misperceptions and hostility among those the policies target. Scholars who commit the same error undercut their ability to conduct valuable empirical research. Hence, if scholars and policymakers fail rigorously to define "engagement," they undermine the ability to build an effective foreign policy.

## cp – at: no fail hard enough

#### Trying to fail harder is a TERRIBLE FRAME for politics – it fragments coalitions and creates an IMPOSSIBLE STANDARD for political action which causes the plan to fail

Sharpe, lecturer, philosophy and psychoanalytic studies, and Goucher, senior lecturer, literary and psychoanalytic studies – Deakin University, ‘10

(Matthew and Geoff, Žižek and Politics: An Introduction, p. 225 – 227)

Perhaps our deepest criticism of Žižek’s work is that, from the true premise that what is needed is a set of alternatives to the present neoliberal order and its accelerating crises, Žižek infers that what is needed is an absolute break with everything that exists. For Žižek, and despite his professed Marxism, there are no dialectical contradictions at the very heart of capitalism, as Marx thought. Instead, there are marginalised groups who belong only liminally to the world order, as the alleged *sinthomes* of global capital: the disenfranchised peoples of the favellas, the long- term unemployed and so on. Any other analysis, any strategy that looks to groups within the system, fails to disturb the fundamental fantasy. For Žižek, this ‘compromise’ is not a sign of virtue in analysis, a necessary intellectual response to the way that modern societies are multi- dimensional, containing may potentially contradictory dynamics and sites of potentially effi cacious struggles. On the contrary, we must learn, in the language of Žižek loyalists Rex Butler and Scott Stephens, to ‘play it \*\*\* loud’ (Butler and Stephens 2006) – angrily to reject every thing that presently exists. In truth, Žižek announces, the question is simple: are readers ready for a total social transformation, or are they insipidly complicit with our perverse capitalist society (*IDLC* 1)? At its worst, it seems to us that this type of strident position is deeply anti- Hegelian, even irrationalist. It is certainly not Marxist in any robust sense. For what is Marx’s *Capital*, for instance, if not an attempt, massive in its scale and research, to understand the way complex modern capitalist economies work, so that its central dynamic and potential for crisis can be mapped onto the largest group in the system with an interest in social change? Better still, to make our political point here concerning the limitations of the revolutionary vanguardist Žižek’s increasing hostility to complex social- theoretical analysis and its connection with strategic political considerations, let us consider the case of Vladimir Lenin. Žižek in *Repeating Lenin* has nominated the Bolshevik Leader as the modern precedent (in the shadow of St Paul) that the Left needs to ‘repeat’, in order to reanimate radical politics today. But Lenin – the actual historical Lenin, rather than Žižek’s fantasmatic fi gure – repudiates two major ideas that Žižek now holds about politics. These are:

1. The idea that the political Act happens in a normative and descriptive void, as a radical break with the existing Symbolic Order or big Other. Žižek’s Lenin, the Lenin of April–October 1917, is presented as the purest historical example of an evental subject who has had the courage to Act without the sanction of the big Other of any pre- existing ‘situation’ or normative frame. 2. The idea that politics is the art of the *impossible –* an art based on the death drive, in the style of the surrealist slogans of the Parisian students in May 1968 – and that everyone who says that politics is the art of the possible is guilty of ‘compromise’ with the system. From this position follows the desire to short- cut political struggles and go directly to the political Act, hand- in- hand not with the masses who are at the heart of the dynamics of capitalism, but with the most marginalised groups on its fringes. Žižek can get away with this type of caricature today because nobody reads Marx and Lenin any more, so a generation of students has no idea that they are the butt of a sort of (im)practical joke. Until April 1917, Lenin had held that the backwards capitalism in Tsarist Russia meant that only a democratic revolution (that is, bourgeois society with a parliamentary government) was possible. The Marxists should hasten this process, the Russian version of the French Revolution, forward, in order then to prepare the forces for a socialist revolution. But Lenin’s theoretical study of imperialism, catalysed by the First World War, convinced him that Russian capitalism was part of a world capitalist system whose parts could not be analysed in isolation from one another. Lenin’s *April Theses* argue that it followed from the world character of imperialism and the political opportunity presented by the hostility of the masses to the war that socialist revolution in Russia was possible, provided that it was followed by socialist revolutions in Germany and France. So, rather than calling for a socialist uprising in a moral and historical void, Lenin’s *April Theses* announced that, all along, Lenin had radically misread the historical situation (Žižek’s Symbolic Order, or big Other).

But this radical alteration in Lenin’s understanding of the historical process did not mean that he also scrapped twenty years of intense hostility towards those who wanted to substitute terrorist actions and the marginalised fringes for the self- organisation and self- emancipation of the masses. Published in 1920, only three years after His Revolutionary Act, Lenin’s Left Wing Communism: An Infantile Disorder tells a different tale from Žižek’s one, concerning how Lenin understood politics. In it, Lenin berates those he terms ‘left- wing communists’: the ultra- Leftist thinkers who would, like Žižek, shun the possibility of alliances with existing forces – such as trade unions and social- democratic parliamentary parties. How can we explain the anomaly that Lenin calls strident oppositional positions an ‘infantile disorder’, rather than boldly praising their revolutionary virtue? Lenin’s culminating chapter in Left Wing Communism: An Infantile Disorder is entitled: ‘No compromises?’ And, of course, Lenin is no more a bleeding heart than he is a good liberal. Lenin is, however, a politician, who adjures his readers again and again that ‘it is extremely “dangerous”, incomprehensible and wrong not to permit compromises’ (Lenin 1921: VIII. 1). Why? Well, on the one hand, ‘it is surprising . . . that these [European] Leftists do not condemn Bolshevism’ if they are serious about rejecting ‘all maneuvering and compromise within the existing world’: After all, the German Leftists cannot but know that the entire history of Bolshevism, both before and after the October revolution, is full of instances of changes of tack, conciliatory tactics and compromises with other parties, including bourgeois parties! (Lenin 1921: VIII. 3) This is a diffi cult passage for Žižek to assimilate into his position at all. For Lenin, though, the political realm, unlike that which opens up before the philosopher’s a priori gaze, is empirically complex. What follows is Lenin teaching ‘the necessity, the absolute necessity, for the Communist party’ not to ‘renounce in advance any change of tack . . . [the] utilisation of confl icts of interests (even if temporary) among one’s enemies, or any conciliation or compromise with possible allies . . .’ (Lenin 1921: VIII. 3) All of this, moreover, is useless unless the revolutionary vanguard, the ‘semi- conscious part of the proletariat’, cannot appeal to real grievances among the majority of ordinary people: ‘at the same time you must soberly follow the actual state of class- consciousness and preparedness of the entire class (not only its communist vanguard), and of all the working people (not only their advanced elements)’ (Lenin 1921: VII. 3). To trade such strategic considerations, and engagement with the existing commitments of real subjects and social movements, for uncompromising declamations is ‘ridiculous’ and ‘immature’, says Lenin.

