**Negative**

I negate

My value for this round is **morality.** My value criterion for the round is the **Just War Theory.**  The just war theory defined what is and isn’t a moral war.

Cora Sol **Goldstein, 12** **states** [profesoe of political science at California State University], *Capturing*, Military Review.

The precepts of Just War theory demand that we fight wars according to the exacting standards of modern lawfare, even if our enemies do not share these values.

The just war theory gives us a rational for how to treat our enemies in a war morally. Whichever side has the best chance to achieve peace is the side to vote for. Philosophy cannot interfere with peace. Trying your enemies for a crime that they don’t believe is a crime perpetuates war.

**Contention 1- Non- citizens accused of terrorism should be classified as prisoners of war .**

**Sub point A) All soldiers are terrorists.**

Terrorism is currently defined as someone who attacks civilian populations, often for political aims. This definition applies to soldiers in any war. During World War II, America dropped nuclear bombs in Japan in order to frighten them into surrendering. This would technically be considered terrorism. The terrorists in Afghanistan are fundamentally the same as this example. Thus, they should not be treated any differently than soldiers when captured.

The Terrorist has become a new category of human being with a new legal framework. Our obsession with terrorism is based on essentialism.

C. Douglas Lummis, 2004, U.C. Berkeley, entered the U.S. Marines for three years, the third of which he spent in a military base on Okinawa, he returned to Japan to write his Ph.D. thesis. He taught at Tsuda College, Tokyo. “The Terrorist as a New Human Type,” <http://zcommunications.org/the-terrorist-as-a-new-human-type-by-c-douglas-lummis>, January 19th

In the past several years, a new category of human being has been introduced into the public discourse: The Terrorist. Of course, people have been called terrorists before, but with the beginning of the U.S. government's War on Terrorism, "terrorist" has come to mean not simply a person who engages (or engaged) in a certain form of combat, but rather a separate human type. The Terrorist is different from, for example, the criminal. We think of a criminal as a person who was born as an ordinary human being, but has somehow "gone wrong." The criminal has committed a criminal act, but may still be capable of penitence, which is why we put criminals in penitentiaries. But The Terrorist has not "gone wrong." As President Bush has so often told us, The Terrorist is evil. The word "evil" is not a legal term; no court of law can convict a person of being "evil." Evil is a religious concept. The evil person is not someone who has taken the wrong path, but rather someone who has come into this world for the very purpose of causing pain and suffering. As you can see by putting a "d" at the beginning of the word, the evil person is here to carry out the project of the Enemy of God. Repentance is out of the question: the misery that the evil person has brought about is exactly what was intended. In the new terrorist discourse, the issue, when a particular case is being discussed, is not what the person did, but what the person is. When the case of John Walker Lind, the young man from California who was captured in Afghanistan, was being discussed in the newspapers, the question was framed not in terms of what crimes, if any, he actually may have committed, but rather what category he should be placed into: was he a terrorist, or was he an ordinary American boy gone wrong? If the former, he should be tried (the papers said) by a military tribunal; if the latter, he should get an ordinary jury trial (as it happened, the latter position prevailed). The terrorism discourse is based on a form of essentialism: once a person is categorized as a terrorist-in-essence, that person can be placed in a separate legal category. The important thing is that this determination of what the person is takes place before a legal determination is made (by trial) as to what the person did. I wrote above that no court of law can make a judgment of what a person is (e.g., essentially good or evil), but there is another kind of court that has claimed to make such judgments. That is the court used in witch trials, where the evidence as to what the accused person did is only relevant insofar as it indicates whether that person is or is not a witch. Once the person is judged to be a witch, then what he or she did is no longer relevant. The logic of the present terrorist discourse is witch-hunt logic. In political cartoons and commentaries, The Terrorist has most often been depicted as a gutter rat. Not the white rat or the brown country rat, but the plague rat, the one that is never displayed in zoos and that no one (except witches) ever keeps as pets. The plague rat, like the cockroach, exists in popular imagination (though animal rights activists may disagree) as an animal to be killed on sight, and exterminated if possible. And "extermination," a word that, outside of Nazi discourse, has not often been used in regard to a category of human beings, is precisely the word being used in War-on-Terrorism propaganda today. This characterization of The Terrorist revives the emotional content of racism without being, strictly speaking, racist. Anti-Terrorist propaganda cannot be racist because The Terrorist, while a category, is not a race. The people the U.S. government calls terrorist belong to a variety of nationalities and speak a variety of languages. Moreover, given the multi-ethnic makeup of the U.S. voting population today, it is no longer politically wise for U.S. politicians to lay this kind of stereotype on a particular ethnic group. So when government spokespeople say this is not a war against Muslims or Arabs, this should be taken seriously. What is happening is that the stereotype that used to be projected onto this or that ethnic group is now being projected onto this new category: The Terrorist. In classic racism, the discriminated people were depicted as incapable of education, enlightenment, or moral improvement, so that it would be fruitless to put them in the same legal framework, and grant them the same rights, as the dominating group. There is nothing for it but to place them in a separate legal category, say slavery, or apartheid, or ghettoization, or legal segregation. And today this is just what is happening: for the new human type called The Terrorist, a separate and unprecedented legal framework is being established.

