# ASU Cards Round 4 Weber

## 1NC

### 1

#### Interpretation: Targeted killings are strikes carried about against pre-meditated, individually designated targets---signature strikes are distinct.

Anderson, Professor at Washington College of Law, American University, ‘11

[Kenneth, Hoover Institution visiting fellow, Non-Resident Visiting Fellow at Brookings, “Distinguishing High Value Targeted Killing and ‘Signature’ Attacks on Taliban Fighters,” August 29 2011, http://www.volokh.com/2011/08/29/distinguishing-high-value-targeted-killing-and-signature-attacks-on-taliban-fighters/]

From the US standpoint, it is partly that it does not depend as much as it did on Pakistan’s intelligence. But it is also partly, as a couple of well-publicized incidents a few months ago made clear, that sharing targeting decisions with Pakistan’s military and ISI runs a very considerable possibility of having the targets tipped off (as even The Onion has observed). The article notes in this regard, the U.S. worries that “if they tell the Pakistanis that a drone strike is coming someone within Pakistani intelligence could tip off the intended target.” However, the Journal’s reporting goes from there to emphasize an aspect of targeted killing and drone warfare that is not sufficiently appreciated in public discussions trying to assess such issues as civilian collateral damage, strategic value and uses, and the uses of drones in counterterrorism and counterinsurgency as distinct activities. The article explains:¶ The CIA carries out two different types of drone strikes in the tribal areas of Pakistan—those against so-called high-value targets, including Mr. Rahman, and “signature” strikes targeting Taliban foot-soldiers who criss-cross the border with Afghanistan to fight U.S. forces there.¶ High-value targets are added to a classified list that the CIA maintains and updates. The agency often doesn’t know the names of the signature targets, but it tracks their movements and activities for hours or days before striking them, U.S. officials say.¶ Another way to put this is that, loosely speaking, the high value targets are part of a counterterrorism campaign – a worldwide one, reaching these days to Yemen and other places. It is targeted killing in its strict sense using drones – aimed at a distinct individual who has been identified by intelligence. The “signature” strikes, by contrast, are not strictly speaking “targeted killing,” because they are aimed at larger numbers of fighters who are targeted on the basis of being combatants, but not on the basis of individuated intelligence. They are fighting formations, being targeted on a mass basis as part of the counterinsurgency campaign in Afghanistan, as part of the basic CI doctrine of closing down cross-border safe havens and border interdiction of fighters. Both of these functions can be, and are, carried out by drones – though each strategic function could be carried out by other means, such as SEAL 6 or CIA human teams, in the case of targeted killing, or manned aircraft in the case of attacks on Taliban formations. The fundamental point is that they serve distinct strategic purposes. Targeted killing is not synonymous with drone warfare, just as counterterrorism is analytically distinct from counterinsurgency. (I discuss this in the opening sections of this draft chapter on SSRN.)¶ This analytic point affects how one sees the levels of drone attacks going up or down over the years. Neither the total numbers of fighters killed nor the total number of drone strikes – going up or down over months – tells the whole story. Total numbers do not distinguish between the high value targets, being targeted as part of the top down dismantling of Al Qaeda as a transnational terrorist organization, on the one hand, and ordinary Taliban being killed in much larger numbers as part of counterinsurgency activities essentially part of the ground war in Afghanistan, on the other. Yet the distinction is crucial insofar as the two activities are, at the level of truly grand strategy, in support of each other – the war in Afghanistan and the global counterterrorism war both in support of the AUMF and US national security broadly – but at the level of ordinary strategic concerns, quite distinct in their requirements and conduct. If targeted killing against AQ leadership goes well in Pakistan, those might diminish at some point in the future; what happens in the war against the Afghan Taliban is distinct and has its own rhythm, and in that effort, drones are simply another form of air weapon, an alternative to manned aircraft in an overt, conventional war. Rising or falling numbers of drone strikes in the aggregate will not tell one very much without knowing what mission is at issue.

#### Violation – The aff restricts the broader drone policy; parts of these are not targeted killing.

#### Prefer our interp – allowing signature strikes and drone strikes in the topic destroys predictability, limits, and precision by allowing in mass attacks against enemy combatants and all kinds of air power weapons platforms

Anderson, Professor at Washington College of Law, American University, ‘11

[Kenneth, Hoover Institution visiting fellow, Non-Resident Visiting Fellow at Brookings, “Efficiency in Bello and ad Bellum: Targeted Killing Through Drone Warfare,” Sept 23 2011, http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=1812124]

Although targeted killing and drone warfare are often closely connected, they are not the same and are not always associated with each other. We need to disaggregate the practices of targeted killing from the technologies of drone warfare.¶ Targeted killing consists of using deadly force, characterized by the identification of and then strike against an individual marked to be killed. It is distinguished, among other things, by making an individualized determination of a person to be killed, rather than simply identifying, for example, a mass of enemy combatants to attack as a whole. Since it is a practice that involves the determination of an identified person, rather than a mass of armed and obvious combatants, it is a use of force that is by its function integrated with intelligence work, whether the intelligence actors involved are uniformed military or a civilian agency such as the CIA.¶ Targeted killing might (and does) take place in the course of conventional warfare, through special operations or other mechanisms that narrowly focus operations through intelligence. But it might also take place outside of a conventional conflict, or perhaps far from the conventional battlefields of that conflict, sufficiently so operationally to best be understood as its own operational category of the use of force – “intelligence-driven,” often covert, and sometimes non-military intelligence agency use of force, typically aimed at “high value” targets in global counterterrorism operations. It might be covert or it might not – but it will be driven by intelligence, because of necessity it must identify and justify the choice of target (on operational, because resources are limited; or legal grounds; or, in practice, both).¶ Targeted killing might use a variety of tactical methods by which to carry out the attack. The method might be by drones firing missiles – the focus of discussion here. But targeted killing – assassination, generically – is a very old method for using force and drones are new. Targeted killing in current military and CIA doctrine might, and often does, take place with covert civilian intelligence agents or military special operations forces – a human team carrying out the attack, rather than a drone aircraft operated from a distance. The Bin Laden raid exemplifies the human team-conducted targeted killing, of course, and in today’s tactical environment, the US often uses combined operations that have available both human teams and drones, to be deployed according to circumstances.¶ Targeted killing is thus a tactic that might be carried out either by drones or human teams. If there are two ways to do targeted killing, there are also two functions for the use of drones – targeted killing as part of an “intelligence-driven” discrete use of force, on the one hand, and a role (really, roles) in conventional warfare. Drones have a role in an ever-increasing range of military operations that have no connection to “targeted killing.” For many reasons ranging from cost-effectiveness to mission-effectiveness, drones are becoming more ramified in their uses in military operations, and will certainly become more so. This is true starting with their fundamental use in surveillance, but is also true when used as weapons platforms.¶ From the standpoint of conventional military operations and ordinary battlefields, drones are seen by the military as simply an alternative air weapons platform. One might use an over-the-horizon manned aircraft – or, depending on circumstances, one might instead use a drone as the weapons platform. It might be a missile launched from a drone by an operator, whether sitting in a vehicle near the fighting or farther away; it might be a weapon fired from a helicopter twenty miles away, but invisible to the fighters; it might be a missile fired from a US Navy vessel hundreds of miles away by personnel sitting at a console deep inside the ship. Future air-to-air fighter aircraft systems are very likely to be remotely piloted, in order to take advantage of superior maneuverability and greater stresses endurable without a human pilot. Remotely-piloted aircraft are the future of much military and, for that matter, civil aviation; this is a technological revolution that is taking place for reasons having less to do with military aviation than general changes in aviation technology.¶ Missiles fired from a remotely-piloted standoff platform present the same legal issues as any other weapons system – the law of war categories of necessity and proportionality in targeting. To military professionals, therefore, the emphasis placed on “remoteness” from violence of drone weapons operators, and presumed psychological differences in operators versus pilots, is misplaced and indeed mystifying. Navy personnel firing missiles from ships are typically just as remote from the fighting, and yet one does not hear complaints about their indifference to violence and their “Playstation,” push-button approach to war. Air Force pilots more often than not fire from remote aircraft; pilots involved in the bombing campaign over Serbia in the Kosovo war sometimes flew in bombers taking off from the United States; bomber crews dropped their loads from high altitudes, guided by computer, with little connection to the “battlefield” and little conception of what they – what their targeting computers - were aiming at. Some of the crews in interviews described spending the flights of many hours at a time, flying from the Midwest and back, as a good chance to study for graduate school classes they were taking – not Playstation, but study hall. In many respects, the development of new sensor technologies make the pilots, targeters, and the now-extensive staff involved in a decision to fire a weapon from a drone far more aware of what is taking place at the target than other forms of remote targeting, from Navy ships or high altitude bombing.¶ Very few of the actors on a technologically advanced battlefield are personally present in a way that makes the destruction and killing truly personal – and that is part of the point. Fighting up close and personal, on the critics’ psychological theories, seems to mean that it has greater significance to the actors and therefore leads to greater restraint. That is extremely unlikely and contrary to the experience of US warfighters. Lawful kinetic violence is more likely to increase when force protection is an issue, and overuse of force is more likely to increase when forces are under personal pressure and risk. The US military has known since Vietnam at least that increased safety for fighting personnel allows them greater latitude in using force, encourages and permits greater willingness to consider the least damaging alternatives, and that putting violence at a remove reduces the passions and fears of war and allows a coolly professional consideration of what kinds, and how much, violence is required to accomplish a lawful military mission. Remote weapon systems, whether robotic or simply missiles launched from a safe distance, in US doctrine are more than just a means for reducing risk to forces – they are an integral part of the means of allowing more time to consider less-harmful alternatives.¶ This is an important point, given that drones today are being used for tasks that involve much greater uses of force than individualized targeted killing. Drones are used today, and with increasing frequency, to kill whole masses of enemy columns of Taliban fighters on the Pakistan border – in a way that would otherwise be carried out by manned attack aircraft. This is not targeted killing; this is conventional war operations. It is most easily framed in terms of the abstract strategic division of counterinsurgency from counterterrorism (though in practice the two are not so distinct as all that). In particular, drones are being deployed in the AfPak conflict as a counterinsurgency means of going after Taliban in their safe haven camps on the Pakistan side of the border. A fundamental tenet of counterinsurgency is that the safe havens have to be ended, and this has meant targeting much larger contingents of Taliban fighters than previously understood in the “targeted killing” deployment. This could be – and in some circumstances today is – being done by the military; it is also done by the CIA under orders of the President partly because of purely political concerns; much of it today seems to be a combined operation of military and CIA.¶ Whoever conducts it and whatever legal issues it might raise, the point is that this activity is fundamentally counterinsurgency. The fighters are targeted in much larger numbers in the camps than would be the case in “targeted killing,” and this is a good instance of how targeted killing and drone warfare need to be differentiated. The targets are not individuated, either in the act of targeting or in the decision of who and where to target: this is simply an alternative air platform for doing what might otherwise be done with helicopters, fixed wing aircraft, or ground attack, in the course of conventional counterinsurgency operations. But it also means that the numbers killed in such operations are much larger, and consist often of ordinary fighters who would otherwise pile into trucks and cross back into Afghanistan, rather than individualized “high value” targets, whether Taliban or Al Qaeda.

#### D. T is a voter in order to preserve fairness and education.

### 2

#### The Executive branch should publicly articulate its legal rationale for its targeted killing policy, including the process and safeguards in place for target selection.

#### Disclosing target criteria builds credibility, enacts domestic accountability, and doesn’t link to the terror disad.

McNeal, Associate Professor of Law, Pepperdine University, ‘13

[Gregory, 3/5/13, “Targeted Killing and Accountability,” <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1819583>]

Related to defending the process, and using performance data is the possibility that the U.S. government could publish the targeting criteria it follows**.** That criteria need not be comprehensive, but it could be sufficiently detailed as to give outside observers an idea about who the individuals singled out for killing areand what they are alleged to have done to merit their killing. As Bobby Chesney has noted, "Congress could specify a statutory standard which the executive branch could then bring to bear in light of the latest intelligence, with frequent reporting to Congress as to the results of its determinations."521 What might the published standards entail? First, Congress could clarify the meaning of associated forces, described in Part I and II. In the alternative, it could do away with the associated forces criteria altogether, and instead name each organization against which force is being authorized,522 such an approach would be similar to the one followed by the Office of Foreign Assets Control when it designates financial supporters of terrorism for sanctions.523¶ The challenge with such a reporting and designation strategy is that it doesn’t fit neatly into the network based targeting strategy and current practices outlined in Parts I-III. If the U.S. is seeking to disrupt networks, then how can there be reporting that explains the networked based targeting techniques without revealing all of the links and nodes that have been identified by analysts? Furthermore, for side payment targets, the diplomatic secrecy challenges identified in Part I remain --- there simply may be no way the U.S. can publicly reveal that it is targeting networks that are attacking allied governments. These problems are less apparent when identifying the broad networks the U.S. believes are directly attacking American interests, however publication of actual names of targets will be nearly impossible **(at least ex ante)** under current targeting practices**.¶ As was discussed above,** the U.S. government and outside observers may simply be using different benchmarks to measure success**.** Some observers are looking to short term gains from a killing while others look to the long term consequences **of the targeted killing policy.** Should all of these metrics and criteria be revealed? Hardly**. However,** the U.S. should articulate what strategic level goals it is hoping to achieve through **its** targeted killing **program.** Those goals certainly include disrupting specified networks**.** Articulating those goals**, and the specific networks the U.S. is targeting** mayplace the U.S. on better diplomatic footing**,** and wouldcertainly engender mechanisms of domestic political accountability.