#### Vanguardism turns the case

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(Matthew and Geoff, Žižek and Politics: An Introduction, p. 192 – 193)

Žižek is not a right- wing authoritarian. But it is not suffi ciently clear that his revolutionary vanguardist stance avoids left- wing authoritarianism, on the lines of Stalin or Mao. The uneasiness that Žižek’s new positions generate spring from his examples, coupled with the political logic of total revolution on an arbitrary basis, and linked to his frank observation that the ‘parts of no part’ he looks to to prop up his Revolution lack any form of organisation of their own. We wonder, then, whether the Leader could express the political will of the revolutionary vanguard in any other way than by messianically imposing it upon the *lumpenproletariat*, who would in turn impose it on society. The provocative rhetoric of ‘reactivated’ informers, the voluntaristic willingness to exercise ‘brutal terror’ in ‘asserting the inhuman’ supposedly inauthentically covered over by postmodern liberalism, and so forth, do not exactly set these concerns to rest. Žižek concludes *In Defence of Lost Causes* by openly advocating that we completely ditch liberal democracy. It turns out that we should embrace the term ‘dictatorship’ – of course, a dictatorship of the proletariat, which would no doubt be claimed as a ‘participatory democracy’ even more democratic than the ‘dictatorship of the bourgeoisie’ that is representative government. But, when all this is combined with the apparent contradiction that Žižek fi rst refuses the inclusive term ‘the people’ for the divisive term ‘the proletariat’, but ends up advocating ‘trust in the people’, we might well wonder how carefully thought out all this really is (*IDLC* 162, 414–15). Žižek’s analysis of contemporary ‘post- politics’ is acute and his criticisms of radical academia’s alternatives are incisive. But Žižek himself sometimes seems uncertain as to what the alternative actually is. The logic of the position he has been developing since his turn to the Romantic philosophy of Schelling in the late 1990s, however, increasingly drives Žižek in the direction of a revolutionary vanguardism that smacks of left- wing authoritarianism. Although it is often diffi cult to disentangle the provocations from the positions, it seems that Žižek’s frustration with the lack of political resistance to contemporary capitalism is leading him to adopt extreme positions that can easily (as they did with Sorel) prepare a political jump from Left to Right, across the bridge made by reactive hostility to liberal parliamentarianism and representative democracy.

## solvency

#### Trauma is defintionally unresolvable

Schwartz 2

 American Imago 59.3 (2002) 367-384

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 n "The Hysterical Lie: Ferenczi and the Problem of Simulation," Leys carries her analysis further. If the ego is born of trauma and inseparable from it, the therapeutic process is doomed to failure. But if the ego is shaped by the lies and deceits of the adult world, then the therapeutic process might take the form of a corrective emotional experience, to use Franz Alexander's terminology. In Leys's summary of Ferenczi: "It is the fact that human beings lie which makes the human infant first realize that there is an external world, separate from him: thus the development of the ego—its splitting off as an independent entity from the objective world—is caused by the mendacity of other human beings" (155n4). But here Ferenczi encountered another impasse. In both his originary and postoriginary models, the subject is identified with the lies of adults (all those Medusas!). In the originary model, the adult world traumatically violates the primal unity, and the response is mimicry of the aggressor. In the postoriginary model, the ego is split into an observing part, on the one hand, which watches over the victimized infant like a "wise baby," and is identified (albeit affectlessly and impersonally) with the aggressor, and into a victimized part, on the other hand, which enacts its pain in the form of corporeal, hysterical symptoms.

## 2nc psychoanalysis

#### Specifically for trauma theory

Radstone 7

 Author(s): Radstone, Susannah.

Article title: Trauma theory: Contexts, Politics, Ethics

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PROFESSOR UNIOVERSITY OF EAST LONDON

 fter completing a PhD (Film and Literature) titled 'The Women's Room: Women and the Confessional Mode' at the University of Warwick and a period teaching film and literature at Keele University, I arrived back at UEL, where I did my undergraduate degree in Cultural Studies, in 1994. I lecture in film, media, cultural studies and memory studies at undergraduate and masters level, have had a number of roles in the research management of the School, and supervise PhDs.

This raises the question of the meaning and implications of placing trauma at the very heart of a general theory of representation, which would seem to follow from the centrality to Caruth’s trauma theory of de Man’s general theory of signification. To what extent, that is, are the insights offered by trauma theory generalizable to the whole field of representation? While it might be arguable that language and representation emerge from and bear the mark of that primary break or separation constitutive of subjectivity, to align this break with trauma would constitute, in my view at least, a histrionic manoeuvre resulting in the pathologization of all life lived through language and representation—of all life, that is, beyond very early infancy.Moreover, the generalizability of trauma theory’s insights is brought into question by those very theories from which trauma theory is derived. Trauma theory is derived, in part, that is, from de Man’s theory of signification in general, and in part from the neuroscientific studies of psychologists including Bessel A. Van der Kolk, who have argued, in the words of Ruth Leys, that ‘the traumatic event is encoded in the brain in a different way from ordinary memory’ (TG, 7).7 If trauma’s encoding is extraordinary, then can that ‘encoding’ become the foundation for a general theory of representation?

#### You should default to the middle ground – the constitutive lack is true FOR PEOPLE – but empirical studies prove you can’t scale it up to explain IR or revolutionary politics

Epstein, senior lecturer in government and IR – University of Sydney, ‘10

(Charlotte, “Who speaks? Discourse, the subject and the study of identity in international politics,” European Journal of International Relations XX(X) 1–24)

To be clear, this move is not intended to deny the intimate links between discourse and subjectivity. The earlier foray into Lacanian thought served precisely to underline the centrality of discourse to both the making and subsequent analysis of the subject. But by the same token it also drew out what is required to wield the discourse approach effec­tively in IR. Indeed Lacan’s analysis emphasizes the sheer complexity of the dynamics of a highly individual phenomenon (identity), and consequently the difficulties in taking this level as the starting point for analysing all other levels at which identity is politically at play.13 As the discipline that positions itself at the highest level of analysis (the supra­national), IR cannot maintain its focus at the level where some of the finer debates around subjectivity take place (see for example, Butler, 1997). The issue here is one of discipli­nary specificity, or, in other words, equipping IR for what it wants to do; and the solu­tion proposed is one of suspension or bracketing.

To restate this important point differently, at the individual level, subjectivities and subject-positions remain coextensive. The distinction between subject-positions and subjectivities becomes operative once the analysis shifts beyond the individual level. This distinction thus offers a theoretically cogent way of studying identity while bracket­ing some of its more unwieldy dimensions that may, moreover, not be pertinent at the levels at which IR casts its focus. It renders the discourse approach operative for IR, because it makes it possible to study *state* identities, without having to presume that states have feelings, or indeed enter into questions of how much exactly are they like people, or what kind of selves do they possess.

What the discourse approach analyses, then, is the ways in which actors — crucially, whether individuals or states — define themselves by stepping into a particular subject-position carved out by a discourse. In taking on the ‘I/we’ of that discourse, actors’ identities are produced in a very specific way. In doing so, they are establishing them­selves as the subjects of particular discourses, such as the anti-whaling discourse, and thereby marking themselves as ‘anti-whalers’. How, then, do discursive subject-positions differ from Wendt’s (1999: 227–229) role identities, where the actor is similarly seen as stepping into institutionalized roles (such as professor and student)? The crucial differ­ence is that the concept of subject-position does not harbour any assumption about any primordial self supporting these roles. Importantly, this is not to say that the self does not exist — that the professor or student have no selves — but simply that the concept is not relevant to the analysis of the discursive construction of identity, especially when taken to the interstate level.

#### Trauma specifically elides empirical complexity through a completely non-falsifiable methodology

Radstone 7

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 fter completing a PhD (Film and Literature) titled 'The Women's Room: Women and the Confessional Mode' at the University of Warwick and a period teaching film and literature at Keele University, I arrived back at UEL, where I did my undergraduate degree in Cultural Studies, in 1994. I lecture in film, media, cultural studies and memory studies at undergraduate and masters level, have had a number of roles in the research management of the School, and supervise PhDs.