**Sub point B) Accused terrorists should be treated under the Geneva Convention.**

Because terrorists are not fundamentally different than regular soldier should be treated under the Geneva Convention. The Geneva Convention is rules for war that the US is now a part of.

**Non-citizens accused of terrorism qualify as a POW.**

Maria **Nybondas** 20**02 states** [associate professor at the TMC Asser Institute], “The Legal Situation Surrounding the Guantanamo Bay Detainees,” TMC Asser Institute.

Article 4 of Geneva Convention III lays down which groups of persons are entitled to a POW status when captured in an armed conflict. Article 4(A), which includes rules applicable to non-occupied territory, reads as follows:

‘Prisoners of war, in the sense of the present Convention, are persons

belonging to one of the following categories, who have fallen into the power of the enemy:

(1) Members of the armed forces of a Party to the conflict, as well as members of militias or volunteer corps forming part of such armed forces.

(2) Members of other militias and members of other volunteer corps, including those of organized resistance movements, belonging to a Party to the conflict and operating in or outside their own territory, even if this territory is occupied, provided that such militias or volunteer corps, including such organized resistance movements, fulfil the following conditions:

(a) that of being commanded by a person responsible for his subordinates;

(b) that of having a fixed distinctive sign recognizable at a distance;

(c) that of carrying arms openly;

(d) that of conducting their operations in accordance with the laws and customs of war.

There are two major advantages to treating terrorists as prisoners of war under the Geneva Convention. First, it protects our national security by not allowing non citizens accused of terrorism to be tried. They can be held for the entire duration of the conflict. Second, the suspected terrorists must be treated humanely. This does not allow for things like torture.

**Sub point C) Treating terrorists differently perpetuates terrorism.**

Americans currently treat terrorists differently in our legal system than anyone else. Terrorism is a constant issue, even before the threat of terrorism really existed.

Our obsession with terrorism is a self-fulfilling prophecy – we force ourselves to envision terrorism where it doesn’t exist and pre-emptively act which creates the situations we see today.

Joseba Zulaika, 2003, PROFESSOR, CENTER FOR BASQUE STUDIES, AT THE UNIVERSIY OF NEVADA “The self-fulfilling prophesies of counterterrorism”, *Radical History Review* <http://rhr.dukejournals.org/cgi/reprint/2003/85/191.pdf>, pg 191-3