#### Strongly err neg---their authors don’t understand how thorough and effective inter-executive mechanisms are---adding transparency’s clearly sufficient

McNeal, Associate Professor of Law, Pepperdine University, ‘13

[Gregory, 3/5/13, “Targeted Killing and Accountability,” <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1819583>]

To date scholars havelacked a thorough understandingof **the U.S. government’s** targeted killing practices**. As such,** their commentary is oftentimespremised on easily describable issues,andfails to grapple with the multiple levels of intergovernmental accountability presentin current practice. **When dealing with the theoretical and normative issues associated with targeted killings,** scholars have failed to specify what they mean when they aver that targeted killings are unaccountable**. Both trends have impeded legal theory, and constrained scholarly discourse on a matter of public import.**¶This article is a necessary corrective **to the public and scholarly debate.** It has presented the complex web of bureaucratic, legal, professional, and political accountability mechanisms **that exert influence over the targeted killing process. It has demonstrated that many of the** critiques of targeted killings rest upon poorly conceived understandingsof the process, unclear definitions, andunsubstantiated speculation**.** The article’s reform recommendations**, grounded in a deep understanding of the actual process,** reflect an assumption that transparency**, performance criteria, and politically grounded independent review** can enhance the already robust accountability mechanisms embedded in current practice**.**

### 3

#### Constraining targeted killing destroys its role in the war on terror.

Beres 11

Louis Rene Beres 11, Professor of Political Science and International Law at Purdue, 2011, “After Osama bin Laden: Assassination, Terrorism, War, and International Law,” Case Western Reserve Journal of International Law, 44 Case W. Res. J. Int'l L. 93

Even after the U.S. assassination of Osama bin Laden, we are still left with the problem of demonstrating that assassination can be construed, at least under certain very limited circumstances, as an appropriate instance of anticipatory self-defense. Arguably, the enhanced permissibility of anticipatory self-defense that follows generally from the growing destructiveness of current weapons technologies in rogue hands may be paralleled by the enhanced permissibility of assassination as a particular strategy of preemption. Indeed, where assassination as anticipatory self-defense may actually prevent a nuclear or other highly destructive form of warfare, reasonableness dictates that it could represent distinctly, even especially, law-enforcing behavior. For this to be the case, a number of particular conditions would need to be satisfied. First, the assassination itself would have to be limited to the greatest extent possible to those authoritative persons in the prospective attacking state. Second, the assassination would have to conform to all of the settled rules of warfare as they concern discrimination, proportionality, and military necessity. Third, the assassination would need to follow intelligence assessments that point, beyond a reasonable doubt, to preparations for unconventional or other forms of highly destructive warfare within the intended victim's state. Fourth, the assassination would need to be founded upon carefully calculated judgments that it would, in fact, prevent the intended aggression, and that it would do so with substantially less harm [\*114] to civilian populations than would all of the alternative forms of anticipatory self-defense. Such an argument may appear manipulative and dangerous; permitting states to engage in what is normally illegal behavior under the convenient pretext of anticipatory self-defense. Yet, any blanket prohibition of assassination under international law could produce even greater harm, compelling threatened states to resort to large-scale warfare that could otherwise be avoided. Although it would surely be the best of all possible worlds if international legal norms could always be upheld without resort to assassination as anticipatory self-defense, the persisting dynamics of a decentralized system of international law may sometimes still require extraordinary methods of law-enforcement. n71¶ Let us suppose, for example, that a particular state determines that another state is planning a nuclear or chemical surprise attack upon its population centers. We may suppose, also, that carefully constructed intelligence assessments reveal that the assassination of selected key figures (or, perhaps, just one leadership figure) could prevent such an attack altogether. Balancing the expected harms of the principal alternative courses of action (assassination/no surprise attack v. no assassination/surprise attack), the selection of preemptive assassination could prove reasonable, life-saving, and cost-effective.¶ What of another, more common form of anticipatory self-defense? Might a conventional military strike against the prospective attacker's nuclear, biological or chemical weapons launchers and/or storage sites prove even more reasonable and cost-effective? A persuasive answer inevitably depends upon the particular tactical and strategic circumstances of the moment, and on the precise way in which these particular circumstances are configured.¶ But it is entirely conceivable that conventional military forms of preemption would generate tangibly greater harms than assassination, and possibly with no greater defensive benefit. This suggests that assassination should not be dismissed out of hand in all circumstances as a permissible form of anticipatory self-defense under international law. [\*115] ¶ What of those circumstances in which the threat to particular states would not involve higher-order (WMD) n72 military attacks? Could assassination also represent a permissible form of anticipatory self-defense under these circumstances? Subject to the above-stated conditions, the answer might still be "yes." The threat of chemical, biological or nuclear attack may surely enhance the legality of assassination as preemption, but it is by no means an essential precondition. A conventional military attack might still, after all, be enormously, even existentially, destructive. n73 Moreover, it could be followed, in certain circumstances, by unconventional attacks.

#### The risk of a nuclear terror attack is high now.

Matthew, et al, 10/2/13 [ Bunn, Matthew, Valentin Kuznetsov, Martin B. Malin, Yuri Morozov, Simon Saradzhyan, William H. Tobey, Viktor I. Yesin, and Pavel S. Zolotarev. "Steps to Prevent Nuclear Terrorism." Paper, Belfer Center for Science and International Affairs, Harvard Kennedy School, October 2, 2013, Matthew Bunn. Professor of the Practice of Public Policy at Harvard Kennedy School andCo-Principal Investigator of Project on Managing the Atom at Harvard University’s Belfer Center for Science and International Affairs. • Vice Admiral Valentin Kuznetsov (retired Russian Navy). Senior research fellow at the Institute for U.S. and Canadian Studies of the Russian Academy of Sciences, Senior Military Representative of the Russian Ministry of Defense to NATO from 2002 to 2008. • Martin Malin. Executive Director of the Project on Managing the Atom at the Belfer Center for Science and International Affairs. • Colonel Yuri Morozov (retired Russian Armed Forces). Professor of the Russian Academy of Military Sciences and senior research fellow at the Institute for U.S. and Canadian Studies of the Russian Academy of Sciences, chief of department at the Center for Military-Strategic Studies at the General Staff of the Russian Armed Forces from 1995 to 2000. • Simon Saradzhyan. Fellow at Harvard University’s Belfer Center for Science and International Affairs, Moscow-based defense and security expert and writer from 1993 to 2008. • William Tobey. Senior fellow at Harvard University’s Belfer Center for Science and International Affairs and director of the U.S.-Russia Initiative to Prevent Nuclear Terrorism, deputy administrator for Defense Nuclear Nonproliferation at the U.S. National Nuclear Security Administration from 2006 to 2009. • Colonel General Viktor Yesin (retired Russian Armed Forces). Leading research fellow at the Institute for U.S. and Canadian Studies of the Russian Academy of Sciences and advisor to commander of the Strategic Missile Forces of Russia, chief of staff of the Strategic Missile Forces from 1994 to 1996. • Major General Pavel Zolotarev (retired Russian Armed Forces). Deputy director of the Institute for U.S. and Canadian Studies of the Russian Academy of Sciences, head of the Information and Analysis Center of the Russian Ministry of Defense from1993 to 1997, section head - deputy chief of staff of the Defense Council of Russia from 1997 to 1998.<http://belfercenter.ksg.harvard.edu/publication/23430/steps_to_prevent_nuclear_terrorism.html>]

I. Introduction In 2011, Harvard’s Belfer Center for Science and International Affairs and the Russian Academy of Sciences’ Institute for U.S. and Canadian Studies published “The U.S. – Russia Joint Threat Assessment on Nuclear Terrorism.” The assessment analyzed the means, motives, and access of would-be nuclear terrorists, and concluded that the threat of nuclear terrorism is urgent and real. The Washington and Seoul Nuclear Security Summits in 2010 and 2012 established and demonstrated a consensus among political leaders from around the world that nuclear terrorism poses a serious threat to the peace, security, and prosperity of our planet. For any country, a terrorist attack with a nuclear device would be an immediate and catastrophic disaster, and the negative effects would reverberate around the world far beyond the location and moment of the detonation. Preventing a nuclear terrorist attack requires international cooperation to secure nuclear materials, especially among those states producing nuclear materials and weapons. As the world’s two greatest nuclear powers, the United States and Russia have the greatest experience and capabilities in securing nuclear materials and plants and, therefore, share a special responsibility to lead international efforts to prevent terrorists from seizing such materials and plants. The depth of convergence between U.S. and Russian vital national interests on the issue of nuclear security is best illustrated by the fact that bilateral cooperation on this issue has continued uninterrupted for more than two decades, even when relations between the two countries occasionally became frosty, as in the aftermath of the August 2008 war in Georgia. Russia and the United States have strong incentives to forge a close and trusting partnership to prevent nuclear terrorism and have made enormous progress in securing fissile material both at home and in partnership with other countries. However, to meet the evolving threat posed by those individuals intent upon using nuclear weapons for terrorist purposes, the United States and Russia need to deepen and broaden their cooperation. The 2011 “U.S. - Russia Joint Threat Assessment” offered both specific conclusions about the nature of the threat and general observations about how it might be addressed. This report builds on that foundation and analyzes the existing framework for action, cites gaps and deficiencies, and makes specific recommendations for improvement. “The U.S. – Russia Joint Threat Assessment on Nuclear Terrorism” (The 2011 report executive summary): • Nuclear terrorism is a real and urgent threat. Urgent actions are required to reduce the risk. The risk is driven by the rise of terrorists who seek to inflict unlimited damage, many of whom have sought justification for their plans in radical interpretations of Islam**;** by the spread of information about the decades-old technology of nuclear weapons; by the increased availability of weapons-usable nuclear materials; and by globalization, which makes it easier to move people, technologies, and materials across the world. • Making a crude nuclear bomb would not be easy, but is potentially within the capabilities of a technically sophisticated terrorist group, as numerous government studies have confirmed. Detonating a stolen nuclear weapon would likely be difficult for terrorists to accomplish, if the weapon was equipped with modern technical safeguards (such as the electronic locks known as Permissive Action Links, or PALs). Terrorists could, however, cut open a stolen nuclear weapon and make use of its nuclear material for a bomb of their own. • The nuclear material for a bomb is small and difficult to detect, making it a major challenge to stop nuclear smuggling or to recover nuclear material after it has been stolen. Hence, a primary focus in reducing the risk must be to keep nuclear material and nuclear weapons from being stolen by continually improving their security, as agreed at the Nuclear Security Summit in Washington in April 2010. • Al-Qaeda has sought nuclear weapons for almost two decades. The group has repeatedly attempted to purchase stolen nuclear material or nuclear weapons, and has repeatedly attempted to recruit nuclear expertise. Al-Qaeda reportedly conducted tests of conventional explosives for its nuclear program in the desert in Afghanistan. The group’s nuclear ambitions continued after its dispersal following the fall of the Taliban regime in Afghanistan. Recent writings from top al-Qaeda leadership are focused on justifying the mass slaughter of civilians, including the use of weapons of mass destruction, and are in all likelihood intended to provide a formal religious justification for nuclear use. While there are significant gaps in coverage of the group’s activities, al-Qaeda appears to have been frustrated thus far in acquiring a nuclear capability; it is unclear whether the the group has acquired weapons-usable nuclear material or the expertise needed to make such material into a bomb. Furthermore, pressure from a broad range of counter-terrorist actions probably has reduced the group’s ability to manage large, complex projects, but has not eliminated the danger. However, there is no sign the group has abandoned its nuclear ambitions. On the contrary, leadership statements as recently as 2008 indicate that the intention to acquire and use nuclear weapons is as strong as ever.

#### Nuclear terrorist attack results in extinction.

Owen B. Toon 7, chair of the Department of Atmospheric and Oceanic Sciences at CU-Boulder, et al., April 19, 2007, “Atmospheric effects and societal consequences of regional scale nuclear conflicts and acts of individual nuclear terrorism,” online: http://climate.envsci.rutgers.edu/pdf/acp-7-1973-2007.pdf

To an increasing extent, people are congregating in the world’s great urban centers, creating megacities with populations exceeding 10 million individuals. At the same time, advanced technology has designed nuclear explosives of such small size they can be easily transported in a car, small plane or boat to the heart of a city. We demonstrate here that a single detonation in the 15 kiloton range can produce urban fatalities approaching one million in some cases, and casualties exceeding one million. Thousands of small weapons still exist in the arsenals of the U.S. and Russia, and there are at least six other countries with substantial nuclear weapons inventories. In all, thirty-three countries control sufficient amounts of highly enriched uranium or plutonium to assemble nuclear explosives. A conflict between any of these countries involving 50-100 weapons with yields of 15 kt has the potential to create fatalities rivaling those of the Second World War. Moreover, even a single surface nuclear explosion, or an air burst in rainy conditions, in a city center is likely to cause the entire metropolitan area to be abandoned at least for decades owing to infrastructure damage and radioactive contamination. As the aftermath of hurricane Katrina in Louisiana suggests, the economic consequences of even a localized nuclear catastrophe would most likely have severe national and international economic consequences. Striking effects result even from relatively small nuclear attacks because low yield detonations are most effective against city centers where business and social activity as well as population are concentrated. Rogue nations and terrorists would be most likely to strike there. Accordingly, an organized attack on the U.S. by a small nuclear state, or terrorists supported by such a state, could generate casualties comparable to those once predicted for a full-scale nuclear “counterforce” exchange in a superpower conflict. Remarkably, the estimated quantities of smoke generated by attacks totaling about one megaton of nuclear explosives could lead to significant global climate perturbations (Robock et al., 2007). While we did not extend our casualty and damage predictions to include potential medical, social or economic impacts following the initial explosions, such analyses have been performed in the past for large-scale nuclear war scenarios (Harwell and Hutchinson, 1985). Such a study should be carried out as well for the present scenarios and physical outcomes.

#### Terrorism studies are epistemologically valid---our authors are self-reflexive

Boyle, 08 – Michael J. Boyle, School of International Relations, University of St. Andrews, and John Horgan, International Center for the Study of Terrorism, Department of Psychology, Pennsylvania State University, April 2008, “A Case Against Critical Terrorism Studies,” Critical Studies On Terrorism, Vol. 1, No. 1, p. 51-64

Jackson (2007c) calls for the development of an explicitly CTS on the basis of what he argues preceded it, dubbed ‘Orthodox Terrorism Studies’. The latter, he suggests, is characterized by: (1) its poor methods and theories, (2) its state centricity, (3) its problem-solving orientation, and (4) its institutional and intellectual links to state security projects. Jackson argues that the major defining characteristic of CTS, on the other hand, should be ‘a skeptical attitude towards accepted terrorism “knowledge”’. An implicit presumption from this is that terrorism scholars have laboured for all of these years without being aware that their area of study has an implicit bias, as well as definitional and methodological problems. In fact, terrorism scholars are not only well aware of these problems, but also have provided their own searching critiques of the field at various points during the last few decades (e.g. Silke 1996, Crenshaw 1998, Gordon 1999, Horgan 2005, esp. ch. 2, ‘Understanding Terrorism’). Some of those scholars most associated with the critique of empiricism implied in ‘Orthodox Terrorism Studies’ have also engaged in deeply critical examinations of the nature of sources, methods, and data in the study of terrorism. For example, Jackson (2007a) regularly cites the handbook produced by Schmid and Jongman (1988) to support his claims that theoretical progress has been limited. But this fact was well recognized by the authors; indeed, in the introduction of the second edition they point out that they have not revised their chapter on theories of terrorism from the first edition, because the failure to address persistent conceptual and data problems has undermined progress in the field. The point of their handbook was to sharpen and make more comprehensive the result of research on terrorism, not to glide over its methodological and definitional failings (Schmid and Jongman 1988, p. xiv). Similarly, Silke's (2004) volume on the state of the field of terrorism research performed a similar function, highlighting the shortcomings of the field, in particular the lack of rigorous primary data collection. A non-reflective community of scholars does not produce such scathing indictments of its own work.