 This is problematic since, to put things at their most stark, trauma criticism arguably constructs and polices the boundary of what can be recognised as trauma—a position made all the more powerful by trauma theory’s insistence on the ‘tracelessness’ or invisibility of trauma to all but the most trained of eyes. It should be obvious by now that the thrust of my argument is not that the boundaries of trauma criticism’s reach should be expanded, but rather that questions remain concerning the inclusions and exclusions performed by this criticism. Why is it, for instance, that there has been so little attention, within trauma theory, to the recent sufferings of those in Rwanda, in comparison to the attention that has been focused on events in the US on 9/11? The questions of firstly, who it is that gets claimed by trauma theory, and who ignored, and secondly, which events get labelled ‘trauma’ and which do not have not been omitted, entirely, from critical commentary. For example, writing of 9/11, James Berger has recently pointed out that ‘events of comparable and greater devastation in terms of loss of life happen in other parts of the world quite regularly’,23 yet, he implies, have not been subject to trauma criticism’s empathic attention. Berger makes the point that while some events get labelled traumatic, others, quite patently do not. Moreover, it is the sufferings of those categorized, in the West as ‘other’, that tend not to be addressed via trauma theory—which becomes in this regard, a theory that supports politicized constructions of those with whom identifications via traumatic sufferings can be forged and those from whom such identifications are withheld

#### Scaling up psychoanalysis fails for both SOLVENCY and DESCRIPTIVE POWER

Sharpe, lecturer, philosophy and psychoanalytic studies, and Goucher, senior lecturer, literary and psychoanalytic studies – Deakin University, ‘10

(Matthew and Geoff, Žižek and Politics: An Introduction, p. 186)

• So here is the force of the second, methodological component to Žižek’s untenable erasure of the difference between politics and psychoanalysis. By looking at the contemporary world as a contemporary subject–object in need of the theorist’s liberating ‘psychoanalysis’, Žižek is unable to make a series of key sociotheoretical distinctions long recognised in political and socialtheoretical literature on complex societies. • The key one of these, as we saw in ‘Vanishing Mediations’, is the distinction between the lifeworld of subjects (their lived world of meanings wherein a psychoanalytic ideology critique can be highly informative) and the media- steered subsystems – principally the economy- - whose workings demand an objectifying social- scientific analysis, not a psychoanalytic account. • The problem Žižek elides, in the words of his own teacher Althusser, is that modern post- traditional societies are a complex totality of ‘relatively autonomous’ instances – in Althusser’s thinking, the economy, the ideological and the political instances. • Then there is the question of which instance or level might be the predominant one in any particular historical regime. One practical consequence of this theoretical observation is that the peoples or potentials that might be either ‘symptomatic’ or particularly vital at one level (say, the ideological level) may be either well integrated or wholly disempowered at the other levels.

#### Psychoanalysis can’t explain complex sociopolitical events – there’s no methodology for applying it past the individual

McDermott et al., professor of political science – Brown University, ‘11

(Rose, “Applying Psychology to International Studies: Challenges and Opportunities in Examining Traumatic Stress,” International Studies Perspectives, Vol. 12 Iss. 2, May)

Concern about the external validity (that is, generalizability) of applying psychological constructs to real-world situations is a fundamental issue that has long been noted as problematic, as Irving L. Janis noted over 40 years ago (1958). The “gold standard” for research in psychology is the laboratory experiment. These setting are often dissimilar to real-world political situations in multiple ways, including the distilled nature of the hypothetical laboratory situation as well as the nature of the sample population, which is often comprised of college undergraduates. Also, psychological studies are dissimilar to real-world political situations in their operationalization of variables, which are often assessed by simple behaviors, such as choosing from an inventory of foreign policy choices in reaction to a news report in a study of fictional warring nations (Beer, Sinclair, Healy, and Bourne 1995). Such psychological research also tends to be dissimilar to real-world situations in its setting (often occurring within a laboratory in a psychology department of a university), timeframe (typically examining behavior occurring within a period of less than an hour), number of actors (often involving as few as two or three), and motivations of the participants (often for a modest payment or course credit). However, such laboratory studies also offer the benefit that they allow for control of the independent variables in ways that cannot be replicated in the analysis of complex real-world cases. Such control offers unrivalled possibilities for drawing accurate causal inferences.

Political science often offers a way to test the external validity of ideas established in psychological laboratory experiments within real-world contexts. Increasingly, political scientists and psychologists have combined some of the strengths of rigorous experimental methods in the context of either embedded nationally representative surveys (Kuklinski, Sniderman, Knight, Piazza, Tetlock, Lawrence, and Mellers 1997) or in field experiments both within the United States (Gerber and Green 2000) as well as abroad (Habyarimana, Humphreys, Posner, and Weinstein 2007).

However, the question of the value of laboratory vs field experimentation, like the larger issue of internal as opposed to external validity which it reflects, extends beyond questions of generalizability to incorporate ethical concerns as well. Even the most sophisticated experimental designs in a laboratory cannot come even close to generating the kind of traumatic experience that a person would endure if they were to lose a loved one in a war, nor should such a replication ever be sought. However, as a result, scientists’ ability to approximate the real-world experiences of something like, say, traumatic stress will be necessarily limited to either lesser forms of induced stress, or the study of those who have endured such events in their real lives. In the latter case, questions of self-selection and unknown pre-morbid experiences and vulnerabilities will always complicate the analysis and limit the degree of generalizability to the larger population we seek to characterize.

Methods outside of the laboratory—such as surveys—are frequently used in applying psychological and political constructs to international issues and can also incorporate experimental manipulations that allow for control of the independent variables (for example, Koopman, Snyder, and Jervis 1990; Kuklinski et al. 1997). However, every methodological approach has its limitations, with the findings yielded by surveys also brought into question because of possible biases in sampling due to large numbers of potential respondents who refuse to participate and possible biases in the responses (for example, social desirability) that can affect the internal validity of the results. The application of psychological interpretations to analyzing actual political cases is not without limitations. Inevitably, methodological limitations raise concerns in using any available methodology to apply psychological perspectives to real-world situations in the international context.

#### This is overwhelmingly, empirically true

Boettcher, professor of political science and pubic administration – North Carolina State University, ‘4

(William A, “The Prospects for Prospect Theory: An Empirical Evaluation of International Relations Applications of Framing and Loss Aversion,” Political Psychology, Vol. 25, No. 3)

Unfortunately, the process through which decisions are “framed” remains poorly understood. We lack a theory of framing because the psychologists have yet to give us one and we have failed to develop one on our own (rare attempts are discussed below). Despite a decade of work exploring prospect theory empirically, there has been little progress in developing clear and consistent criteria for simply identifying the frame used by a particular decision-maker (or group of decision- makers). Although we have happily borrowed intuitively compelling notions such as reference points, gain/loss coding, preference reversals, and loss aversion, we have failed to specify the scope conditions that may limit the applicability of prospect theory within our field of study. In part, this may be due to a lack of familiarity with (or understanding of) recent research on prospect theory in other fields; but it also stems from a reluctance to test prospect theory using experiments that mimic “real world” decisions. These experiments are difficult to construct and costly to execute, and they sometimes produce inconclusive (or even worse, incoherent) results. Nonetheless they are absolutely necessary, because they provide an empirical foundation and practical “road map” for more ambitious adventures.

#### It’s infinitely regressive

**Perpich 5** (Dian Professor of PHILOSOPHY AT Vanderbilt “Figurative Language and the ‘Face’ in Levinas’s Philosophy” Philosophy and Rhetoric vol. 38:2)