In the 1980s Brian Jenkins, the doyen of terrorism experts, predicted that “we could see a doubling of terrorism by the end of the decade.”1 As it happened, during the four years from 1989 to 1992, terrorism did not cause a single fatality in the United States. The more remarkable fact was, however, that during those four years with no single terrorism case, American libraries catalogued, according to the OCLC WorldCat Database, 1322 new book titles under the rubric “terrorism” and 121 under “terrorist.” The obvious question at the time was: How could a discursive machine provide the ammunition necessary to sustain an entire industry based on a phenomenon that was both the ultimate threat to civilization and statistically almost absent? What amount of self-fulfilling prophecy was required for the real thing to make its appearance in the United States? Let us not forget that, regarding terrorism, those blissful 1980s—can anyone remember one single terrorist event in the United States during the entire decade?—were also the years in which the Reagan administration labeled terrorism its major international problem. At times, over 80 percent of Americans regarded terrorism as an “extreme” danger. In April of 1986, a national survey showed that terrorism was “the number one concern” for Americans.2 Nobody remembers who they were, but statistics say that during the period from 1980 to 1985, acts of terrorism killed seventeen people in the United States. These fewer than three terrorist fatalities a year proved, of course, far more threatening to national security than the 25,000 “ordinary” murders occurring annually during the same years. Now one might say that terrorism during the Reagan period was “a sideshow got up as major theater,” to use the words of John Le Carre applied to espionage after the end of the cold war. Yet even at that time terrorism was perceived as the ultimate threat. Such power assigned to terrorism’s “reality effect” recalls the “referential illusion” of modernist literature’s realist aesthetics, by which “the very absence of the signified . . . becomes the very signifier of realism.”3 But the true reality effect would finally come in 1993 with the bombing of the World Trade Center (WTC). “Is this a new day in American politics?” Dan Rather asked on the CBS Evening News to the politician on camera, followed by the commentary, “For the first time, we are vulnerable to foreign terrorists.” In 1995 the Oklahoma City bombing further dispelled any doubts as to whether terrorism in the United States was for real. Oh, yes, the experts had been prescient all along. Terrorists were always lurking there in the dark. But were they? To put it bluntly, were Sheik Omar Abdul Rahman and Timothy McVeigh our natural-born, archterrorist enemies, or were they rather, to a significant degree, the products of our own counterterrorism practices? It is no secret, for a start, that Sheik Omar was recruited by the CIA and came to this country with visas repeatedly provided by the agency. Robert Friedman reached the following conclusion in an article entitled “The CIA’s *Jihad*”: “The CIA has inadvertently managed to do something that America’s enemies have been unable to: give terrorism a foothold in the United States.”4 Sheik Omar was confined to a New York prison on conspiracy charges, which, according to a *New York Times* editorial, “only required [the government] to prove *the intention* to wage a terror campaign” and in which “only the sketchiest connections [were] established between Sheik Omar Abdel Rahman and the alleged mastermind of that crime, Ramzi Ahmed Yousef.”5 As for the lone McVeigh, not only does the nature of his terrorism not fit any classical definition of the phenomenon (typically, a member of an armed group practicing psychological terror for the sake of furthering some political agenda), but more important, the basic references of his plot were all provided by the dominant terrorism discourse in the United States. His shooting targets while a soldier were terrorists; his action plan was scripted by William Pierce’s right-wing *The Turner Diaries* (itself inspired by the apocalyptic novel *The John Franklin Letters*, in which the United States falls under a global Soviet conspiracy); his alias was “T. Tuttle,” the name of the superterrorist hero in the Hollywood movie *Brazil*; the day chosen for the explosion was April 19, the second anniversary of the Waco tragedy, a cause celebre for militias angered by the government’s violent response to the apocalyptic Branch Davidians. So the initial question to ask should be: To what extent were Sheik Omar and McVeigh—or Saddam Hussein and Osama bin Laden for that matter— the products of the United States’ own counterterrorism discursive practices? This is primarily a discourse that substitutes the spectacle of a constant “wait-ing for terror” for actual historical temporality. Begona Aretxaga describes it in the following way: “In contrast to historical time, the structure of this timeless war is characterized by the temporality of waiting, waiting for the next attack. Waiting for the spread of a virus, waiting for the killing of terrorists, waiting . . . as a prolonged moment of suspension and anxiety, of terror transformed into spectacle, of terror that is also a thrill, of terror that focuses and binds into a new sense of patriotic affect.”6 If the Beckettian theater of waiting is so intensely ominous (“it is not if, but when”), if the political manipulations of collective fantasies about nuclearism and savagery can prove so effective, it is hard not to assume that terrorism foretold must become prophecy fulfilled at some point. The army of public officials, experts, journalists, and academics who orchestrate the doom of terrorist futurology are thus vindicated.

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**Contention 2- The negative does not have to defend torture.**

**Accused terrorists are not currently treated under the Geneva Convention.**

Jonathan Hafetz 2012 states, [Associate Professor of Law, Seton Hall University School of Law], “Military Detention in the ‘War on Terrorism’: Normalizing the Exceptional After 9/11,”Columbia Law Review, 112 Colum. L. Rev. Sidebar 31.

“At the same time, the Bush Administration characterized the war on terrorism as a "new kind of war" and enemy combatants as a new kind of prisoner. Unlike enemy soldiers held by the United States in prior conflicts, enemy combatants in the war on terror were deemed to fall outside the protections of the Geneva Conventions, including the baseline provisions of Common Article 3, which apply in non-international armed conflicts (i.e., conflicts not between two nation states). Thus, at the same time the enemy combatant framework normalized new detention powers, it created exceptions from law of war constraints on the treatment of prisoners, creating a loophole for the use of torture and other abusive interrogation methods that became pervasive at U.S.-run detention centers, such as Guantánamo, Bagram, and CIA ‘black sites.’”

Terrorists are no different than other combatants and thus should be treated as prisoners of war. Treating them differently allows the government to torture and causes more terrorism. For these reasons, I urge a negative vote.