### 4

#### Presidential war powers authority captures the legal system—statutory and judicial restrictions on the president only serve to legitimate state monopolies on violence which make the worst atrocities possible.

Morrissey 2011 [John, Department of Geography at the National University of Ireland, “Liberal Lawfare and Biopolitics: US Juridical Warfare in the War on Terror,” *Geopolitics* 16:280-305]

Nearly two centuries ago, Prussian military strategist, Carl von Clausewitz, observed how war is merely a “continuation of political commerce” by “other means”.70 Today, the lawfare of the US military is a continuation of war by legal means. Indeed, for US Deputy Judge Advocate General, Major General Charles Dunlap, it “has become a key aspect of modern war”.71 For Dunlap and his colleagues in the JAG corps, the law is a “force multiplier”, as Harvard legal scholar, David Kennedy, explains: it “structures logistics, command, and control”; it “legitimates, and facilitates” violence; it “privileges killing”; it identifies legal “openings that can be made to seem persuasive”, promissory, necessary and indeed therapeutic; and, of course, it is “a communication tool” too because defining the battlefield is not only a matter of “privileging killing”, it is also a “rhetorical claim”.72 Viewed in this way, the law can be seen to in fact “contribute to the proliferation of violence rather than to its containment”, as Eyal Weizman has instructively shown in the case of recent Israeli lawfare in Gaza.73 In the US wars in Iraq, Afghanistan and broader war on terror, the Department of Defense has actively sought to legalize its use of biopolitical violence against all those deemed a threat. Harvey Rishikof, the former Chair of the Department of National Security Strategy at the National War College in Washington, recently underlined ‘juridical warfare’ (his preferred designation over ‘lawfare’) as a pivotal “legal instrument” for insurgents in the asymmetric war on terror.74 For Rishikof and his contemporaries, juridical warfare is always understood to mean the legal strategies of the weak ‘against’ the United States; it is never acknowledged as a legal strategy ‘of’ the United States. However, juridical warfare has been a proactive component of US military strategy overseas for some time, and since the September 11 attacks in New York and Washington in 2001, a 15 renewed focus on juridical warfare has occurred, with the JAG Corps playing a central role in reforming, prioritizing and mobilizing the law as an active player in the war on terror.75 Deputy Judge Advocate General, Major General Charles Dunlap, recently outlined some of the key concerns facing his corps and the broader US military; foremost of which is the imposing of unnecessary legal restraints on forward-deployed military personnel.76 For Dunlap, imposing legal restraints on the battlefield as a “matter of policy” merely “play[s] into the hands of those who would use [international law] to wage lawfare against us”.77 Dunlap’s counter-strategy is simply “adhering to the rule of law”, which “understands that sometimes the legitimate pursuit of military objectives will foreseeably – and inevitably – cause the death of noncombatants”; indeed, he implores that “this tenet of international law be thoroughly understood”.78 But ‘the’ rule of international law that Dunlap has in mind is merely a selective and suitably enabling set of malleable legal conventions that legitimate the unleashing of military violence.79 As David Kennedy illuminates so brilliantly in Of War and Law: We need to remember what it means to say that compliance with international law “legitimates.” It means, of course, that killing, maiming, humiliating, wounding people is legally privileged, authorized, permitted, and justified”.80 The recent ‘special issue on juridical warfare’ in the US military’s flagship journal, Joint Force Quarterly, brought together a range of leading judge advocates, specialists in military law, and former legal counsels to the Chairman of the Joint Chiefs of Staff. All contributions addressed the question of “[w]hich international conventions govern the confinement and interrogation of terrorists and how”.81 The use of the term ‘terrorists’ instead of suspects sets the tone for the ensuing debate: in an impatient defense of ‘detention’, Colonel James Terry bemoans the “limitations inherent in the Detainee Treatment Act of 2005 and the Military Commissions Act of 2006” (which he underlines only address detainees at the US Naval Base at Guantanamo) and asserts that “requirements inherent in the war on terror will likely warrant expansion of habeas 16 corpus limitations”;82 considering ‘rendition’, Colonel Kevin Cieply asks the shocking question “[i]s rendition simply recourse to the beast at a necessary time”;83 Colonel Peter Cullen argues for the necessity of the “role of targeted killing in the campaign against terror”;84 Commander Brian Hoyt contends that it is “time to re-examine U.S. policy on the [international criminal] court, and it should be done through a strategic lens”;85 while Colonel James Terry furnishes an additional concluding essay with the stunningly instructive title ‘The International Criminal Court: A Concept Whose Time Has Not Come’.86 These rather chilling commentaries attest to one central concern of the JAG Corps and the broader military-political executive at the Pentagon: that enemies must not be allowed to exploit “real, perceived, or even orchestrated incidents of law-of-war violations being employed as an unconventional means of confronting American military power”.87 And such thinking is entirely consistent with the defining National Defense Strategy of the Bush administration, which signalled the means to win the war on terror as follows: “we will defeat adversaries at the time, place, and in the manner of our choosing”.88 If US warfare in the war on terror is evidently underscored by a ‘manner of our choosing’ preference – both at the Pentagon and in the battlefield – this in turn prompts an especially proactive ‘juridical warfare’ that must be simultaneously pursued to legally capacitate, regulate and maximize any, and all, military operations. The 2005 National Defense Strategy underlined the challenge thus: Many of the current legal arrangements that govern overseas posture date from an earlier era. Today, challenges are more diverse and complex, our prospective contingencies are more widely dispersed, and our international partners are more numerous. International agreements relevant to our posture must reflect these circumstances and support greater operational flexibility.89 It went on to underline its consequent key juridical tactic and what I argue is a critical weapon in the US military-legal arsenal in the war on terror: the securing of ‘Status of Forces Agreements’ – 17 to “provide legal protections” against “transfers of U.S. personnel to the International Criminal Court”.90

#### The alternative is to reject their understanding of the law as an independent neutral entity with the power to restrict practices apart from practices. Instead, we should conceive of the law and practice as co-constitutive—this opens up the space to change the relationship between lived decisionmaking and the autocracy of bureaucratic legal determinations.

Krassman 2012 [Susan, Professor at the Institute for Criminological Research at the University of Hamburg. “Targeted Killing and Its Law: On a Mutually Constitutive Relationship,” *Leiden Journal of International Law* 25.03]

Foucault did not elaborate on a comprehensive theory of law – a fact that critics have attributed to his allegedly underestimating law's political and social relevance. Some statements by Foucault may have provoked this interpretation, among them his assertion that law historically ‘recedes’ with,46 or is being ‘colonized’ by,47 forms of knowledge that are addressed at governing people and populations. It is, though, precisely this analytical perspective that allows us to capture the mutually productive relationship between targeted killing and the law. In contrast to a widely shared critique, then, Foucault did not read law merely as a negative instrument of constraint. He referred, instead, to a particular mode of juridical power that operates in terms of repressive effects.48 Moreover, rather than losing significance coextensively with the ancient sovereign power, law enters new alliances, particularly with certain knowledge practices and attendant expertise.49 This linkage proves to be relevant in the present context, considering not only the interchange between the legal and political discourse on targeted killing, but notably the relationship between law and security. According to Foucault, social phenomena cannot be isolated from and are only decipherable within the practices, procedures, and forms of knowledge that allow them to surface as such.50 In this sense, ‘all phenomena are singular, every historical or social fact is a singularity’.51 Hence, they need to be studied within their historically and locally specific contexts, so as to account for both the subject's singularity and the conditions of its emergence. It is against this background that a crucial question to be posed is how targeted killing could emerge on the political stage as a subject of legal debate. Furthermore, this analytical perspective on power and knowledge intrinsically being interlinked highlights that our access to reality always entails a productive moment. Modes of thinking, or what Foucault calls rationalities, render reality conceivable and thus manageable.52 They implicate certain ways of seeing things, and they induce truth effects whilst translating into practices and technologies of government. These do not merely address and describe their subject; they constitute or produce it.53 Law is to be approached accordingly.54 It cannot be extracted from the forms of knowledge that enact it, and it is in this sense that law is only conceivable as practice. Even if we only think of the law in ideal terms, as being designated to contain governmental interference, for example, or to provide citizens’ rights, it is already a practice and a form of enacting the law. To enforce the law is always a form of enactment, since it involves a productive moment of bringing certain forms of knowledge into play and of rendering legal norms meaningful in the first place. Law is susceptible to certain forms of knowledge and rationalities in a way that these constitute it and shape legal claims. Rather than on the application of norms, legal reasoning is on the production of norms. Legality, within this account of law, then, is not only due to a normative authority that, based in our political culture, is external to law, nor is it something that is just inherent in law, epitomized by the principles that constitute law's ‘inner morality’.55 Rather, the enforcement of law and its attendant reasoning produce their own – legal – truth effects. Independently of the purported intentions of the interlocutors, the juridical discourse on targeted killing leads to, in the first instance, conceiving of and receiving the subject in legal terms. When targeted killing surfaced on the political stage, appropriate laws appeared to be already at hand. ‘There are more than enough rules for governing drone warfare’, reads the conclusion of a legal reasoning on targeted killing.56 Yet, accommodating the practice in legal terms means that international law itself is undergoing a transformation. The notion of dispositifs is useful in analysing such processes of transformation. It enables us to grasp the minute displacements of established legal concepts that,57 while undergoing a transformation, at the same time prove to be faithful to their previous readings. The displacement of some core features of the traditional conception of the modern state reframes the reading of existing law. Hence, to give just one example for such a rereading of international law: legal scholars raised the argument that neither the characterization of an international armed conflict holds – ‘since al Qaeda is not a state and has no government and is therefore incapable of fighting as a party to an inter-state conflict’58 – nor that of an internal conflict. Instead, the notion of dealing with a non-international conflict,59 which, in view of its global nature, purportedly ‘closely resembles’ an international armed conflict, serves to provide ‘a fuller and more comprehensive set of rules’.60 Established norms and rules of international law are preserved formally, but filled with a radically different meaning so as to eventually integrate the figure of a terrorist network into its conventional understanding. Legal requirements are thus meant to hold for a drone programme that is accomplished both by military agencies in war zones and by military and intelligence agencies targeting terror suspects beyond these zones,61 since the addressed is no longer a state, but a terrorist network. However, to conceive of law as a practice does not imply that law would be susceptible to any form of knowledge. Not only is its reading itself based on a genealogy of practices established over a longer period.62 Most notably, the respective forms of knowledge are also embedded in varying procedures and strategic configurations. If law is subject to an endless deference of meaning,63 this is not the case in the sense of arbitrary but historically contingent practices, but in the sense of historically contingent practices. Knowledge, then, is not merely an interpretive scheme of law. Rather than merely on meaning, focus is on practices that, while materializing and producing attendant truth effects, shape the distinctions we make between legal and illegal measures. What is more, as regards anticipatory techniques to prevent future harm, this perspective allows for our scrutinizing the division made between what is presumably known and what is yet to be known, and between what is presumably unknown and has yet to be rendered intelligible. This prospect, as will be seen in the following, is crucial for a rereading of existing law. It was the identification of a new order of threat since the terror attacks of 9/11 that brought about a turning point in the reading of international law. The identification of threats in general provides a space for transforming the unknowable into new forms of knowledge. The indeterminateness itself of legal norms proves to be a tool for introducing a new reading of law.

### Case

#### Must evaluate consequences.

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As a result, the most important political questions are simply not asked. **It is assumed that U.S. military intervention is an act of "aggression," but no consideration is given to the aggression to which intervention is a response**. **The status quo ante in Afghanistan is not, as peace activists would have it, peace, but rather terrorist violence abetted by a regime--the Taliban--that rose to power through brutality and repression**. This requires us to ask a question that most "peace" activists would prefer not to ask: **What should be done to respond to the violence of a Saddam Hussein, or a Milosevic, or a Taliban regime?** What means are likely to stop violence and bring criminals to justice? **Calls for diplomacy and international law are well intended and important; they implicate a decent and civilized ethic of global order. But they are also vague and empty, because they are not accompanied by any account of how diplomacy or international law can work effectively to address the problem at hand**. The campus left offers no such account. **To do so would require it to contemplate tragic choices in which moral goodness is of limited utility.** Here what matters is not purity of intention but the intelligent exercise of power. Power is not a dirty word or an unfortunate feature of the world. It is the core of politics. Power is the ability to effect outcomes in the world. Politics**, in large part,** involves contests **over the distribution and use of** power**. To accomplish** anything **in the political world, one must attend to** the means that are necessary to bring it about. And to develop such means is to develop, and to exercise, power. **To say this is not to say that power is beyond morality. It is to say that power is** not reducible to morality. As writers such as Niccolo Machiavelli, Max Weber, Reinhold Niebuhr, and Hannah Arendt have taught, **an unyielding concern with moral goodness** undercuts **political responsibility**. The concern may be morally laudable, reflecting a kind of personal integrity, but it suffers from three fatal flaws: (1) It fails to see that the purity of one's intention does not ensure the achievement of what one intends. **Abjuring violence or refusing to make common cause with morally compromised parties may seem like the right thing; but if such tactics entail impotence, then** it is hard to view them as serving any moral good **beyond the clean conscience of their supporters;** (2) **it fails to see that in a world of real violence and injustice, moral purity is not simply a form of powerlessness; it is often a form of complicity in injustice**. This is why, **from the standpoint of politics--as opposed to religion--pacifism is always a potentially immoral stand. In categorically repudiating violence, it refuses in principle to oppose certain violent injustices with any effect; and** (3) **it fails to see that politics is** as much about unintended consequences **as it is about intentions; it is the effects of action, rather than the motives of action, that is most significant**. Just as the alignment with "good" may engender impotence, it is often the pursuit of "good" that generates evil. This is the lesson of communism in the twentieth century: it is not enough that one's goals be sincere or idealistic; **it is equally important, always, to ask about the effects of pursuing these goals and to judge these effects in pragmatic and historically contextualized ways. Moral absolutism inhibits this judgment. It alienates those who are not true believers. It promotes arrogance. And it** undermines politicaleffectiveness**.**

#### Establishing new restrictions that only apply to targeted killings causes a shift to signature strikes

Jeh Johnson 13, former Pentagon General Counsel, 3/18/13, “Keynote address at the Center on National Security at Fordham Law School: A “Drone Court”: Some Pros and Cons,” <http://www.lawfareblog.com/2013/03/jeh-johnson-speech-on-a-drone-court-some-pros-and-cons/>

Also, beware of creating the wrong set of incentives for those who must conduct these operations. A lawful military objective may include an individual, whether his name or his citizenship are known; it may also include a location (like a terrorist training camp) or an object (like a truck filled with explosives). By creating a separate legal regime with additional requirements for an objective if his name or citizenship becomes known, what disincentives do we create for an operator to know for certain the identity of those likely to be present at a terrorist training camp or behind the wheel of the truck bomb? Or, must the government refrain from an attack on what it knows to be an active and dangerous training camp if an al Qaeda terrorist who might be a U.S. citizen wanders in?