 Levinas’s hesitations about the value of psychoanalysis—indeed, what might be called his allergic reactions to psychoanalysis—are similarly based. Psychoanalysis, he writes, “casts a basic suspicion on the most unimpeachable testimony of self-consciousness” (1987b, 32). Psychological states in which the ego seems to have a “clear and distinct” grasp of itself are reread by psychoanalysis as symbols for a “reality that is totally inaccessible” to the self and that is the expression of “a social reality or a historical influence totally distinct from its [the ego’s] own intention” (34). Moreover, all of the ego’s protests against the interpretations of analysis are themselves subject to further analysis, leaving no point exterior to the analysis: “I am as it were shut up in my own portrait” (35). Psychoanalysis threatens an infinite regress of meaning, a recursive process that leads from one symbol to another, from one symptom to another with no end in sight and no way to break into or out of the chain of signifiers in the name of a signified. “The real world is transformed into a poetic world, that is, into a world without beginning in which one thinks without knowing what one thinks” (35). Put less poetically, Levinas’s worry is that psychoanalysis furnishes us with no fixed point or firm footing from which to launch a critique and to break with social and historical determinations of the psyche in order to judge society and history and to call both to account. Indeed, his uncharacteristic allusion to “clear and distinct” ideas betrays his intention: to seek, against both religious and psychoanalytic participations, for a relationship in which the ego is an “absolute,” “irreducible” singularity, within a totality but still separate from it, that is, still capable of a relation with exteriority. To seek such a relation is, Levinas says, “to ask whether a living man [sic] does not have the power to judge the history in which he is engaged, that is, whether the thinker as an ego, over and beyond all that he does with what he possesses, creates and leaves, does not have the substance of a cynic” (35). The naked being who confronts me with his or her alterity, the naked being that I am myself and whose being “counts as such” is now naked not with an erotic nudity but with the nudity of a cynic who has thrown off the cloak of culture in order to present him- or herself directly and “in person” through “this chaste bit of skin with brow, nose, eyes, and mouth” (41). Levinas picks up the thread of this worry about psychoanalysis in “Ethics and Discourse,” the main section of “The Ego and the Totality.” To affirm humankind as a power to judge history, he claims, is to affirm rationalism and to reject “the merely poetic thought which thinks without knowing what it things, or thinks as one dreams” (40). The impetus for psychoanalysis is philosophical, Levinas admits; that is, it shares initially in this affirmation of rationalism insofar as it affirms the need for reflection and for going “underneath” or getting behind unreflected consciousness and thought. However, if its impetus is philosophical, its issue is not insofar as the tools that it uses for reflection turn out to be “some fundamental, but elementary, fables ... which, incomprehensibly, would alone be unequivocal, alone not translate (or mask or symbolize) a reality more profound than themselves” (40). Psychoanalysis returns one, then, to the irrationalism of myth and poetry rather than liberating one from them. It resubmerges one within the cultural and historical ethos and mythos in a way that seems to Levinas to permit no end to interpretation and thus no power to judge. He imagines psychoanalysis as a swirling phantasmagoria in which language is all dissimulation and deception. “One can find one’s bearings in all this phantasmagoria, one can inaugurate the work of criticism only if one can begin with a fixed point. The fixed point cannot be some incontestable truth, a ‘certain’ statement that would always be sub ject to psychoanalysis; it can only be the absolute status of an interlocutor, a being, and not a truth about beings” (41). In this last claim, the fate of Heideggerian fundamental ontology that is an understanding of Being rather than a relation to beings (or to a being, a face) is hitched to the fate of psychoanalysis and both linked to participation, the “nocturnal chaos” that threatens to drown the ego in the totality.

## science

#### Psychoanalysis has ignored every study against it

Boudry 11

The Epistemic Predicament of a Pseudoscience: Social Constructivism Confronts Freudian Psychoanalysis, This was peer-reviewed unlike your articles, and written by Maarten Boudry, Professor in the Department of Philosophy and Moral Sciences. Accessed Via Wiley Interscience

The Freudian unconscious is an entity that actively resists interpretation, and that will always try to deceive us in unexpected and cunning ways (Gellner, 1985).8 Thus, when Freud was unable to find traces of a pathological complex or unconscious desire to account for a patient's behaviour, he was undeterred and treated this as a token of unconscious resistance. The more the material offered by a patient resisted interpretation, the more it counted in favour of the theory. This characteristic pattern of reasoning in psychoanalysis bears a striking resemblance to conspiracy theorizing (Farrell, 1996). For example, consistent with his account of the unconscious, Freud believed that his patients (and his critics) harboured a secret and unconscious wish to see his theories and interpretations proven wrong, and so never to see their own unconscious desires exposed. For instance, one of Freud's patients dreamt that she had to spend her holidays with her despised mother-in-law. This seemed to belie Freud's claim that every dream is an unconscious wish-fulfilment, but within the framework of psychoanalytic thinking it could be turned into a confirmation of the theory. As Freud himself explained, The dream showed that I was wrong. Thus it was her wish that I might be wrong, and her dream showed that wish fulfilled. (Freud, 1953a, p. 151; original emphasis) Freud argued that “these dreams appear regularly in the course of my treatments when a patient is in a state of resistance to me” and he predicted that the same would happen to his readers (Freud, 1953a, pp. 157–158).9 Indeed, Freud and his followers became infamous for explaining away criticism from their opponents as tokens of unconscious resistance to the theory, thus further attesting to the truth of psychoanalysis: They [the critics] are therefore bound to call up the same resistance in him as in our patients; and that resistance finds it easy to disguise itself as an intellectual rejection and to bring up arguments like those which we ward off in our patients by means of the fundamental rule of psycho-analysis. (Freud, 1957, p. 39) What is important for our purposes is that such moves are not merely immunizing gambits which can be neatly disentangled from the theory, but are instead perfectly legitimate, explanatory moves within the psychoanalytic framework, and instantly recognizable as genuine psychoanalytic interpretations (Boudry and Braeckman, 2010). This pattern of reasoning, which bears a striking resemblance to conspiracy thinking, is pervasive throughout psychoanalytic literature, and it follows directly from the characterization of the unconscious as an intentional and deceitful mental entity.

# 1NR

## royal

#### Also means lashout doesn’t escalate

Griswold, Trade Policy Studies @ Cato, 4/20/’7,

(Daniel, Trade, Democracy and Peace, http://www.freetrade.org/node/681

A second and even more potent way that trade has promoted peace is by promoting more economic integration. As national economies become more intertwined with each other, those nations have more to lose should war break out. War in a globalized world not only means human casualties and bigger government, but also ruptured trade and investment ties that impose lasting damage on the economy. In short, globalization has dramatically raised the economic cost of war.

## predictions

#### Predictions and scenario building are valuable for decision-making, even if they’re not perfect

**Garrett 12**

Banning, In Search of Sand Piles and Butterflies, director of the Asia Program and Strategic Foresight Initiative at the Atlantic Council.