#### Signature strikes are far worse for all of their impacts---this turns the case on a grand scale

David Hastings Dunn 13, Reader in International Politics and Head of Department in the Department of Political Science and International Studies at the University of Birmingham, UK, and Stefan Wolff, Professor of International Security at the University of Birmingham in the UK, March 2013, “Drone Use in Counter-Insurgency and Counter-Terrorism: Policy or Policy Component?,” in Hitting the Target?: How New Capabilities are Shaping International Intervention, ed. Aaronson & Johnson, http://www.rusi.org/downloads/assets/Hitting\_the\_Target.pdf

Yet an important distinction needs to be drawn here between acting on operational intelligence that corroborates existing intelligence and confirms the presence of a specific pre-determined target and its elimination – so-called ‘targeted strikes’ (or less euphemistically, ‘targeted killings’) – and acting on an algorithmic analysis of operational intelligence alone, determining on the spot whether a development on the ground suggests terrorist activity or association and thus fulfils certain (albeit, to date, publicly not disclosed) criteria for triggering an armed response by the remote pilot of a drone – so-called ‘signature strikes’.6¶ Targeted strikes rely on corroborating pre-existing intelligence: they serve the particular purpose of eliminating specific individuals that are deemed crucial to enemy capabilities and are meant to diminish opponents’ operational, tactical and strategic capabilities, primarily by killing mid- and top-level leadership cadres. To the extent that evidence is available, it suggests that targeted strikes are highly effective in achieving these objectives, while simultaneously generating relatively little blowback, precisely because they target individual (terrorist) leaders and cause few, if any, civilian casualties. This explains, to a significant degree, why the blowback effect in Yemen – where the overwhelming majority of drone strikes have been targeted strikes – has been less pronounced than in Pakistan and Afghanistan.7¶ Signature strikes, in contrast, can still be effective in diminishing operational, tactical and strategic enemy capabilities, but they do so to a certain degree by chance and also have a much higher probability of causing civilian casualties. Using drones for signature strikes decreases the dependence on pre-existing intelligence about particular leaders and their movements and more fully utilises their potential to carry out effective surveillance and respond to the conclusions drawn from it immediately. Signature strikes have been the predominant approach to drone usage in Pakistan and Afghanistan.8 Such strikes have had the effect of decimating the rank and file of the Taliban and their associates – but they have also caused large numbers of civilian casualties and, at a minimum, weakened the respective host governments’ legitimacy and forced them to condemn publicly, and in no uncertain terms, the infringement of their states’ sovereignty by the US. In turn, this has strained already difficult relations between countries which have more common than divergent interests when it comes to regional stability and the fight against international terrorist networks. That signature strikes have a high probability of going wrong and that such failures prove extremely counterproductive is also illustrated by a widely reported case from Yemen, in which twelve civilians were killed in the proximity of a car identified as belonging to an Al-Qa’ida member.9¶ The kind of persistent and intimidating presence of a drone policy geared towards signature strikes, and the obvious risks and consequences involved in repeatedly making wrong decisions, are both counterproductive in themselves and corrosive of efforts that seek to undercut the local support enjoyed by insurgent and terrorist networks, as well as the mutual assistance that they can offer each other. Put differently, signature strikes, in contrast to targeted killings, do anything but help to disentangle the links between insurgents and terrorists.¶ Counter-insurgency as a strategy works best by providing security on the ground (deploying soldiers amongst the community that they are intended to protect) and establishing and sustaining a sufficiently effective local footprint of the state and its institutions providing public goods and services beyond just security (water, food, sanitation, healthcare, education and so forth). This strategy is often encapsulated in the formula ‘clear, hold, build’,10 and it needs to go hand-in-hand with pursuing a viable political settlement that addresses what are the, in many cases, legitimate concerns of those fighting, and supporting, an insurgency. By living among the communities they seek to secure, soldiers can win their trust, stem support for the insurgents, and understand who their enemies are, what their demands and objectives are, and how best to single out those who represent an irreconcilable threat to the community. In other words, in a context in which the objective is to protect innocent civilians, win over reconcilable insurgents and their supporters, and eliminate those who are irreconcilable, drones can deliver specific contributions to an overall counter-insurgency policy. Yet this can only happen if drones target individuals for a reason, rather than being used, and perceived, as a blanket approach against an entire community.

#### Obama will circumvent the plan

Anita Kumar 13, White House correspondent for McClatchy Newspapers, former writer for The Washington Post, covering Virginia politics and government, and spent a decade at the St. Petersburg Times, writing about local, state and federal government both in Florida and Washington, “Obama turning to executive power to get what he wants,” 3/19 <http://www.mcclatchydc.com/2013/03/19/186309/obama-turning-to-executive-power.html#.Ue18CdK1FSE>

Yet Obama’s use of power echoes that of his predecessors. For example, he signed 145 executive orders in his first term, putting him on track to issue as many as the 291 that Bush did in two terms.¶ John Yoo, who wrote the legal opinions that supported an expansion of presidential power after the 2001 terrorist attacks, including harsh interrogation methods that some called torture, said he thought that executive orders were sometimes appropriate – when conducting internal management and implementing power given to the president by Congress or the Constitution – but he thinks that Obama has gone too far.¶ “I think President Obama has been as equally aggressive as President Bush, and in fact he has sometimes used the very same language to suggest that he would not obey congressional laws that intrude on his commander-in-chief power,” said Yoo, who’s now a law professor at the University of California at Berkeley. “This is utterly hypocritical, both when compared to his campaign stances and the position of his supporters in Congress, who have suddenly discovered the virtues of silence.”¶ Most of Obama’s actions are written statements aimed at federal agencies that are published everywhere from the White House website to the Federal Register. Some are classified and hidden from public view.¶ “It seems to be more calculated to prod Congress,” said Phillip J. Cooper, the author of “By Order of the President: The Use and Abuse of Executive Direct Action.” “I can’t remember a president being that consistent, direct and public.”¶ Bush was criticized for many of his actions on surveillance and interrogation techniques, but attention has focused on Obama’s use of actions mostly about domestic issues.¶ In his first two years in the White House, when fellow Democrats controlled Capitol Hill, Obama largely worked through the regular legislative process to try to achieve his domestic agenda. His biggest achievements – including a federal health care overhaul and a stimulus package designed to boost the economy –came about with little or no Republican support.¶ But Republicans took control of the House of Representatives in 2010, making the task of passing legislation all the more difficult for a man with a detached personality who doesn’t relish schmoozing with lawmakers. By the next year, Obama wasn’t shy about his reasons for flexing his presidential power.¶ In fall 2011, he launched the “We Can’t Wait” campaign, unveiling dozens of policies through executive orders – creating jobs for veterans, adopting fuel efficiency standards and stopping drug shortages – that came straight from his jobs bills that faltered in Congress.¶ “We’re not waiting for Congress,” Obama said in Denver that year when he announced a plan to reduce college costs. “I intend to do everything in my power right now to act on behalf of the American people, with or without Congress. We can’t wait for Congress to do its job. So where they won’t act, I will.”¶ When Congress killed legislation aimed at curbing the emissions that cause global warming, Obama directed the Environmental Protection Agency to write regulations on its own incorporating some parts of the bill.¶ When Congress defeated pro-union legislation, he had the National Labor Relations Board and the Labor Department issue rules incorporating some parts of the bill.¶ “The president looks more and more like a king that the Constitution was designed to replace,” Sen. Charles Grassley, R-Iowa, said on the Senate floor last year.¶ While Republicans complain that Obama’s actions cross a line, experts say some of them are less aggressive than they appear.¶ After the mass shooting in Newtown, Conn., in December, the White House boasted of implementing 23 executive actions to curb gun control. In reality, Obama issued a trio of modest directives that instructed federal agencies to trace guns and send information for background checks to a database.¶ In his State of the Union address last month, Obama instructed businesses to improve the security of computers to help prevent hacking. But he doesn’t have the legal authority to force private companies to act.¶ “The executive order can be a useful tool but there are only certain things he can do,” said Melanie Teplinsky, an American University law professor who’s spoken extensively on cyber-law.¶ Executive actions often are fleeting. They generally don’t settle a political debate, and the next president, Congress or a court may overturn them.¶ Consider the so-called Mexico City policy. With it, Reagan banned federal money from going to international family-planning groups that provide abortions. Clinton rescinded the policy. George W. Bush reinstated it, and Obama reversed course again.¶ But congressional and legal action are rare. In 1952, the Supreme Court threw out Harry Truman’s order authorizing the seizure of steel mills during a series of strikes. In 1996, the District of Columbia Court of Appeals dismissed an order by Clinton that banned the government from contracting with companies that hire workers despite an ongoing strike.¶ Obama has seen some pushback.¶ Congress prohibited him from spending money to move inmates from the Guantanamo Bay U.S. naval base in Cuba after he signed an order that said it would close. A Chinese company sued Obama for killing its wind farm projects by executive order after he said they were too close to a military training site. A federal appeals court recently ruled that he’d exceeded his constitutional powers when he named several people to the National Labor Relations Board while the Senate was in recess.¶ But Obama appears to be undaunted.¶ “If Congress won’t act soon to protect future generations,” he told Congress last month, “I will.”

#### Can’t solve public engagement – drone warfare is too removed – it’s psychology!

Judah A. Druck – 2012, DRONING ON: THE WAR POWERS RESOLUTION AND THE NUMBING EFFECT OF TECHNOLOGY-DRIVEN WARFARE, B.A., Brandeis University, 2010; J.D. Candidate, Cornell Law School, 2013, Cornell Law Review [Vol. 98:209, http://www.lawschool.cornell.edu/research/cornell-law-review/upload/Druck-final.pdf

But perhaps we can examine the apathetic treatment of President Obama’s actions in Libya in a different light, one that focuses on the changing nature and conception of warfare itself. Contrary to larger scale conflicts like the Vietnam War, where public (and political) outrage set the stage for Congress’s assertion of war-making power through the WPR,17 the recent U.S. intervention did not involve a draft, nor a change in domestic industry (requiring, for example, civil- ians to ration food), and, perhaps most importantly, did not result in any American casualties.18 Consequently, most analyses of the Libyan campaign focused on its monetary costs and other economic harms to American taxpayers.19 This type of input seems too nebulous to cause any major controversy, especially when contrasted with the concurrent costs associated with the wars in Iraq and Afghanistan.20 In a sense, less is at stake when drones, not human lives, are on the front lines, limiting the potential motivation of a legislator, judge, or antiwar activist to check presidential action.21 As a result, the level of nonexecutive involvement in foreign military affairs has decreased. The implications are unsettling: by ameliorating many of the concerns often associated with large-scale wars, technology-driven warfare has effectively removed the public’s social and political limitations that previously discouraged a President from using potentially illegal military force. As President Obama’s conduct illustrates, removing these barriers has opened the door to an unfettered use of unilateral executive action in the face of domestic law.22 Consequently, as war becomes more and more attenuated from the American psyche, a President’s power to use unilateral force without repercussions will likely continue to grow. Should the public care that the WPR no longer seems to present a barrier to presidential action? Or, put another way, if the WPR stands for the proposition that the President should not use force unilaterally,23 does that purpose remain relevant given the increased use of technology in modern warfare? This Note answers that question in the affirmative by illustrating the issues created by a toothless WPR in the face of modern advances in military technology and tactics. While the limited nature of technology-driven warfare might ostensibly remove the traditional costs associated with war, many of the concerns held by those who drafted the WPR nevertheless remain.

#### Obama’s drone campaign is effective now --- but new restrictions that shift oversight and control away from the executive crush the program

Chicago Tribune 5-24-13, “Editorial: Obama won't ground aerial strikes that kill terrorists. Good.” <http://articles.chicagotribune.com/2013-05-24/opinion/ct-edit-drone-0524-jm-20130524_1_drone-program-drone-campaign-president-barack-obama>,

President Barack Obama has taken a lot of heat over America's targeting of terrorists overseas with lethal drone strikes. Critics argue that the secret CIA-run program provokes political backlash in Pakistan, Yemen and Somalia, outweighing the value of the terrorists killed. That the attacks too often go awry and inadvertently kill innocents. That there's no effective oversight. And that Obama hasn't given Congress sufficient legal rationale for the aerial strikes.¶ Those complaints include kernels of validity but often have been exaggerated. Drone attacks also have exterminated many sworn enemies of this country without risking U.S. lives on the ground or in the air.¶ Obama on Thursday answered his critics with a full-throated defense of drones:¶ "To do nothing in the face of terrorist networks would invite far more civilian casualties — not just in our cities at home and facilities abroad, but also in the very places — like Sanaa and Kabul and Mogadishu — where terrorists seek a foothold," Obama said in a speech at the National Defense University in Washington. "Let us remember that the terrorists we are after target civilians and the death toll from their acts of terrorism against Muslims dwarfs any estimate of civilian casualties from (U.S.) drone strikes."¶ He's right. The drone campaign has been extremely and surgically effective, targeting militants across Pakistan, Afghanistan, Yemen and parts of Africa. It has killed wide swaths of al-Qaida leadership.¶ But the president also has suggested that he thinks the program has shortcomings. That's why Obama administration officials have indicated that the drone strike program will be narrowed and subjected to greater scrutiny: A new classified policy directive signed by Obama reportedly curtails when the unmanned aircraft can be used to attack in places that are not declared war zones. The president also is shifting more responsibility to the military from the CIA, an effort to provide more rigid accountability for the strikes.¶ Bottom line: This speech wasn't some dramatic new statement of policy. And none of these refinements means America's drone program will be significantly weakened. These adjustments mostly reflect changing reality on the ground in those countries where the U.S. targets terrorists: The number of reported U.S. drone attacks already has fallen sharply since 2010. One likely reason is the absence of high-value targets, those al-Qaida kingpins of yore. Many are dead or on the run.¶ Obama also promised more transparency for the drone program, something critics have long sought. One day before his speech, the administration acknowledged for the first time that it has killed four U.S. citizens in strikes in Yemen and Pakistan.¶ The president also mentioned the possibility of a secret court that would sign off on future strikes. That's an idea floated by Democratic Sen. Dianne Feinstein of California and others. We've said before that we'd like to hear a debate on that. However:¶ The United States risks losing the advantage of surprise if individual drone strikes become entangled in slow-motion bureaucracy back home. We fear U.S. warriors shrinking from what in effect are battlefield decisions because they have one eye on Congress, or judges, or some other overseer who is not their commander in chief. We don't want drone operators hoping their targeted terrorist will stay put in Pakistan while judges in Washington debate whether it's appropriate to fire the missile. Nor, we imagine, would the president.¶ Obama has said he envisions a day when the nation will no longer be on the war footing forced on this country by terrorists on Sept. 11, 2001. All Americans hope to see that day.¶ But we're not there yet. The president alluded Thursday to many other attacks — before and after 9/11 — on Americans and their interests. Those assaults ebb and flow and change form. But all of them have something in common: the evil architects who plot and execute them.¶ That's why the U.S. needs to keep those drones flying.

#### Drones don’t lead to more executive war and alternatives is far worse.

Etzioni 13 (Amitai Etzioni is a professor of international relations at George Washington University and author of Hot Spots: American Foreign Policy in a Post-Human-Rigid World., March-April 2013, "The Great Drone Debate", aladinrc.wrlc.org/bitstream/handle/1961/14729/Etzioni\_DroneDebate.pdf?sequence=1,)

Mary Dudziak of the University of Southern California’s Gould School of Law opines that “[d]rones are a technological step that further isolates the American people from military action, undermining political checks on . . . endless war.” Similarly, Noel Sharkey, in The Guardian, worries that drones represent “the ﬁnal step in the industrial revolution of war—a clean factory of slaughter with no physical blood on our hands and none of our own side killed.” This kind of cocktail-party sociology does not stand up to even the most minimal critical examination. Would the people of the United States, Afghanistan, and Pakistan be better off if terrorists were killed in “hot” blood—say, knifed by Special Forces, blood and brain matter splashing in their faces? Would they be better off if our troops, in order to reach the terrorists, had to go through improvised explosive devices blowing up their legs and arms and gauntlets of machinegun ﬁre and rocket-propelled grenades—traumatic experiences that turn some of them into psychopath-like killers? Perhaps if all or most ﬁghting were done in a cold-blooded, push-button way, it might well have the effects suggested above. However, as long as what we are talking about are a few hundred drone drivers, what they do or do not feel has no discernible effects on the nation or the leaders who declare war. Indeed, there is no evidence that the introduction of drones (and before that, high-level bombing and cruise missiles that were criticized on the same grounds) made going to war more likely or its extension more acceptable. Anybody who followed the American disengagement in Vietnam after the introduction of high-level bombing, or the U.S. withdrawal from Afghanistan (and Iraq)—despite the considerable increases in drone strikes—knows better. In effect, the opposite argument may well hold: if the United States could not draw on drones in Yemen and the other new theaters of the counterterrorism campaign, the nation might well have been forced to rely more on conventional troops and prolong our involvement in those areas, a choice which would greatly increase our casualties and zones of warfare. This line of criticism also neglects a potential upside of drones. As philosopher Bradley Strawser notes, this ability to deploy force abroad with minimal United States casualties may allow America to intervene in emerging humanitarian crises across the world with a greater degree of ﬂexibility and effectiveness.61 Rather than reliving another “Blackhawk down” scenario, the United States can follow the model of the Libya intervention, where drones were used by NATO forces to eliminate enemy armor and air defenses, paving the way for the highly successful air campaign which followed, as reported by The Guardian’s Nick Hopkins. As I see it, however, the main point of moral judgment comes earlier in the chain of action, well before we come to the question of which means are to be used to kill the enemy. The main turning point concerns the question of whether we should go to war at all. This is the crucial decision because once we engage in war, we must assume that there are going to be a large number of casualties on all sides—casualties that may well include innocent civilians. Often, discussions of targeted killings strike me as being written by people who yearn for a nice clean war, one in which only bad people will be killed using surgical strikes that inﬂict no collateral damage. Very few armed confrontations unfold in this way. Hence, when we deliberate whether or not to ﬁght, we should assume that once we step on this train, it is very likely to carry us to places we would rather not go. Drones are merely a new stepping stone on this woeful journey. Thus, we should carefully deliberate before we join or initiate any new armed ﬁghts, but draw on drones extensively, if ﬁght we must. They are more easily scrutinized and reviewed, and are more morally justiﬁed, than any other means of warfare available.

#### Ethical obligations are tautological—the only coherent rubric is to maximize number of lives saved

Greene 2010 – Associate Professor of the Social Sciences Department of Psychology Harvard University (Joshua, Moral Psychology: Historical and Contemporary Readings, “The Secret Joke of Kant’s Soul”, [www.fed.cuhk.edu.hk/~lchang/material/Evolutionary/Developmental/Greene-KantSoul.pdf](http://www.fed.cuhk.edu.hk/~lchang/material/Evolutionary/Developmental/Greene-KantSoul.pdf))

¶ **What** **turn-of-the-millennium science** **is telling us** **is** **that** **human** **moral judgment is not a** **pristine** **rational enterprise**, that our **moral judgments are driven by a hodgepodge of emotional dispositions, which themselves were shaped by a hodgepodge of evolutionary forces, both biological and cultural**. **Because of this, it is** exceedingly unlikely that there is anyrationallycoherentnormativemoral theory that can accommodateourmoral intuitions. Moreover, **anyone who claims to have such a theory**, or even part of one, almost certainly doesn't. Instead, what that person probably has is a moral rationalization.¶ It seems then, that we have somehow crossed the infamous "is"-"ought" divide. How did this happen? Didn't Hume (Hume, 1978) and Moore (Moore, 1966) warn us against trying to derive an "ought" from and "is?" How did we go from descriptive scientific theories concerning moral psychology to skepticism about a whole class of normative moral theories? The answer is that we did not, as Hume and Moore anticipated, attempt to derive an "ought" from and "is." That is, our method has been inductive rather than deductive. We have inferred on the basis of the available evidence that the phenomenon of rationalist deontological philosophy is best explained as a rationalization of evolved emotional intuition (Harman, 1977).¶ **Missing the Deontological Point** I suspect that **rationalist** **deontologists will remain unmoved** **by the arguments presented here**. Instead, I suspect, **they** **will insist that I have** simply misunderstoodwhatKant and like-minded deontologistsare all about. **Deontology, they will say, isn't about this intuition or that intuition**. It's not defined by its normative differences with consequentialism. **Rather, deontology is about taking humanity seriously**. Above all else, it's about respect for persons. It's about treating others as fellow rational creatures rather than as mere objects, about acting for reasons rational beings can share. And so on (Korsgaard, 1996a; Korsgaard, 1996b).**This is, no doubt, how many deontologists see deontology. But this insider's view**, as I've suggested, may be misleading. **The problem**, more specifically, is that it defines deontology in terms of values that are notdistinctivelydeontological, though they may appear to be from the inside. **Consider the following analogy with religion. When one asks a religious person to explain the essence of his religion, one often gets an answer like this: "It's about love**, really. It's about looking out for other people, looking beyond oneself. It's about community, being part of something larger than oneself." **This sort of answer accurately captures the phenomenology of many people's religion, but it's nevertheless inadequate for distinguishing religion from other things**. This is because many, if not most, non-religious people aspire to love deeply, look out for other people, avoid self-absorption, have a sense of a community, and be connected to things larger than themselves. In other words, secular humanists and atheists can assent to most of what many religious people think religion is all about. From a secular humanist's point of view, in contrast, what's distinctive about religion is its commitment to the existence of supernatural entities as well as formal religious institutions and doctrines. And they're right. These things really do distinguish religious from non-religious practices, though they may appear to be secondary to many people operating from within a religious point of view. In the same way, I believe that most of **the standard** **deontological/Kantian self-characterizatons** fail to distinguish deontology from other approaches to ethics. (See also Kagan (Kagan, 1997, pp. 70-78.) on the difficulty of defining deontology.) It seems to me that **consequentialists**, as much as anyone else, have respect for persons, **are** against treating people asmereobjects, **wish** to act for reasons that rational creatures can share**, etc**. **A consequentialist respects other persons, and refrains from treating them as mere objects,** **by** counting every person's well-being

in the decision-making process. **Likewise, a** **consequentialist** **attempts to act according to reasons that rational creatures can share by acting according to** **principles** **that** give equal weight to everyone's interests**, i.e. that are impartial**. This is not to say that consequentialists and deontologists don't differ. They do. It's just that the real differences may not be what deontologists often take them to be. What, then, distinguishes deontology from other kinds of moral thought? A good strategy for answering this question is to start with concrete disagreements between deontologists and others (such as consequentialists) and then work backward in search of deeper principles. This is what I've attempted to do with the trolley and footbridge cases, and other instances in which deontologists and consequentialists disagree. **If you ask a deontologically-minded** **person why it's wrong to push someone in front of** **speeding** **trolley** **in order** **to save five others**, you will getcharacteristically deontological **answers**. Some will be**tautological**: "Because it's murder!"**Others will be more sophisticated: "The ends don't justify the means**." "You have to respect people's rights." But, as we know, **these answers don't really explain anything**, because **if you give the same people** (on different occasions) **the trolley case** or the loop case (See above), they'll make the opposite judgment, even though their initial explanation concerning the footbridge case applies equally well to one or both of these cases. **Talk about rights,** **respect for persons, and reasons we can share** **are natural attempts to explain, in "cognitive" terms, what we feel** **when we find ourselves having emotionally driven intuitions that are odds with the cold calculus of consequentialism**. Although these explanations are inevitably incomplete, there seems to be "something deeply right" about thembecause they give voice to powerful moral emotions. **But, as with many religious people's accounts of what's essential to religion,** **they don't** **really** **explain what's distinctive about** **the philosophy in question**.

## 2NC

### CP

#### If we win our CP solves, it access their moral framework. That means you default to cost-benefit analysis—even prominent deontologists concede this.

Finnis, 1980

John Finnis, deontologist, teaches jurisprudence and constitutional Law. He has been Professor of Law & Legal Philosophy since 1989,1980, Natural Law and Natural Rights, pg. 111-2

The sixth requirement has obvious connections with the fifth, but introduces a new range of problems for practical reason, problems which go to the heart of ‘morality’. For this is the requirement that one bring about good in the world (in one’s own life and the lives of others) by actions that are efficient for their (reasonable) purpose (s). One must not waste one’s opportunities by using inefficient methods. One’s actions should be judged by their effectiveness, by their fitness for their purpose, by their utility, their consequences… There is a wide range of contexts in which it is possible and only reasonable to calculate, measure, compare, weigh, and assess the consequences of alternative decisions. Where a choice must be made it is reasonable to prefer human good to the good of animals. Where a choice must be made it is reasonable to prefer basic human goods (such as life) to merely instru­mental goods (such as property). Where damage is inevitable, it is reasonable to prefer stunning to wounding, wounding to maiming, maiming to death: i.e. lesser rather than greater damage to one-and-the-same basic good in one-and-the-same instantiation. Where one way of participating in a human good includes both all the good aspects and effects of its alternative, and more, it is reasonable to prefer that way: a remedy that both relieves pain and heals is to be preferred to the one that merely relieves pain. Where a person or a society has created a personal or social hierarchy of practical norms and orienta­tions, through reasonable choice of commitments, one can in many cases reasonably measure the benefits and disadvantages of alternatives. (Consider a man who ha decided to become a scholar, or a society that has decided to go to war.) Where one ~is considering objects or activities in which there is reasonably a market, the market provides a common de­nominator (currency) and enables a comparison to be made of prices, costs, and profits. Where there are alternative techniques or facilities for achieving definite, objectives, cost— benefit analysis will make possible a certain range of reasonable comparisons between techniques or facilities. Over a wide range of preferences and wants, it is reasonable for an individual or society to seek o maximize the satisfaction of those preferences or wants.

#### Their Pearlstein evidence says that the lack of public disclosure is the problem.

with announced White House guidelines regarding,¶ for example, the degree of certainty required for assessing a target is present.64 Even within the¶ military, many CJCS instructions remain publicly unavailable.

#### AND

broad public dissemination of the identity of the¶ organizations subject to targeting can bring important clarity not only to the public at large¶

#### Their Radsan says that solves too.

the legality of any targeted killing by the CIA and that this review should be as public as national security permits.34 To set the stage for how due process limits targeted killing of suspected terrorists, we first pull back the veil—a little—on a very secret program

#### Disclosing targeting standards leads to public scrutiny and reform.

Rona, International Legal Director, Human Rights First, ‘13

[Gabor, 2/27/13, “The pro-rule of law argument against a 'drone court',” http://thehill.com/blogs/congress-blog/judicial/285041-the-pro-rule-of-law-argument-against-a-drone-court#ixzz2dlSUsFz1]

So if a drone court isn’t the answer, what is? ¶ Congress should require the executive to disclose the targeting standards it’s adopted so as to expose its rationale to scrutiny. The leaking of a single document — a “white paper” laying out the administration’s legal case for killing U.S. citizens — has triggered unprecedented criticism and pushback from Congress and the media. Scrutiny begets scrutiny and can lead to meaningful reform. That’s surely one of the reasons the White House has refused to release most information about the targeted killing program. ¶ Congress should also ensure that victims of unlawful targeting — or their survivors — have the right to claim compensation, creating a deterrent to government abuse. That right already exists in theory but time and again courts have prohibited such cases from moving forward, buying without question the government’s claim that allowing them would threaten national security. Congress should limit the executive’s ability to hide unlawful killings behind this claim. ¶ These are just a few of the steps Congress could take to rein in the unbridled power of this administration any future ones to clandestinely kill individuals suspected of participating in terrorism. Creating a new secret court to secretly review secretly planned killings is not the way to go.