http://www.acus.org/disruptive\_change/search-sand-piles-and-butterflies

 “Disruptive change” that produces “strategic shocks” has become an increasing concern for policymakers, shaken by momentous events of the last couple of decades that were not on their radar screens – from the fall of the Berlin Wall and the 9/11 terrorist attacks to the 2008 financial crisis and the “Arab Spring.” These were all shocks to the international system, predictable perhaps in retrospect but predicted by very few experts or officials on the eve of their occurrence. This “failure” to predict specific strategic shocks does not mean we should abandon efforts to foresee disruptive change or look at all possible shocks as equally plausible. Most strategic shocks do not “come out of the blue.” We can understand and project long-term global trends and foresee at least some of their potential effects, including potential shocks and disruptive change. We can construct alternative futures scenarios to envision potential change, including strategic shocks. Based on trends and scenarios, we can take actions to avert possible undesirable outcomes or limit the damage should they occur. We can also identify potential opportunities or at least more desirable futures that we seek to seize through policy course corrections. We should distinguish “strategic shocks” that are developments that could happen at any time and yet may never occur. This would include such plausible possibilities as use of a nuclear device by terrorists or the emergence of an airborne human-to-human virus that could kill millions. Such possible but not inevitable developments would not necessarily be the result of worsening long-term trends. Like possible terrorist attacks, governments need to try to prepare for such possible catastrophes though they may never happen. But there are other potential disruptive changes, including those that create strategic shocks to the international system, that can result from identifiable trends that make them more likely in the future—for example, growing demand for food, water, energy and other resources with supplies failing to keep pace. We need to look for the “sand piles” that the trends are building and are subject to collapse at some point with an additional but indeterminable additional “grain of sand” and identify the potential for the sudden appearance of “butterflies” that might flap their wings and set off hurricanes. Mohamed Bouazizi, who immolated himself December 17, 2010 in Sidi Bouzid, Tunisia, was the butterfly who flapped his wings and (with the “force multiplier” of social media) set off a hurricane that is still blowing throughout the Middle East. Perhaps the metaphors are mixed, but the butterfly’s delicate flapping destabilized the sand piles (of rising food prices, unemployed students, corrupt government, etc.) that had been building in Tunisia, Egypt, and much of the region. The result was a sudden collapse and disruptive change that has created a strategic shock that is still producing tremors throughout the region. But the collapse was due to cumulative effects of identifiable and converging trends. When and what form change will take may be difficult if not impossible to foresee, but the likelihood of a tipping point being reached—that linear continuation of the present into the future is increasingly unlikely—can be foreseen. Foreseeing the direction of change and the likelihood of discontinuities, both sudden and protracted, is thus not beyond our capabilities. While efforts to understand and project long-term global trends cannot provide accurate predictions, for example, of the GDPs of China, India, and the United States in 2030, looking at economic and GDP growth trends, can provide insights into a wide range of possible outcomes. For example, it is a useful to assess the implications if the GDPs of these three countries each grew at currently projected average rates – even if one understands that there are many factors that can and likely will alter their trajectories. The projected growth trends of the three countries suggest that at some point in the next few decades, perhaps between 2015 and 2030, China’s GDP will surpass that of the United States. And by adding consideration of the economic impact of demographic trends (China’s aging and India’s youth bulge), there is a possibility that India will surpass both China and the US, perhaps by 2040 or 2050, to become the world’s largest economy. These potential shifts of economic power from the United States to China then to India would likely prove strategically disruptive on a global scale. Although slowly developing, such disruptive change would likely have an even greater strategic impact than the Arab Spring. The “rise” of China has already proved strategically disruptive, creating a potential China-United States regional rivalry in Asia two decades after Americans fretted about an emerging US conflict with a then-rising Japan challenging American economic supremacy. Despite uncertainty surrounding projections, foreseeing the possibility (some would say high likelihood) that China and then India will replace the United States as the largest global economy has near-term policy implications for the US and Europe. The potential long-term shift in economic clout and concomitant shift in political power and strategic position away from the US and the West and toward the East has implications for near-term policy choices. Policymakers could conclude, for example, that the West should make greater efforts to bring the emerging (or re-emerging) great powers into close consultation on the “rules of the game” and global governance as the West’s influence in shaping institutions and behavior is likely to significantly diminish over the next few decades. The alternative to finding such a near-term accommodation could be increasing mutual suspicions and hostility rather than trust and growing cooperation between rising and established powers—especially between China and the United States—leading to a fragmented, zero-sum world in which major global challenges like climate change and resource scarcities are not addressed and conflict over dwindling resources and markets intensifies and even bleeds into the military realm among the major actors. Neither of these scenarios may play out, of course. Other global trends suggest that sometime in the next several decades, the world could encounter a “hard ceiling” on resources availability and that climate change could throw the global economy into a tailspin, harming China and India even more than the United States. In this case, perhaps India and China would falter economically leading to internal instability and crises of governance, significantly reducing their rates of economic growth and their ability to project power and play a significant international role than might otherwise have been expected. But this scenario has other implications for policymakers, including dangers posed to Western interests from “failure” of China and/or India, which could produce huge strategic shocks to the global system, including a prolonged economic downturn in the West as well as the East. Thus, looking at relatively slowly developing trends can provide foresight for necessary course corrections now to avert catastrophic disruptive change or prepare to be more resilient if foreseeable but unavoidable shocks occur. Policymakers and the public will press for predictions and criticize government officials and intelligence agencies when momentous events “catch us by surprise.” But unfortunately, as both Yogi Berra and Neils Bohr are credited with saying, “prediction is very hard, especially about the future.” One can predict with great accuracy many natural events such as sunrise and the boiling point of water at sea level. We can rely on the infallible predictability of the laws of physics to build airplanes and automobiles and iPhones. And we can calculate with great precision the destruction footprint of a given nuclear weapon. Yet even physical systems like the weather as they become more complex, become increasingly difficult and even inherently impossible to predict with precision. With human behavior, specific predictions are not just hard, but impossible as uncertainty is inherent in the human universe. As futurist Paul Saffo wrote in the Harvard Business Review in 2007, “prediction is possible only in a world in which events are preordained and no amount of actions in the present can influence the future outcome.” One cannot know for certain what actions he or she will take in the future much less the actions of another person, a group of people or a nation state. This obvious point is made to dismiss any idea of trying to “predict” what will occur in the future with accuracy, especially the outcomes of the interplay of many complex factors, including the interaction of human and natural systems. More broadly, the human future is not predetermined but rather depends on human choices at every turning point, cumulatively leading to different alternative outcomes. This uncertainty about the future also means the future is amenable to human choice and leadership. Trends analyses—including foreseeing trends leading to disruptive change—are thus essential to provide individuals, organizations and political leaders with the strategic foresight to take steps mitigate the dangers ahead and seize the opportunities for shaping the human destiny. Peter Schwartz nearly a decade ago characterized the convergence of trends and disruptive change as “inevitable surprises.” He wrote in Inevitable Surprises that “in the coming decades we face many more inevitable surprises: major discontinuities in the economic, political and social spheres of our world, each one changing the ‘rules of the game’ as its played today. If anything, there will be more, no fewer, surprises in the future, and they will all be interconnected. Together, they will lead us into a world, ten to fifteen years hence, that is fundamentally different from the one we know today. Understanding these inevitable surprises in our future is critical for the decisions we have to make today …. We may not be able to prevent catastrophe (although sometimes we can), but we can certainly increase our ability to respond, and our ability to see opportunities that we would otherwise miss.

#### Predictions don’t have to be perfect, just good enough

BRUCE BUENO **DE MESQUITA**, Julius Silver Professor of Politics at New York University, July 18th, 20**11**“FOX-HEDGING OR KNOWING: ONE BIG WAY TO KNOW MANY THINGS” <http://www.cato-unbound.org/2011/07/18/bruce-bueno-de-mesquita/fox-hedging-or-knowing-one-big-way-to-know-many-things/?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+cato-unbound+%28Cato+Unbound%29>

It is hard to say which is more surprising, that anyone still argues that we can predict very little or that anyone believes expertise conveys reliable judgment. Each reflects a bad habit of mind that we should overcome. It is certainly true that predictive efforts, by whatever means, are far from perfect and so we can always come up with examples of failure. But a proper assessment of progress in predictive accuracy, as Gardner and Tetlock surely agree, requires that we compare the rate of success and failure across methods of prediction rather than picking only examples of failure (or success). How often, for instance, has The Economist been wrong or right in its annual forecasts compared to other forecasters? Knowing that they did poorly in 2011 or that they did well in some other selected year doesn’t help answer that question. That is why, as Gardner and Tetlock emphasize, predictive methods can best be evaluated through comparative tournaments.

Reliable prediction is so much a part of our daily lives that we don’t even notice it. Consider the insurance industry. At least since Johan de Witt (1625–1672) exploited the mathematics of probability and uncertainty, insurance companies have generally been profitable. Similarly, polling and other statistical methods for predicting elections are sufficiently accurate most of the time that we forget that these methods supplanted expert judgment decades ago. Models have replaced pundits as the means by which elections are predicted exactly because various (imperfect) statistical approaches routinely outperform expert prognostications. More recently, sophisticated game theory models have proven sufficiently predictive that they have become a mainstay of high-stakes government and business auctions such as bandwidth auctions. Game theory models have also found extensive use and well-documented predictive success on both sides of the Atlantic in helping to resolve major national security issues, labor-management disputes, and complex business problems. Are these methods perfect or omniscient? Certainly not! Are the marginal returns to knowledge over naïve methods (expert opinion; predicting that tomorrow will be just like today) substantial? I believe the evidence warrants an enthusiastic “Yes!” Nevertheless, despite the numerous successes in designing predictive methods, we appropriately focus on failures. After all, by studying failure methodically we are likely to make progress in eliminating some errors in the future.

Experts are an easy, although eminently justified, target for critiquing predictive accuracy. Their failure to outperform simple statistical algorithms should come as no surprise. Expertise has nothing to do with judgment or foresight. What makes an expert is the accumulation of an exceptional quantity of facts about some place or time. The idea that such expertise translates into reliable judgment rests on the false belief that knowing “the facts” is all that is necessary to draw correct inferences. This is but one form of the erroneous linkage of correlation to causation; a linkage at the heart of current data mining methods. It is even more so an example of confusing data (the facts) with a method for drawing inferences. Reliance on expert judgment ignores their personal beliefs as a noisy filter applied to the selection and utilization of facts. Consider, for instance, that Republicans, Democrats, and libertarians all know the same essential facts about the U.S. economy and all probably desire the same outcomes: low unemployment, low inflation, and high growth. The facts, however, do not lead experts to the same judgment about what to do to achieve the desired outcomes. That requires a theory and balanced evidence about what gets us from a distressed economy to a well-functioning one. Of course, lacking a common theory and biased by personal beliefs, the experts’ predictions will be widely scattered.