#### The CP is the way to ensure protection of human rights.

Kramer 11 [Cheri, participant in 2011 Jean Pictet Competition on International and humanitarian Law and Intern with UNESCO and J.D. Candidtate at Santa Clara Law School and Development Editor for Volume 10 of the Journal of International Law at Santa Clara, “The Legality of Targeted Drone Attacks as U.S. Policy”, Santa Clara Journal of International Law, Volume 9 Issue 2 Article 4, 1/1/2011, p.393, <http://digitalcommons.law.scu.edu/cgi/viewcontent.cgi?article=1105&context=scujil&sei-redir=1&referer=http%3A%2F%2Fscholar.google.com%2Fscholar%3Fstart%3D10%26q%3D%2522drone%2522%2B%2522accountability%2522%2B%2522transparency%2522%26hl%3Den%26as_sdt%3D0%2C3#search=%22drone%20accountability%20transparency%22]AM>

Some advocates in the field of human rights assert that targeted killing denies individuals due process. 134 However, due process does not require that each target be given the opportunity to defend him or herself before a legitimate judicial authority before being eliminated: "[A] state that is engaged in an armed conflict or in legitimate self-defense is not¶ required to provide targets with legal process before the state may use lethal force."135¶ Still, in non-international armed conflicts such as the situation in Afghanistan, a target is¶ not lawful until it has qualified as such under either CCF or DPH.136 Without public disclosure of the procedures for enforcing compliance with applicable law, it is impossible to determine whether or not the government is adhering to the requirements of law. Making¶ public the procedures for target selection may be the most effective means to confront the¶ human right challenges to targeted killing. In particular, if the U.S. wants to keep the higher¶ moral ground, it should afford the public the process of clear, systematic target selection¶ procedures to minimize the risk of targeting an unlawful target (i.e., a civilian), and thereby¶ invoking guilt for a war crime under the Rome Statute.13 7

### Case

#### Evaluate using particularity---no “root cause” or sweeping takeouts to our specific claims

PRICE ‘98

(RICHARD PRICE is a former prof in the Department of Anthropology at Yale University. Later, he moved to Johns Hopkins University to found the Department of Anthropology, where he served three terms as chair. A decade of freelance teaching (University of Minnesota, Stanford University, Princeton University, University of Florida, Universidade Federal da Bahia), ensued. This article is co-authored with CHRISTIAN REUS-SMIT – Monash University – European Journal of International Relations Copyright © 1998 via SAGE Publications – <http://www.arts.ualberta.ca/~courses/PoliticalScience/661B1/documents/PriceReusSmithCriticalInternatlTheoryConstructivism.pdf>)

One of the central departures of critical international theory from positivism is the view that we cannot escape the interpretive moment. As George (1994: 24) argues, ‘the world is always an interpreted “thing”, and it is always interpreted in conditions of disagreement and conflict, to one degree or another’. For this reason, ‘there can be no common body of observational or tested data that we can turn to for a neutral, objective knowledge of the world. There can be no ultimate knowledge, for example, that actually corresponds to reality per se.’ This proposition has been endorsed wholeheartedly by constructivists, who are at pains to deny the possibility of making ‘Big-T’ Truth claims about the world and studiously avoid attributing such status to their findings. This having been said, after undertaking sustained empirical analyses of aspects of world politics constructivists do make ‘small-t’ truth claims about the subjects they have investigated. That is, they claim to have arrived at logical and empirically *plausible* interpretations of actions**,** events or processes**,** and they appeal to the weight of evidence to sustain such claims. While admitting that their claims are always contingent and partial interpretations of a complex world, Price (1995, 1997) claims that his genealogy provides the best account to date to make sense of anomalies surrounding the use of chemical weapons, and Reus-Smit (1997) claims that a culturalist perspective offers the best explanation of institutional differences between historical societies of states. Do such claims contradict the interpretive ethos of critical international theory? For two reasons, we argue that they do not. First, the interpretive ethos of critical international theory is driven, in large measure, by a normative rejection of totalizing discourses, of general theoretical frameworks that privilege certain perspectives over others. One searches constructivist scholarship in vain, though, for such discourses. With the possible exception of Wendt’s problematic flirtation with general systemic theory and professed commitment to ‘science’, constructivist research is at its best when and because it is question driven, with self-consciously contingent claims made specifically in relation to *particular* phenomena, at a *particular* time, based on *particular* evidence, and always open to alternative interpretations. Second, the rejection of totalizing discourses based on ‘big-T’ Truth claims does not foreclose the possibility, or even the inevitability, of making ‘small-t’ truth claims. In fact, we would argue that as soon as one observes and interacts in the world such claims are unavoidable, either as a person engaged in everyday life or as a scholar. As Nietzsche pointed out long ago, we cannot help putting forth truth claims about the world. The individual who does not cannot act, and the genuinely unhypocritical relativist who cannot struggles for something to say and write. In short, if constructivists are not advancing totalizing discourses, and if making ‘small-t’ truth claims is inevitable if one is to talk about how the world works, then it is no more likely that constructivism per se violates the interpretive ethos of critical international theory than does critical theory itself.

#### Pressure to fight terror o/w pub pressure

Dickinson 11—Professor of political science @ Middlebury College. [Dr. Matthew Dickinson (Expert on presidential powers with a PhD from Harvard), “Will You End Up in Guantanamo Bay Prison?,” Presidential Power, December 3, 2011 pg. http://sites.middlebury.edu/presidentialpower/2011/12/03/will-you-end-up-in-guantanamo-bay/

Despite the overwhelming Senate support for passage (the bill passed 93-7 and will be reconciled with a House version. Senators voting nay included three Democrats, three Republicans and one independent), however, President Obama is still threatening to veto the bill in its current form. However, if administration spokespersons are to be believed, Obama’s objection is based not so much on concern for civil liberties as it is on preserving the president’s authority and flexibility in fighting the war on terror. According to White House press secretary Jay Carney, “Counterterrorism officials from the Republican and Democratic administrations have said that the language in this bill would jeopardize national security by restricting flexibility in our fight against Al Qaeda.” (The administration also objects to language in the bill that would restrict any transfer of detainees out of Guantanamo Bay prison for the next year.) For these reasons, the President is still threatening to veto the bill, which now goes to the Republican-controlled House where it is unlikely to be amended in a way that satisfies the President’s concerns. If not, this sets up an interesting scenario in which the President may have to decide whether to stick by his veto threat and hope that partisan loyalties kick in to prevent a rare veto override.¶ The debate over the authorization bill is another reminder of a point that you have heard me make before: that when it comes to national security issues and the War on Terror, President Obama’s views are much closer to his predecessor’s George W. Bush’s than they are to candidate Obama’s. The reason, of course, is that once in office, the president—as the elected official that comes closest to embodying national sovereignty—feels the pressure of protecting the nation from attack much more acutely than anyone else. That pressure drives them to seek maximum flexibility in their ability to respond to external threats, and to resist any provision that appears to constrain their authority. This is why Obama’s conduct of the War on Terror has followed so closely in Bush’s footsteps—both are motivated by the same institutional incentives and concerns.¶ The Senate debate, however, also illustrates a second point. We often array elected officials along a single ideological line, from most conservative to most liberal. Think Bernie Sanders at one end and Jim DeMint at the other. In so doing, we are suggesting that those individuals at the farthest ends of the spectrum have the greatest divergence in ideology. But on some issues, including this authorization bill, that ideological model is misleading. Instead, it is better to think of legislators arrayed in a circle, with libertarian Republicans and progressive Democrats sitting much closer together, say, at the top of the circle, joined together in their resistance to strong government and support for civil liberties. At the “bottom” of the circle are Republicans like Graham and Democrats like Levin who share an affinity for strengthening the government’s ability to protect the nation’s security.¶ For Obama, however, the central issue is not the clash of civil liberties and national security—it is the relative authority of the President versus Congress to conduct the War on Terror. That explains why he has stuck by his veto threat despite the legislative compromise. And it raises an interesting test of power. To date he has issued only two presidential vetoes, by far the lowest number of any President in the modern era. His predecessor George W. Bush issued 12, and saw Congress override four—a historically high percentage of overrides. On average, presidential vetoes are overridden about 7% of the time. These figures, however, underplay the use of veto threats as a bargaining tool. In the 110th (2007-08) Congress alone, Bush issued more than 100 veto threats. I’ve not calculated Obama’s veto threats, but it is easy enough to do by going to the White House’s website and looking under its Statements of Administrative Policy (SAP’s) listings. Those should include veto threats. Note that most veto threats are relatively less publicized and often are issued early in the legislative process. This latest veto threat, in contrast, seems to have attracted quite a bit of press attention. It will be interesting to see whether, if the current authorization language remains unchanged, Obama will stick to his guns.

**Their evidence is naïve --- Obama’s record on war powers and domestic policy prove**

**Kumar, 13** (Anita, 3/19/2013, “Obama turning to executive power to get what he wants,” <http://www.mcclatchydc.com/2013/03/19/186309/obama-turning-to-executive-power.html#.Ue18CdK1FSE>))

WASHINGTON — President Barack **Obama came into office** four years ago **skeptical of pushing the power of the White House to the limit, especially if it appeared to be circumventing Congress. Now**, as he launches his second term, **Obama has grown more comfortable wielding power to try to move his own agenda forward, particularly when a deeply fractured, often-hostile Congress gets in his way. He’s done it with a package of tools**, some of which date to George Washington and some invented in the modern era of an increasingly powerful presidency. And **he’s done it with a frequency that** belies his original campaign criticisms of predecessor George W. Bush, **invites criticisms that he’s bypassing the checks and balances of Congress and the courts**, and whets the appetite of liberal activists who want him to do even more to advance their goals. While his decision to send drones to kill U.S. citizens suspected of terrorism has garnered a torrent of criticism, his use of executive orders and other powers at home is deeper and wider. He delayed the deportation of young illegal immigrants when Congress wouldn’t agree. He ordered the Centers for Disease Control and Prevention to research gun violence, which Congress halted nearly 15 years ago. He told the Justice Department to stop defending the Defense of Marriage Act, deciding that the 1996 law defining marriage as between a man and a woman was unconstitutional. He’s vowed to act on his own if Congress didn’t pass policies to prepare for climate change. Arguably more than any other president in modern history, he’s using executive actions, primarily orders, to bypass or pressure a Congress where the opposition Republicans can block any proposal. “It’s gridlocked and dysfunctional. The place is a mess,” said Rena Steinzor, a law professor at the University of Maryland. “I think (executive action) is an inevitable tool given what’s happened.” Now that Obama has showed a willingness to use those tactics, advocacy groups, supporters and even members of Congress are lobbying him to do so more and more. The Center for Progressive Reform, a liberal advocacy group composed of law professors, including Steinzor, has pressed Obama to sign seven executive orders on health, safety and the environment during his second term. Seventy environmental groups wrote a letter urging the president to restrict emissions at existing power plants. Sen. Barbara Mikulski, D-Md., the chairwoman of the Appropriations Committee, sent a letter to the White House asking Obama to ban federal contractors from retaliating against employees who share salary information. Gay rights organizations recently demonstrated in front of the White House to encourage the president to sign an executive order to bar discrimination based on sexual orientation or gender identity by companies that have federal contracts, eager for Obama to act after nearly two decades of failed attempts to get Congress to pass a similar bill. “It’s ridiculous that we’re having to push this hard for the president to simply pick up a pen,” said Heather Cronk, the managing director of the gay rights group GetEQUAL. “It’s reprehensible that, after signing orders on gun control, cybersecurity and all manner of other topics, the president is still laboring over this decision.” The White House didn’t respond to repeated requests for comment. In January, Obama said he continued to believe that legislation was “sturdier and more stable” than executive actions, but that sometimes they were necessary, such as his January directive for the federal government to research gun violence. “There are certain issues where a judicious use of executive power can move the argument forward or solve problems that are of immediate-enough import that we can’t afford not to do it,” the former constitutional professor told The New Republic magazine. Presidents since George Washington have signed executive orders, an oft-overlooked power not explicitly defined in the Constitution. More than half of all executive orders in the nation’s history – nearly 14,000 – have been issued since 1933. Many serve symbolic purposes, from lowering flags to creating a new military medal. Some are used to form commissions or give federal employees a day off. Still others are more serious, and contentious: Abraham Lincoln releasing political prisoners, Franklin D. Roosevelt creating internment camps for Japanese-Americans, Dwight Eisenhower desegregating schools. “Starting in the 20th century, we have seen more and more that have lawlike functions,” said Gene Healy, a vice president of the Cato Institute, a libertarian research center, who’s the author of “The Cult of the Presidency: America’s Dangerous Devotion to Executive Power.” Most presidents in recent history generally have issued a few hundred orders, and hundreds more memorandums and directives. Jimmy Carter initiated a program designed to end discrimination at colleges. Ronald Reagan overturned price controls on domestic oil production. George H.W. Bush stopped imports of some semi-automatic firearms. Bill Clinton set aside large tracts of land as national monuments. George W. Bush made it easier for religious groups to receive federal dollars. “The expectation is that they all do this,” said Ken Mayer, a political science professor at the University of Wisconsin-Madison who wrote “With the Stroke of a Pen: Executive Orders and Presidential Power.” “That is the typical way of doing things.” But, experts say, Obama’s actions are more noticeable because as a candidate he was critical of Bush’s use of power. In particular, he singled out his predecessor’s use of signing statements, documents issued when a president signs a bill that clarifies his understanding of the law. “These last few years we’ve seen an unacceptable abuse of power at home,” Obama said in an October 2007 speech.. “We’ve paid a heavy price for having a president whose priority is expanding his own power.” Yet Obama’s use of power echoes that of his predecessors. For example, he signed 145 executive orders in his first term, putting him on track to issue as many as the 291 that Bush did in two terms. John **Yoo, who wrote the legal opinions that supported an expansion of presidential power after the 2001 terrorist attacks**, including harsh interrogation methods that some called torture, said he thought that executive orders were sometimes appropriate – when conducting internal management and implementing power given to the president by Congress or the Constitution – but he **thinks that Obama has gone too far**. “I think President **Obama has been as equally aggressive as** President **Bush, and in fact he has sometimes used the very same language to suggest that he would not obey congressional laws that intrude on his commander-in-chief power,”** said Yoo, who’s now a law professor at the University of California at Berkeley. “This is utterly hypocritical, both when compared to his campaign stances and the position of his supporters in Congress, who have suddenly discovered the virtues of silence.” Most of Obama’s actions are written statements aimed at federal agencies that are published everywhere from the White House website to the Federal Register. Some are classified and hidden from public view. “It seems to be more calculated to prod Congress,” said Phillip J. Cooper, the author of “By Order of the President: The Use and Abuse of Executive Direct Action.” “I can’t remember a president being that consistent, direct and public.” Bush was criticized for many of his actions on surveillance and interrogation techniques, but attention has focused on Obama’s use of actions mostly about domestic issues. In his first two years in the White House, when fellow Democrats controlled Capitol Hill, Obama largely worked through the regular legislative process to try to achieve his domestic agenda. His biggest achievements – including a federal health care overhaul and a stimulus package designed to boost the economy –came about with little or no Republican support. But Republicans took control of the House of Representatives in 2010, making the task of passing legislation all the more difficult for a man with a detached personality who doesn’t relish schmoozing with lawmakers. By the next year, Obama wasn’t shy about his reasons for flexing his presidential power. In fall 2011, he launched the “We Can’t Wait” campaign, unveiling dozens of policies through executive orders – creating jobs for veterans, adopting fuel efficiency standards and stopping drug shortages – that came straight from his jobs bills that faltered in Congress. “We’re not waiting for Congress,” Obama said in Denver that year when he announced a plan to reduce college costs. “I intend to do everything in my power right now to act on behalf of the American people, with or without Congress. We can’t wait for Congress to do its job. So where they won’t act, I will.” **When Congress killed legislation aimed at curbing the emissions that cause global warming, Obama directed the** **E**nvironmental **P**rotection **A**gency **to write regulations on its own** incorporating some parts of the bill. When Congress defeated pro-union legislation, he had the National Labor Relations Board and the Labor Department issue rules incorporating some parts of the bill. **“The president looks more and more like a king that the Constitution was designed to replace,”** Sen. Charles **Grassley**, R-Iowa, **said** on the Senate floor last year.