Good prediction—and this is my belief—comes from dependence on logic and evidence to draw inferences about the causal path from facts to outcomes. Unfortunately, government, business, and the media assume that expertise—knowing the history, culture, mores, and language of a place, for instance—is sufficient to anticipate the unfolding of events. Indeed, too often many of us dismiss approaches to prediction that require knowledge of statistical methods, mathematics, and systematic research design. We seem to prefer “wisdom” over science, even though the evidence shows that the application of the scientific method, with all of its demands, outperforms experts (remember Johan de Witt). The belief that area expertise, for instance, is sufficient to anticipate the future is, as Tetlock convincingly demonstrated, just plain false. If we hope to build reliable predictions about human behavior, whether in China, Cameroon, or Connecticut, then probably we must first harness facts to the systematic, repeated, transparent application of the same logic across connected families of problems. By doing so we can test alternative ways of thinking to uncover what works and what doesn’t in different circumstances. Here Gardner, Tetlock, and I could not agree more. Prediction tournaments are an essential ingredient to work out what the current limits are to improved knowledge and predictive accuracy. Of course, improvements in knowledge and accuracy will always be a moving target because technology, ideas, and subject adaptation will be ongoing.

Given what we know today and given the problems inherent in dealing with human interaction, what is a leading contender for making accurate, discriminating, useful predictions of complex human decisions? In good hedgehog mode I believe one top contender is applied game theory. Of course there are others but I am betting on game theory as the right place to invest effort. Why? Because game theory is the only method of which I am aware that explicitly compels us to address human adaptability. Gardner and Tetlock rightly note that people are “self-aware beings who see, think, talk, and attempt to predict each other’s behavior—and who are continually adapting to each other’s efforts to predict each other’s behavior, adding layer after layer of new calculations and new complexity.” This adaptation is what game theory jargon succinctly calls “endogenous choice.” Predicting human behavior means solving for endogenous choices while assessing uncertainty. It certainly isn’t easy but, as the example of bandwidth auctions helps clarify, game theorists are solving for human adaptability and uncertainty with some success. Indeed, I used game theoretic reasoning on May 5, 2010 to predict to a large investment group’s portfolio committee that Mubarak’s regime faced replacement, especially by the Muslim Brotherhood, in the coming year. That prediction did not rely on in-depth knowledge of Egyptian history and culture or on expert judgment but rather on a game theory model called selectorate theory and its implications for the concurrent occurrence of logically derived revolutionary triggers. Thus, while the desire for revolution had been present in Egypt (and elsewhere) for many years, logic suggested that the odds of success and the expected rewards for revolution were rising swiftly in 2010 in Egypt while the expected costs were not.

This is but one example that highlights what Nobel laureate Kenneth Arrow, who was quoted by Gardner and Tetlock, has said about game theory and prediction (referring, as it happens, to a specific model I developed for predicting policy decisions): “Bueno de Mesquita has demonstrated the power of using game theory and related assumptions of rational and self-seeking behavior in predicting the outcome of important political and legal processes.” Nice as his statement is for me personally, the broader point is that game theory in the hands of much better game theorists than I am has the potential to transform our ability to anticipate the consequences of alternative choices in many aspects of human interaction.

How can game theory be harnessed to achieve reliable prediction? Acting like a fox, I gather information from a wide variety of experts. They are asked only for specific current information (Who wants to influence a decision? What outcome do they currently advocate? How focused are they on the issue compared to other questions on their plate? How flexible are they about getting the outcome they advocate? And how much clout could they exert?). They are not asked to make judgments about what will happen. Then, acting as a hedgehog, I use that information as data with which to seed a dynamic applied game theory model. The model’s logic then produces not only specific predictions about the issues in question, but also a probability distribution around the predictions. The predictions are detailed and nuanced. They address not only what outcome is likely to arise, but also how each “player” will act, how they are likely to relate to other players over time, what they believe about each other, and much more. Methods like this are credited by the CIA, academic specialists and others, as being accurate about 90 percent of the time based on large-sample assessments. These methods have been subjected to peer review with predictions published well ahead of the outcome being known and with the issues forecast being important questions of their time with much controversy over how they were expected to be resolved. This is not so much a testament to any insight I may have had but rather to the virtue of combining the focus of the hedgehog with the breadth of the fox. When facts are harnessed by logic and evaluated through replicable tests of evidence, we progress toward better prediction.

## ontology

#### Ontology is a DESTRUCTIVE HISTORICAL FICTION – any GATEWAY claims are just TRICKS based on how we SHELVE BOOKS

**Shirky 5**

Clay Shirky, teacher of NYU's graduate Interactive Telecommunications Program, 03/15/05

<http://www.itconversations.com/shows/detail470.html>

 I hold a joint appointment at NYU, as an Associate Arts Professor at the Interactive Telecommunications Program (ITP) and as a Distinguished Writer in Residence in the Journalism Department. I am also a Fellow at the Berkman Center for Internet and Society, and was the Edward R. Murrow Visiting Lecturer at Harvard's Joan Shorenstein Center on the Press, Politics, and Public Policy in 2010.

There are many ways to organize data: labels, lists, categories, taxonomies, **ontologies.** Of these, ontology -- assertions about essence and relations among a group of items -- seems to be the highest-order method of organization. Indeed, the predicted value of the Semantic Web assumes that ontological successes such as the Library of Congress's classification scheme are easily replicable. Those successes are not easily replicable. Ontology, far from being an ideal high-order tool, is a **300-year-old hack**, now nearing the end of its useful life. **The problem ontology solves is not how to organize ideas but how to organize things** -- the Library of Congress's classification scheme exists not because concepts require consistent hierarchical placement, **but because books do**. The LC scheme, when examined closely, is riddled with inconsistencies, bias, and gaps. Top level geographic categories, for example, include "The Balkan Penninsula" and "Asia." The primary medical categories don't include oncology, defaulting to the older and now discredited notion that cancers were more related to specific organs than to common processes. And the list of such oddities goes on. The reason the LC scheme is accumulating these errors faster than they can correct them is the physical fact of the book, which makes a card catalog scheme necessary, and constant re-shelving impossible. Likewise, it enforces **cookie-cutter categorization** that doesn't reflect the polyphony of its contents--there is a literature of creativity, for example, made up of books about art, science, engineering, and so on, and yet those books are not categorized (which is to say shelved) together, because the LC scheme doesn't recognize creativity as an organizing principle. For a reader interested in creativity, the LC **ontology destroys value rather than creating it.**

As we have learned from the Web, when data is decoupled from physical presence, it is fluid enough to be grouped differently by different readers, and on different days. The Web's main virtue, in handling data, is to transmute organization from an a priori, content-based judgment to one that can be ad hoc, context-based, socially embedded, and constantly altered. The Web frees us from needing to argue about whether The Book of 5 Rings "is" a business book or a primer on war -- it is plainly both, and not only are we freed from making that judgment firmly or in advance, we are freed from needing to make it explicit at all.

This talk begins by exploring the rise of ontological classification. In the period after the invention of the printing press but before the invention of the search engine, intellectual production was vested in books, objects that were numerous but opaque. When you have more than a few hundred books, categorization becomes a forced move, even if the categories are somewhat arbitrary, because without categories, you can no longer locate individual books.