**And, there’s always wiggle room --- public support for war powers also means the aff is rolled back**

**Rojas, 12** --- Associate Professor of Sociology at Indiana University (4/16/2012, Fabio, “rachel maddow will not bring peace,” <http://orgtheory.wordpress.com/2012/04/16/rachel-maddow-will-not-bring-peace/>)

Andrew Sullivan’s blog excerpted a passage from Rachel Maddow’s recent book. Understandably, Maddow’s book urges Congress to take a stand against war: When we go to war, we should raise taxes to pay for it. We should get rid of the secret military. The reserves should go back to being reserves. We should cut way back on the contractors and let troops peel their own potatoes. And above all, Congress should start throwing its weight around again… I agree in principle, but disagree on practice. **Rules and institutions that end war are ineffective** for two reasons. First, **if you really want war, you can always vote to have a new rule for war or to make an exception.** Also, **most rules have wiggle room in them, which makes it easy to wage war under other guises**. Secondly, **there’s a consistent “rally around the leader effect.” It is incredibly hard for anyone to oppose leaders during war time. Elected leaders are in a particularly weak position.** Simply put, **legislatures can’t be trusted to assert their restraining role in most cases**.

**Libya and Gitmo trials prove --- circumvention makes everything comparatively worse than before**

**Yager, 11** (7/12/2011, Jordy, “Obama flexes executive powers, bypassing congressional opposition,” <http://thehill.com/homenews/administration/170837-president-is-flexing-his-exec-powers>))

President **Obama increasingly is using his executive authority to move his policies forward when confronted with congressional opposition**. The administration chose not to defend the federal Defense of Marriage Act banning gay marriage, and **Obama bypassed military tribunals and the Guantánamo Bay prison in Cuba to send an accused terrorist from Somalia to a U.S. civilian court. The latter effort was seen as a backdoor way to circumvent congressional opposition to civilian trials for terrorism suspects. The president** also has granted immigration officers greater latitude when deciding whether to deport illegal immigrants, and **has determined the War Powers Resolution requiring congressional authorization for military actions does not apply to the intervention he ordered in Libya.** Most recently, Congress has been abuzz with the possibility that Obama could bypass its authority altogether and raise the debt ceiling using the so-called “14th Amendment solution.” Like other presidents before him, Obama is using executive authority after being rebuffed by a Congress controlled by the other party. Republicans enjoy a large majority in the House, and they are on the rise in the Senate. The aggressive steps by Obama have prompted criticism from Rep. Lamar Smith (R-Texas), chairman of the House Judiciary Committee. “Our Founders created a system of checks and balances to prevent any one branch of government from having too much power over the people,” Smith said in a statement to The Hill. “Unfortunately, **it appears that the president has little respect for the laws passed by Congress or the will of the American people**,” he added. “**If the president’s abuse of executive authority continues unchecked, it could set a very dangerous precedent for future presidents and seriously weaken our democratic system.”**

## 1NR

### Terror DA

#### Terror attack turns the entire case---fear would cause public acquiescence to rights-violations and government crackdowns that outweigh the case by an order of magnitude

Peter **Beinart 8**, associate professor of journalism and political science at CUNY, The Good Fight; Why Liberals – and only Liberals – Can Win the War on Terror and Make America Great Again, 110-1

Indeed, while the Bush administration bears the blame for these hor- rors, White House officials exploited a shift in public values after 9/11. When asked by Princeton Survey Research Associates in 1997 whether stopping terrorism required citizens to cede some civil liberties, less than one-t hird of Americans said yes. By the spring of 2002, that had grown to almost three- quarters. Public support for the government’s right to wire- tap phones and read people’s mail also grew exponentially. In fact, polling in the months after the attack showed Americans less concerned that the Bush administration was violating civil liberties than that **it wasn’t violating them enough**. What will happen the next time? It is, of course, impossible to predict the reaction to any particular attack. But in 2003, the Center for Public Integrity got a draft of something called the Domestic Security Enhance- ment Act, quickly dubbed Patriot II. According to the center’s executive director, Charles Lewis, **it expanded government power** five or **ten times as much as its predecessor**. One provision permitted the government to strip native-born Americans of their citizenship, allowing them to be indefinitely imprisoned without legal recourse if they were deemed to have provided any support—even nonviolent support—to groups designated as terrorist. After an outcry, the bill was shelved. But it offers a hint of what this administration—or any administration—might do if the United States were hit again. ¶ When the CIA recently tried to imagine how the world might look in 2020, it conjured four potential scenarios. One was called the “cycle of fear,” and it drastically inverted the assumption of security that C. Vann Woodward called central to America’s national character. The United States has been attacked again and the government has responded with “large- scale intrusive security measures.” In this dystopian future, two arms dealers, one with jihadist ties, text- message about a potential nuclear deal. One notes that terrorist networks have “turned into mini-s tates.” The other jokes about the global recession sparked by the latest attacks. And he muses about how terrorism has changed American life. “That new Patriot Act,” he writes, “went **way beyond anything imagined after 9/11**.” “The fear cycle generated by an increasing spread of WMD and terrorist attacks,” comments the CIA report, “once under way, would be one of the **hardest to break**.” And the more entrenched that fear cycle grows, the less free America will become. Which is why a new generation of American liberals must make the fight against this new totalitarianism their own.

#### Terrorism outweighs and acting to solve it is ethical

**Issac 02** [Professor of political science at Indiana-Bloomington, Director of the Center for the Study of Democracy and Public Life, PhD from Yale (Jeffery C., Dissent Magazine, Vol. 49, Iss. 2, “Ends, Means, and Politics,” p. Proquest]

WHAT WOULD IT mean for the American left right now to take seriously the centrality of means in politics? First, it would mean taking seriously the specific means employed by the September 11 attackers--terrorism. There is a tendency in some quarters of the left to assimilate the death and destruction of September 11 to more ordinary (and still deplorable) injustices of the world system--the starvation of children in Africa, or the repression of peasants in Mexico, or the continued occupation of the West Bank and Gaza by Israel. But this assimilation is only possible by ignoring the specific modalities of September 11. It is true that in Mexico, Palestine, and elsewhere, too many innocent people suffer, and that is wrong. It may even be true that the experience of suffering is equally terrible in each case. But neither the Mexican nor the Israeli government has ever hijacked civilian airliners and deliberately flown them into crowded office buildings in the middle of cities where innocent civilians work and live, with the intention of killing thousands of people. Al-Qaeda did precisely this. That does not make the other injustices unimportant. It simply makes them different. It makes the September 11 hijackings distinctive, in their defining and malevolent purpose--to kill people and to create terror and havoc. This was not an ordinary injustice. It was an extraordinary injustice. The premise of terrorism is the sheer superfluousness of human life. This premise is inconsistent with civilized living anywhere. It threatens people of every race and class, every ethnicity and religion. **Because it threatens everyone**, and threatens values central to any decent conception of a good society, it must be fought. And it must be fought in a way commensurate with its malevolence. Ordinary injustice can be remedied. Terrorism can only be stopped. Second, it would mean frankly acknowledging something well understood, often too eagerly embraced, by the twentieth century Marxist left--that it is often politically necessary to employ morally troubling means in the name of morally valid ends. A just or even a better society can only be realized in and through political practice; in our complex and bloody world, it will sometimes be necessary to respond to barbarous tyrants or criminals, with whom moral suasion won't work. In such situations our choice is not between the wrong that confronts us and our ideal vision of a world beyond wrong. It is between the wrong that confronts us and the means--perhaps the dangerous means--we have to employ in order to oppose it. In such situations there is a danger that "realism" can become a rationale for the Machiavellian worship of power. But equally great is the danger of a righteousness that translates, in effect, into a refusal to act in the face of wrong. What is one to do? Proceed with caution. Avoid casting oneself as the incarnation of pure goodness locked in a Manichean struggle with evil. Be wary of violence. Look for alternative means when they are available, and support the development of such means when they are not. And never sacrifice democratic freedoms and open debate. Above all, ask the hard questions about the situation at hand, the means available, and the likely effectiveness of different strategies.

#### Extinction comes first

**BOSTROM 11** (Nick, Prof. of Philosophy at Oxford, The Concept of Existential Risk (Draft), <http://www.existentialrisk.com/concept.html>)

Holding probability constant, risks become more serious as we move toward the upper-right region of figure 2. For any fixed probability, existential risks are thus more serious than other risk categories. But just how much more serious might not be intuitively obvious. One might think we could get a grip on how bad an existential catastrophe would be by considering some of the worst historical disasters we can think of—such as the two world wars, the Spanish flu pandemic, or the Holocaust—and then imagining something just a bit worse. Yet if we look at global population statistics over time, we find that these horrible events of the past century fail to register (figure 3). [Graphic Omitted] Figure 3: World population over the last century. Calamities such as the Spanish flu pandemic, the two world wars, and the Holocaust scarcely register. (If one stares hard at the graph, one can perhaps just barely make out a slight temporary reduction in the rate of growth of the world population during these events.) But even this reflection fails to bring out the seriousness of existential risk. What makes existential catastrophes especially bad is not that they would show up robustly on a plot like the one in figure 3, causing a precipitous drop in world population or average quality of life. Instead, their significance lies primarily in the fact that they would destroy the future. The philosopher Derek Parfit made a similar point with the following thought experiment: I believe that if we destroy mankind, as we now can, this outcome will be much worse than most people think. Compare three outcomes: (1) Peace. (2) A nuclear war that kills 99% of the world’s existing population. (3) A nuclear war that kills 100%. (2) would be worse than (1), and (3) would be worse than (2). Which is the greater of these two differences? Most people believe that the greater difference is between (1) and (2). I believe that the difference between (2) and (3) is very much greater. … The Earth will remain habitable for at least another billion years. Civilization began only a few thousand years ago. If we do not destroy mankind, these few thousand years may be only a tiny fraction of the whole of civilized human history. The difference between (2) and (3) may thus be the difference between this tiny fraction and all of the rest of this history. If we compare this possible history to a day, what has occurred so far is only a fraction of a second. (10: 453-454) To calculate the loss associated with an existential catastrophe, we must consider how much value would come to exist in its absence. It turns out that the ultimate potential for Earth-originating intelligent life is literally astronomical. One gets a large number even if one confines one’s consideration to the potential for biological human beings living on Earth. If we suppose with Parfit that our planet will remain habitable for at least another billion years, and we assume that at least one billion people could live on it sustainably, then the potential exist for at least 1018 human lives. These lives could also be considerably better than the average contemporary human life, which is so often marred by disease, poverty, injustice, and various biological limitations that could be partly overcome through continuing technological and moral progress. However, the relevant figure is not how many people could live on Earth but how many descendants we could have in total. One lower bound of the number of biological human life-years in the future accessible universe (based on current cosmological estimates) is 1034 years.[10] Another estimate, which assumes that future minds will be mainly implemented in computational hardware instead of biological neuronal wetware, produces a lower bound of 1054 human-brain-emulation subjective life-years (or 1071 basic computational operations).(4)[11] If we make the less conservative assumption that future civilizations could eventually press close to the absolute bounds of known physics (using some as yet unimagined technology), we get radically higher estimates of the amount of computation and memory storage that is achievable and thus of the number of years of subjective experience that could be realized.[12] Even if we use the most conservative of these estimates, which entirely ignores the possibility of space colonization and software minds, we find that the expected loss of an existential catastrophe is greater than the value of 1018 human lives. This implies that the expected value of reducing existential risk by a mere one millionth of one percentage point is at least ten times the value of a billion human lives. The more technologically comprehensive estimate of 1054 human-brain-emulation subjective life-years (or 1052 lives of ordinary length) makes the same point even more starkly. Even if we give this allegedly lower bound on the cumulative output potential of a technologically mature civilization a mere 1% chance of being correct, we find that the expected value of reducing existential risk by a mere one billionth of one billionth of one percentage point is worth a hundred billion times as much as a billion human lives. One might consequently argue that even the tiniest reduction of existential risk has an expected value greater than that of the definite provision of any “ordinary” good, such as the direct benefit of saving 1 billion lives. And, further, that the absolute value of the indirect effect of saving 1 billion lives on the total cumulative amount of existential risk—positive or negative—is almost certainly larger than the positive value of the direct benefit of such an action.[13]

#### Prefer empirics and public statements---the aff presumes they know terrorists motives better than they do

**ELSHTAIN 2003**

(Jean Bethke, Prof of Social and Political Ethics at U Chicago, Just War Against Terrorism, p. 94-95)

Those who do not argue outright that the United States is the author of its own destruction often profess mystification at the motives of the attackers, despite the fact that the attackers have told us repeatedly what their motives are. The Nation editorialized, “Why the attacks took place is still unclear.” Suddenly the far left is perplexed as well as isolationist: If we had not poked our nose in where it did not belong, maybe people would leave us alone. However, either we really do not know what drove the attackers—which requires that we ignore their words and those of Osama bin Laden—or we really do know what motivated the attackers—which also requires that we ignore their words and those of Osama bin Laden. Why? Because we cannot take the religious language seriously. Donald Kagan cites an example of the latter when he recalls the words of a fellow Yale professor who opined tha thte “underlying causes” fo the 9/11 attacks were “the desperate, angry, and bereaved” circumstances of the lives of “these suicide pilots,” who were responding to “offensive cultural messages” spread by the United States. There is considerable hubris on display in such assertions of certainly about what drives terrorists, when doing so requires ignoring the terrorists’ own words. This scenario usually plays out like this: First, one professes ignorance of the real motives, although one can do so only if one ignores the words of the attackers, who have scarcely been secretive. Or second, one ignores the real motives because one knows better than the attackers themselves what their motives were. “What is striking about such statements is their arrogance,” writes Kagan. “They suggest that he enlightened commentator can penetrate the souls of the attackers and know their deepest motives…A far better guide might be the actual statements of the perpetrators.” Kagan is not alone in this observation. Tony Judt writes that Osama bin Laden’s stated motives are “to push the ‘infidel’ out of the Arabian peninsula, to punish the ‘Crusaders and the Jews,’ and to wreak revenge on Americans for their domination of Islamic space.” Judt cannot help noticing, however, that bin Laden “is not a spokesman for the downtrodden, much less those who seek just solutions to real dilemmas—he is cuttingly dismissive of the UN: ‘Muslims should not appeal to these atheist, temporal regimes.’” Not surprisingly, Salman Rushdie, the Muslim writer against whom a fatwa ordering his death was issued in 1989, makes the trenchant observation that the savaging of America by sections of the left…has been among the most unpleasant consequences of the terrorists’ attacks on the United States. “The problem with Americans is…”—“What America needs to understand…” There has been a lot of sanctimonious moral relativism around lately, usually prefaced by such phrases as these. A country which has just suffered the most devastating terrorist attack in history, a country in a state of deep mourning and horrible grief, is being told, heartlessly, that it is to blame for its own citizens’ deaths. The New York Times columnist Thomas Friedman expresses amazement at the ease with which some people abroad and at campus teach-ins now tell us what motivated the terrorists…Their deed was their note: we want to destroy America, starting with its military and financial centers. Which part of that sentence don’t people understand? Have you ever seen Osama bin Laden say, “I just want to see a smaller Israel in its pre-1967 borders,” or “I have no problem with America, it just needs to have a lower cultural and military profile in the Muslim world?” These terrorists aren’t out for a new kind of coexistence with us. They are out for our non-existence. None of this seems to have seeped into the “Yes, but…” crowd.