#### The authenticity paradigm is genocidal

Theresa **Sanders 6**, theology prof at Georgetown, Tenebrae: Holy Week after the Holocaust, googlebooks

In her book Spirit of Ashes: Hegel, Heidegger, and Man-Made Mass Death, Edith Wyschogrod presents a history of how Western philosophers have thought of the meaning of death and its relation to life. She explains that for the most part, death has been viewed according to what she calls the “authenticity paradigm.” This paradigm is governed by “the assumption that a good death, even if not free of pain, is the measure of a good life.” The ultimate test of one’s life, according to this model, is whether one meets the inevitability of death with unflinching acceptance or with terror before the unknown. Wyschogrod offers two examples of the authenticity paradigm, one ancient and one more modern. The first comes from Plato’s Phaedo, which records the death of Socrates. According to the Phaedo, Socrates met his death not only with calm but with positive good cheer, taking time to instruct his disciples and to offer them words of encouragement even as the hemlock neared his lips. Because he had so thoroughly examined the nature of death while still alive, for him death held neither surprise nor sting. Socrates was able to accept the possibility that death would mean sinking into non-existence, even as he hoped that it might lead him to the freedom of the unimpaired soul, and the truth that is the goal of all philosophers. He underwent a “good death” because of the thoughtfulness and courageous quality of his life. Wyschogrod’s second example comes from the poetry of Rainer Maria Rilke. For Rilke, she says, death is not so much a future event as it is a dimension of the present. She explains that for the poet, “Only by integrating death into the texture of life is an authentic living and dying possible.” In this view, life can only be experienced in its depths if death is not only accepted but is allowed to illuminate each moment. And yet death does not thereby become the victor over life. Instead, death is the very condition of life; it is what makes the intensity of each moment possible and what makes each moment worth living. This point is crucial to Wyschogrod’s argument, as she believes that it is what differentiates Rilke’s situation from our own. For Rilke, she explains, there is a continuity that binds the present and the future together. She cites the first of Rilke’s Duino Elegies: “True it is strange to inhabit the earth no longer, / to use no longer customs scarcely required, / not to interpret roses, and other things / that promise so much, in terms of a human future…and to lay aside / even one’s proper name like a broken toy.” Even as the poem contemplates the disruption between the cares of the living and the concerns of the dead, it asserts a continuity between them. Explains Wyschogrod, “For this reason the fundamental assumption, the hidden premise, which undergirds this verse is the indestructability of an accustomed field of reference – “the things that promise so much,’ ‘customs scarcely acquired,’ ‘roses,’ ‘the name laid aside’ – since these are the stuff through which any meaningful grasp of the future comes about.” However, says Wyschogrod, the possibility of anticipation, of “looking forward to,” is precisely what has been called into question by the twentieth century and the advent of mass death. The threat of annihilation made possible by nuclear holocaust overwhelms any poetic holding-in-balance of life and death. We face, she observes, the prospect of wiping not only ourselves but all earthly being out of existence. This possibility of pure annihilation opens up a breach between our present and our future. In contemplation of mass destruction, we can no longer imagine, as Rilke did, the dead gently laying aside their customs, their roses, and their names like so many broken toys. We do not have the luxury of imagining individual souls parting reluctantly from those whom they leave behind, and thus no one to weight the meaning of death with a counterbalancing intensity of life. Concludes Wyschogrod, “By destroying the system of meanings which rendered death-accepting behavior possible, the effect of man-made mass death has undercut the power of the authenticity paradigm which permitted mastery over death.” What can we say, then, about the Catholic admonition to remember that we are dust and that we will return to dust? Let us begin with what we cannot say. We cannot simply comfort ourselves with the idea that death is a part of life, that is always has been and always will be, and that our deaths will clear the way for the generation of new life. Not only has the projection towards “always” been called into question, but the notion that death contributes to life has been overshadowed by the possibility of the complete annihilation of all life. Moreover, death as the origin of life has been given sinister meaning by the calculations of Nazism: the use of human remains as fertilizer and stuffing for mattresses, among other things. Such economics turn imagery of the “cycle of life” into mockery.

## courts link

#### Obama is Velcro and will receive blame for everything

**Nicholas & Hook 10** Peter and Janet, Staff Writers – LA Times, “Obama the Velcro president”, LA Times, 7-30, <http://articles.latimes.com/2010/jul/30/nation/la-na-velcro-presidency-20100730/3>

If Ronald Reagan was the classic Teflon president, Barack **Obama is made of Velcro.¶** Through two terms, Reagan eluded much of the responsibility for recession and foreign policy scandal. In less than two years, Obama has become **ensnared in blame**.¶ Hoping to **better insulate Obama**, White House aides have sought to **give other Cabinet officials a higher profile** and additional public exposure. They are also crafting new ways to explain the president's policies to a skeptical public.¶ **But Obama remains the colossus of his administration** — to a point where trouble anywhere in the world is often his to solve.¶ The president is on the hook to repair the Gulf Coast oil spill disaster, stabilize Afghanistan, help fix Greece's ailing economy and do right by Shirley Sherrod, the Agriculture Department official fired as a result of a misleading fragment of videotape¶ What's **not sticking to Obama** is a legislative track record that his recent predecessors might envy. **Political dividends** from passage of a healthcare overhaul or a financial regulatory bill **have been fleeting**.¶ Instead, voters are measuring his presidency by a more immediate yardstick: Is he creating enough jobs? So far the verdict is no, and that has taken a toll on Obama's approval ratings. Only 46% approve of Obama's job performance, compared with 47% who disapprove, according to Gallup's daily tracking poll.¶ "I think the accomplishments are very significant, but I think most people would look at this and say, 'What was the plan for jobs?' " said Sen. Byron L. Dorgan (D-N.D.). "The agenda he's pushed here has been a very important agenda, but it hasn't translated into dinner table conversations."¶ Reagan was able to glide past controversies with his popularity largely intact. He maintained his affable persona as a small-government advocate while seeming above the fray in his own administration.¶ Reagan was untarnished by such calamities as the 1983 terrorist bombing of the Marines stationed in Beirut and scandals involving members of his administration. In the 1986 Iran-Contra affair, most of the blame fell on lieutenants.¶ Obama lately has tried to rip off the Velcro veneer. In a revealing moment during the oil spill crisis, he reminded Americans that his powers aren't "limitless." He told residents in Grand Isle, La., that he is a flesh-and-blood president, not a comic-book superhero able to dive to the bottom of the sea and plug the hole.¶ "I can't suck it up with a straw," he said.¶ But as a candidate in 2008, he set sky-high expectations about what he could achieve and what government could accomplish.¶ Clinching the Democratic nomination two years ago, Obama described the moment as an epic breakthrough when "we began to provide care for the sick and good jobs to the jobless" and "when the rise of the oceans began to slow and our planet began to heal."¶ Those towering goals remain a long way off. And most people would have preferred to see Obama focus more narrowly on the "good jobs" part of the promise.¶ A recent Gallup poll showed that 53% of the population rated unemployment and the economy as the nation's most important problem. By contrast, only 7% cited healthcare — a single-minded focus of the White House for a full year.¶ At every turn, Obama makes the argument that he has improved lives in concrete ways.¶ Without the steps he took, he says, the economy would be in worse shape and more people would be out of work. There's evidence to support that. Two economists, Mark Zandi and Alan Blinder, reported recently that without the stimulus and other measures, gross domestic product would be about 6.5% lower.¶ Yet, Americans aren't apt to cheer when something bad doesn't materialize.¶ Unemployment has been rising — from 7.7% when Obama took office, to 9.5%. Last month, more than 2 million homes in the U.S. were in various stages of foreclosure — up from 1.7 million when Obama was sworn in.¶ "Folks just aren't in a mood to hand out gold stars when unemployment is hovering around 10%," said Paul Begala, a Democratic pundit.¶ **Insulating the president from bad news has proved impossible**. Other White Houses have tried doing so with more success. **Reagan's Cabinet officials often took the blame, shielding the boss**.¶ But **the Obama administration is about one man**. Obama is the White House's chief spokesman, policy pitchman, fundraiser and negotiator. **No Cabinet secretary has emerged as an adequate surrogate**. Treasury Secretary Timothy F. Geithner is seen as a tepid public speaker; Energy Secretary Steven Chu is prone to long, wonky digressions and has rarely gone before the cameras during an oil spill crisis that he is working to end.¶ So, **more falls to Obama, reinforcing the Velcro effect: Everything sticks to him**. He has opined on virtually everything in the hundreds of public statements he has made: nuclear arms treaties, basketball star LeBron James' career plans; Chelsea Clinton's wedding.¶ Few audiences are off-limits. On Wednesday, he taped a spot on ABC's "The View," drawing a rebuke from Democratic Pennsylvania Gov. Edward G. Rendell, who deemed the appearance unworthy of the presidency during tough times.¶ "Stylistically he creates some of those problems," Eddie Mahe, a Republican political strategist, said in an interview. "His favorite pronoun is 'I.' When you position yourself as being all things to all people, the ultimate controller and decision maker with the capacity to fix anything, you set yourself up to be blamed when it doesn't get fixed or things happen."¶ A new White House strategy is to forgo talk of big policy changes that are easy to ridicule. Instead, aides want to market policies as more digestible pieces. So, rather than tout the healthcare package as a whole, advisors will talk about smaller parts that may be more appealing and understandable — such as barring insurers from denying coverage based on preexisting conditions.¶ But at this stage, it may be late in the game to downsize either the president or his agenda.

#### Obama gets blame for courts – election issue and Republican spin

Time, 9 (“Obama's Supreme Move to the Center,” 1/26, [http://www.time.com/time/printout/0,8816,1818334,00.html](http://www.time.com/time/printout/0%2C8816%2C1818334%2C00.html))

When the Supreme Court issues rulings on hot-button issues like gun control and the death penalty in the middle of a presidential campaign, Republicans could be excused for thinking they'll have the perfect opportunity to paint their Democratic opponent as an out-of-touch social liberal. But while Barack Obama may be ranked as one of the Senate's most liberal members, his reactions to this week's controversial court decisions showed yet again how he is carefully moving to the center ahead of the fall campaign. On Wednesday, after the Supreme Court ruled that the death penalty was unconstitutional in cases of child rape, Obama surprised some observers by siding with the hardline minority of Justices Scalia, Thomas, Roberts and Alito. At a press conference after the decision, Obama said, "I think that the rape of a small child, six or eight years old, is a heinous crime and if a state makes a decision that under narrow, limited, well-defined circumstances the death penalty is at least potentially applicable, that that does not violate our Constitution." Then Thursday, after Justice Scalia released his majority opinion knocking down the city of Washington's ban on handguns, Obama said in a statement, "I have always believed that the Second Amendment protects the right of individuals to bear arms, but I also identify with the need for crime-ravaged communities to save their children from the violence that plagues our streets through common-sense, effective safety measures. The Supreme Court has now endorsed that view." John McCain's camp wasted no time in attacking, with one surrogate, conservative Senator Sam Brownback of Kansas, calling Obama's gun control statement "incredible flip-flopping." McCain advisor Randy Scheunemann was even tougher in a conference call Thursday. "What's becoming clear in this campaign," Scheunemann said, is "that for Senator Obama the most important issue in the election is the political fortunes of Senator Obama. He has demonstrated that there really is no position he holds that isn't negotiable or isn't subject to change depending on how he calculates it will affect his political fortunes." Politicians are always happy to get a chance to accuse opponents of flip-flopping, but McCain's team may be more afraid of Obama's shift to the center than their words betray. Obama has some centrist positions to highlight in the general election campaign on foreign policy and national security, social issues and economics. His position on the child rape death penalty case, for example, is in line with his record in Illinois of supporting the death penalty. He is on less solid ground on the gun ban as his campaign said during the primary that he believed the D.C. law was constitutional. A top legal adviser to Obama says both cases are consistent with his previous positions. "I don't see him as moving in his statements on the death penalty or the gun case," says Cass Sunstein, a former colleague of Obama's at the University of Chicago. Sunstein says Obama is "not easily characterized" on social issues, and says the Senator's support for allowing government use of the Ten Commandments in public, in some cases, is another example of his unpredictability on such issues. On the issue of gun control, he says Obama has always expressed a belief that the Second Amendment guarantees a private right to bear arms, as the court found Thursday. But Obama's sudden social centrism would sound more convincing in a different context. Since he wrapped up the primary earlier this month and began to concentrate on the independent and moderate swing voters so key in a general election, Obama has consistently moved to the middle. He hired centrist economist Jason Furman, known for defending the benefits of globalization and private Social Security accounts, to the displeasure of liberal economists. On Father's Day, Obama gave a speech about the problem of absentee fathers and the negative effects it has on society, in particular scolding some fathers for failing to "realize that what makes you a man is not the ability to have a child — it's the courage to raise one." Last week, after the House passed a compromise bill on domestic spying that enraged liberals and civil libertarians, Obama announced that though he was against other eavesdropping compromises in the past, this time he was going to vote for it. Whether Obama's new centrist sheen is the result of flip-flopping or reemphasizing moderate positions, the Supreme Court decisions have focused attention again on the role of the court in the campaign season. McCain himself is vulnerable to charges of using the Supreme Court for political purposes. Earlier this month, when the court granted habeas corpus rights to accused terrorist prisoners at Guantanamo Bay, McCain attacked the opinion in particularly harsh language, though advisers say closing the prison there is high on his list of actions to rehabilitate America's image around the world. Liberals are hoping that despite Obama's moderate response to the Supreme Court decisions, the issues alone will rally supporters to him. "What both of these decisions say to me is that the Supreme Court really is an election-year issue," says Kathryn Kolbert, president of People For the American Way. "We're still only one justice away from a range of really negative decisions that would take away rights that most Americans take for granted," she says. And Obama's run to the center surely won't stop conservatives from using the specter of a Democratic-appointed Supreme Court to try to rally support.

#### Enforcement guarantees Obama gets blamed

Canon and Johnson, professor of polisci at UK and vice-presiding judge on the Oklahoma court of appeals, ‘99

(Bradley C. Canon and Charles A. Johnson, Judicial Policies: Implementation and Impact, 1999, p. 3)

As we will see in later chapters, many judicial decisions afford a great deal of latitude for interpretation and implementation. Political actors and institutions who follow through on the decisions make the judicial policy. Certainly, the judges who enforced civil rights decisions were subject to political pressures from a variety of sources. Similar pressures affected public and private institutions after court decisions on affirmative action. Even presidential politics may become intertwined with judicial policies, as did Richard Nixon’s 1968 “law and order” campaign criticizing the Supreme Court’s criminal justice decisions or the explosive issue of abortion in virtually every presidential election since 1980. Like Congress and the president, the Supreme Court and other courts must rely on others to translate policy into action. And like the processes of formulating legislative, executive, and judicial policies, the process of translating those decisions into action is often a political one subject to a variety of pressures from a variety of political actors in the system.

## structural violence

#### War turns structural violence

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 But the idea that poverty and peace are directly related presupposes that wealth inequalities are – in and of themselves – unjust, and that the solution to the problem of war is to alleviate the injustice that inspires conflict, namely poverty. However, it also suggests that poverty is a legitimate inspiration for violence, otherwise there would be no reason to alleviate it in the interests of peace. It has become such a commonplace to suggest that poverty and conflict are linked that it rarely suffers any examination. To suggest that war causes poverty is to utter an obvious truth, but to suggest the opposite is – on reflection – quite hard to believe. War is an expensive business in the twenty-first century, even asymmetrically. And just to examine Bangladesh for a moment is enough at least to raise the question concerning the actual connection between peace and poverty. The government of Bangladesh is a threat only to itself, and despite 30 years of the Grameen Bank, Bangladesh remains in a state of incipient civil strife. So although Muhammad Yunus should be applauded for his work in demonstrating the efficacy of micro-credit strategies in a context of development, it is not at all clear that this has anything to do with resolving the social and political crisis in Bangladesh, nor is it clear that this has anything to do with resolving the problem of peace and war in our times. It does speak to the Western liberal mindset – as Geir Lundestad acknowledges – but then perhaps this exposes the extent to which the Peace Prize itself has simply become an award that reflects a degree of Western liberal wish-fulfilment. It is perhaps comforting to believe that poverty causes violence, as it serves to endorse a particular kind of concern for the developing world that in turn regards all problems as fundamentally economic rather than deeply – and potentially radically – political.