**Their argument essentializes terror scholarship – it’s not a monolithic entity – defer to specific research**

Michael J. **Boyle '8**, School of International Relations, University of St. Andrews, and John Horgan, International Center for the Study of Terrorism, Department of Psychology, Pennsylvania State University, April 2008, “A Case Against Critical Terrorism Studies,” Critical Studies On Terrorism, Vol. 1, No. 1, p. 51-64

Some CTS advocates have positioned the CTS project against something usually called ‘terrorism studies’, ‘Orthodox terrorism studies’ or, alternatively, ‘terrorology’. Whatever these bodies of literature are (or at least are imagined by those who have created them as such), they are recent intellectual constructions, the product of an over-generalization that has emerged from the identification of (1) the limitations associated with terrorism research to date, coupled with (2) a less than complete understanding of the nature of research on terrorism. A cursory review of the terrorism literature reveals that attempts to generalize about something called Orthodox Terrorism Studies are deeply problematic. Among terrorism scholars, there are wide disagreements about, among others, the definition of terrorism, the causes of terrorism, the role and value of the concept of ‘radicalization’ and ‘extremism’, the role of state terror, the role that foreign policy plays in motivating or facilitating terrorism, the ethics of terrorism, and the proper way to conduct ‘counter-terrorism’. A cursory examination of the contents of the two most well-known terrorism journals Terrorism and Political Violence and Studies in Conflict and Terrorism quickly reveals this. These differences, and the concomitant disagreements that result in the literature, cut across disciplines – principally political science and psychology, but also others, such as anthropology, sociology, theology, and philosophy – and even within disciplines wide disagreements about methods (for example, discourse analysis, rational choice, among others) persist. To suggest that they can be lumped together as something called ‘terrorology’ or ‘Orthodox Terrorism Studies’ belies a narrow reading of the literature. This is, in short, a ‘straw man’ which helps position CTS in the field but is not based on a well-grounded critique of the current research on terrorism.

#### Resolve to fight is key to an effective and limited campaign

**Brook and Ghate 2005**

(Yaron, Exec Director of the Ayn Rand Institute, Onkar, Ph.D in Philosophy and Senior Fellow at ARI, “The Foreign Policy of Guilt,” August 1, <http://www.aynrand.org/site/News2?page=NewsArticle&id=11269>)

Support for totalitarian Islam will wither only when the Islamic world is convinced that the West will fight--and fight aggressively. As long as the insurgents continue with their brutal acts in Iraq, unharmed by the mightiest military force in human history, as long as the citizens of London return to "normal" lives with subways exploding all around them, as long as the West continues to negotiate with Iran on nuclear weapons--as long as the West continues to appease its enemies, because it believes it has no moral right to destroy them, totalitarian Islam is emboldened. It is the West's moral weakness that feeds terrorism and brings it fresh recruits. It is the prospect of success against the West, fueled by the West's apologetic response, that allows totalitarian Islam to thrive. Bush has said repeatedly, in unguarded moments, that this war is un-winnable. By his foreign policy, it is. But if the British and American people gain the self-esteem to assert our moral right to exist--with everything this entails--victory will be ours.

#### Yes, the war on terror will go on for a long time – this isn’t a reason to give up and will be true regardless of our strategy

**Peters, 2002**

Ralph, retired Army officer and the author of 19 books, as well as of hundreds of essays and articles, experience, military or civilian, in 60 countries, and is a frequent contributor to Parameters, Parameters, Autumn 2002, “[Rolling Back Radical Islam”](http://www.freerepublic.com/focus/f-news/1015395/posts)”

Driven by the ferocity of events, we have begun to react militarily to the violence in Islam’s borderlands, from the Caucasus to the Philippines, as well as in that eternal frontier state, Afghanistan. And much more military engagement will be necessary in the future. But our military can address only the problems of the moment, problems rooted in yesterday. We must begin to examine the dilemmas and opportunities of each new day with greater interest, so that we may help (to the degree we can) struggling societies discover paths to a more peaceful, cooperative tomorrow. Whatever we do or fail to do, our military will be busy throughout the lifetimes of anyone reading these freshly printed lines. Success will never be final, but always a matter of degree—though, sometimes, of high degree: the difference between a bloody contest of civilizations and the routine ebb and flow of lesser conflicts. Our lack of involvement—indeed, our lack of interest—in Islam’s efforts to define its character for the 21st century and beyond has abandoned the field to our mortal enemies. Over the past few decades, Middle Eastern oil wealth has been used by the most restrictive, oppressive states to export a regressive, ferociously intolerant and anti-Western form of Islam to mosques and madrassas abroad, from the immigrant quarters of London to the back-country of Indonesia. When we noticed anything at all, we dismissed it as no more than an annoyance, our attitude drifting between the Pollyanna notion that everyone is entitled to his or her own form of religion (no matter if it preaches hatred and praises mass murder) and the “serious” policymaker’s view that religion is a tertiary issue, far less instructive and meaningful than GDP numbers or arms deals.

#### The link threshold is low - status quo target vetting is carefully calibrated to avoid every aff impact in balance with CT--- there’s only a risk that restrictions destroy it.

McNeal, Associate Professor of Law, Pepperdine University, ‘13

[Gregory, 3/5/13, “Targeted Killing and Accountability,” <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1819583>]

Target vetting is the process by which the government integrates the opinions of subject matter experts from throughout the intelligence community.180 The United States has developed a formal voting process which allows members of agencies from across the government to comment on the validity of the target intelligence and any concerns related to targeting an individual. At a minimum, the vetting considers the following factors: target identification, significance, collateral damage estimates, location issues, impact on the enemy, environmental concerns, and intelligence gain/loss concerns.181 An important part of the analysis also includes assessing the impact of not conducting operations against the target.182 Vetting occurs at multiple points in the kill-list creation process, as targets are progressively refined within particular agencies and at interagency meetings.¶ A validation step follows the vetting step. It is intended to ensure that all proposed targets meet the objectives and criteria outlined in strategic guidance.183 The term strategic is a reference to national level objectives—the assessment is not just whether the strike will succeed tactically (i.e. will it eliminate the targeted individual) but also whether it advances broader national policy goals.184 Accordingly, at this stage there is also a reassessment of whether the killing will comport with domestic legal authorities such as the AUMF or a particular covert action finding.185 At this stage, participants will also resolve whether the agency that will be tasked with the strike has the authority to do so.186 Individuals participating at this stage analyze the mix of military, political, diplomatic, informational, and economic consequences that flow from killing an individual. Other questions addressed at this stage are whether killing an individual will comply with the law of armed conflict, and rules of engagement (including theater specific rules of engagement). Further bolstering the evidence that these are the key questions that the U.S. government asks is the clearly articulated target validation considerations found in military doctrine (and there is little evidence to suggest they are not considered in current operations). Some of the questions asked are:¶ • Is attacking the target lawful? What are the law of war and rules of engagement considerations?¶ • Does the target contribute to the adversary's capability and will to wage war?¶ • Is the target (still) operational? Is it (still) a viable element of a target system? Where is the target located?¶ • Will striking the target arouse political or cultural “sensitivities”?¶ • How will striking the target affect public opinion? (Enemy, friendly, and neutral)?¶ • What is the relative potential for collateral damage or collateral effects, to include casualties?¶ • What psychological impact will operations against the target have on the adversary, friendly forces, or multinational partners?¶ • What would be the impact of not conducting operations against the target?187¶ As the preceding criteria highlight, many of the concerns that critics say should be weighed in the targeted killing process are considered prior to nominating a target for inclusion on a kill-list.188 For example, bureaucrats in the kill-list development process will weigh whether striking a particular individual will improve world standing and whether the strike is worth it in terms of weakening the adversary's power.189 They will analyze the possibility that a strike will adversely affect diplomatic relations, and they will consider whether there would be an intelligence loss that outweighs the value of the target.190 During this process, the intelligence community may also make an estimate regarding the likely success of achieving objectives (e.g. degraded enemy leadership, diminished capacity to conduct certain types of attacks, etc.) associated with the strike. Importantly, they will also consider the risk of blowback (e.g. creating more terrorists as a result of the killing).191

#### There’s a high probability of the impact.

Neely ’13 (Meggaen Neely, CSIS, “Doubting Deterrence of Nuclear Terrorism”, <http://csis.org/blog/doubting-deterrence-nuclear-terrorism?utm_source=feedburner&utm_medium=email&utm_campaign=Feed%3A+csis-poni+%28PONI+Debates+the+Issues+Blog%29>, March 21, 2013)

The 2010 Nuclear Posture Review (NPR) cites nuclear terrorism as “today’s most immediate and extreme danger.” To counter this danger, the NPR lists research initiatives, securing nuclear materials, and a “commitment to hold fully accountable” any who help terrorists obtain nuclear weapons. Matthew Kroenig and Barry Pavel, the self-described authors of U.S. strategy for deterring terrorist networks, explain further how the United States can discourage terrorists from detonating a nuclear weapon. They make useful distinctions between actors in terrorist organizations, which can have implications for U.S. policies. However, the United States should not rely exclusively on deterrence – that is, those policies that attempt to discourage terrorists from detonating a nuclear weapon. Complementary policies that may be more effective will focus on securing nuclear materials and implementing defensive measures, in addition to conventional counterterrorism strategies. Although this shift will not make the task of preventing nuclear terrorism easier, recognizing the limits of deterrence policies will allow the United States to make smarter choices in defending against nuclear terrorism. Assessing the Threat of Nuclear Terrorism The risk that terrorists will set off a nuclear weapon on U.S. soil is disconcertingly high. While a terrorist organization may experience difficulty constructing nuclear weapons facilities, there is significant concern that terrorists can obtain a nuclear weapon or nuclear materials. The fear that an actor could steal a nuclear weapon or fissile material and transport it to the United States has long-existed. It takes a great amount of time and resources (including territory) to construct centrifuges and reactors to build a nuclear weapon from scratch. Relatively easily-transportable nuclear weapons, however, present one opportunity to terrorists. For example, exercises similar to the recent Russian movement of nuclear weapons from munitions depots to storage sites may prove attractive targets. Loose nuclear materials pose a second

opportunity. Terrorists could use them to create a crude nuclear weapon similar to the gun-type design of Little Boy. Its simplicity – two subcritical masses of highly-enriched uranium – may make it attractive to terrorists. While such a weapon might not produce the immediate destruction seen at Hiroshima, the radioactive fall-out and psychological effects would still be damaging. These two opportunities for terrorists differ from concerns about a “dirty bomb,” which mixes radioactive material with conventional explosives. According to Gary Ackerman of the National Consortium for the Study of Terrorism and Responses to Terrorism, the number of terrorist organizations that would detonate a nuclear weapon is probably small. Few terrorist organizations have the ideology that would motivate nuclear weapons acquisition. Before we breathe a sigh of relief, we should recognize that this only increases the “signal-to-noise ratio”: many terrorists might claim to want to detonate a nuclear weapon, but the United States must find and prevent the small number of groups that actually would. Transportable nuclear weapons and loose fissile materials grant opportunities to terrorists with nuclear pursuits. How should the United States seek to undercut the efforts of the select few with a nuclear intent? The Problems with Deterrence The answer for U.S. policy is not deterrence. Deterrence involves convincing an adversary that the costs imposed upon him after taking an action will outweigh any benefits gained. It requires altering the strategic calculus (i.e. the analysis of costs and benefits for taking a particular action) of the adversary. These costs come from either punishment imposed on the adversary or from denying the adversary the expected benefits. In execution, deterrence requires policies of consistency and conditionality towards an adversary: consistency in expressing the imposition of costs or denied benefits if the adversary takes a specific action and conditionality in that the possibility of retaliation depends upon the adversary’s decision to take the undesirable action. These requirements of consistency and conditionality cannot be applied to a transnational threat like nuclear terrorism. Terrorists operate across states’ borders, but the burden remains on states to implement deterrence laws and policies that impose costs or deny benefits. One could point to the “glorification” laws in the United Kingdom, which sought to deter suicide terrorism by criminalizing the praise of martyrdom, as an example of such a policy. However, not all countries are able or willing to implement such laws. Alternatively, even countries that are able and willing may hesitate for fear of violating international or domestic norms. For example, with the “glorification” laws, many accused British policymakers of infringing on the right to free speech. Deterrence requires consistency in the communication of certain retaliation should the adversary take an undesired action. In the aggregate, states’ policies will likely lack this consistency and conditionality required for deterring nuclear terrorism. This results in confusion and a lack of credibility for the threat of imposing costs or denying benefits. Of course, terrorists are not susceptible to more “traditional” forms of deterrence like holding territory at risk (given that they do not own territory) or by threatening suicide terrorists with physical harm.