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#### Passage of immigration reform is likely, both sides agree it is a top priority and congress is willing to cooperate

Clifford, 12/30 (Mike, 12/30/2013, “Immigration Reform Supporters: “Positive Signs” Headed into 2014,” <http://www.publicnewsservice.org/2013-12-30/immigrant-issues/immigration-reform-supporters-positive-signs-headed-into-2014/a36538-1)>)

NEW YORK - Supporters of comprehensive immigration reform fell short of their goal in 2013, but several things happened in December to swing momentum in their direction, they say. The first positive sign, according to Jim Wallis, Sojourners president and founder, was the House and Senate working together to pass a budget bill. And, while Speaker Boehner has said immigration reform would have to wait until next year, Wallis said there are signs Republicans are ready to act. "I hear Republican leaders - Goodlatte from Judiciary - saying this will be a top priority in 2014," Wallis said. "John Boehner has hired a really talented aide to help with immigration - she knows the topic well, and she's for reform." At his final 2013 news conference, President Obama called on House members to pass the immigration reform measure approved by the Senate, but Speaker Boehner has said he won't bring that version up for a vote.

#### **Congressional drone proposals sap capital**

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(Carlo Munoz, National Security writer, “Turf battle builds quietly in Congress over control of armed drone program”, The Hill, 4/9/13, http://thehill.com/homenews/administration/292501-turf-battle-builds-quietly-over-control-of-armed-drone-program)

A turf war is quietly building between congressional defense and intelligence committees over who will oversee the Obama administration’s controversial armed drone program. ¶ Lawmakers are scrambling to make their case for or against a White House proposal that would hand control of the drones to the Pentagon. ¶ Gordon Adams, a senior defense analyst at the Stimson Center, called the looming battle a “turf fight in the [disguise] of a policy debate.”¶ The Pentagon and CIA operate their own armed drone programs, which are both geared toward eliminating senior al Qaeda leaders and other high-level terror targets around the world. Under the Obama administration’s proposal, the CIA would continue to supply intelligence on possible targets, but actual control over the drone strikes would fall to the Pentagon. ¶ Senate Intelligence Committee Chairwoman Dianne Feinstein (D-Calif.) publicly questioned whether the Defense Department (DOD) would be able to shoulder the program alone. ¶ “We’ve watched the intelligence aspect of the drone program, how they function, the quality of the intelligence, watching the agency exercise patience and discretion,” Feinstein told reporters in March. “The military [armed drone] program has not done that nearly as well.” ¶ Sen. John McCain and other defense lawmakers say the drone program would be better off being run by the Pentagon. ¶ “It’s not the job of the Central Intelligence Agency. ... It’s the military’s job,” the Arizona Republican said in March. ¶ The fight is a typical battle over who on Capitol Hill will retain power over the program, according to several analysts, who described it as predictable. ¶ “There is always going to be a turf battle” when dealing with congressional oversight, said Lawrence Korb, a former DOD official and defense analyst at the liberal-leaning Center for American Progress. ¶ But that battle could become particularly heated, given the high-profile nature of the drone program, which since the Sept. 11, 2001, attacks has become a huge factor in shaping counterterrorism policy, given its success, Korb said. ¶ For congressional panels, the fight over who will control the drone program will have a say in the relevancy of the two committees. ¶ Korb, for example, noted that national security spending on unmanned aircraft and special operations forces will likely increase, even as the budget for defense spending overall is expected to trend downward. ¶ Ironically, Pentagon officials pushed back against using armed drones in the late 1990s, fearing they would replace fighter jets as the weapon of choice in future wars, Korb said. ¶ That decision essentially handed control of the armed drone program to the CIA, he said. Early versions of the unmanned aircraft flown during the 2001 invasion of Afghanistan belonged to the agency, not the Defense Department, according to Korb. ¶ Taking that influence away from Langley and intelligence lawmakers was bound to spark a fight, he said.

#### Obama’s capital key to ensuring passage

Orlando Sentinel, 11/1 (11/1/2013, “What we think: It'll take both parties to clear immigration logjam,” <http://articles.orlandosentinel.com/2013-11-01/news/os-ed-immigration-reform-congress-20131031_1_immigration-reform-comprehensive-reform-house-republicans>, JMP)

For those who thought the end of the government shutdown would provide a break from the partisan bickering in Washington, think again. The battle over comprehensive immigration reform could be every bit as contentious. Polls show the popular momentum is there for comprehensive reform, which would include a path to citizenship for many of the nation's 11 million undocumented immigrants. But it'll take plenty of political capital from President Obama and leaders in both parties on Capitol Hill to make it happen. Immigration-reform activists, who have been pushing for reform for years, are understandably impatient. This week police arrested 15 who blocked traffic at a demonstration in Orlando. There are plenty of selling points for comprehensive immigration reform. An opportunity for millions of immigrants to get on the right side of the law. Stronger border security. The chance for law enforcement to focus limited resources on real threats to public safety, instead of nannies and fruit pickers. A more reliable work force to meet the needs of key industries. Reforms to let top talent from around the world stay here after studying in U.S. universities. The Senate passed its version of comprehensive immigration in June. It includes all of the benefits above. Its path to citizenship requires undocumented immigrants to pay fines, learn English, pass a criminal background check and wait more than a decade. So far, House Republicans have balked, taking a piecemeal rather than comprehensive approach. Many members fear being challenged from the right for supporting "amnesty." Yet polls show the public supports comprehensive reform. In June, a Gallup poll found 87 percent of Americans — including 86 percent of Republicans — support a pathway to citizenship like the one outlined in the Senate bill. Florida Republican Sen. Marco Rubio took flak from tea-party supporters for spearheading the comprehensive bill. Now, apparently aiming to mend fences, he says immigration should be handled piecemeal. He's politically savvy enough to know that's a dead end. But comprehensive reform won't have a chance without President Obama making full use of his bully pulpit to promote it, emphasizing in particular all that undocumented immigrants would need to do to earn citizenship. House Democratic leaders will have to underscore the president's message.

#### Reform key to the economy – immigrants are key to several critical sectors

West, ‘09 – Director of Governance Studies at the Brookings Institution (7/22/09, Darrell M., “The Path to a New Immigration Reform,” http://www.brookings.edu/opinions/2009/0721\_immigration\_reform\_west.aspx)

Skeptics need to understand how important a new immigration policy is to American competitiveness and long-term economic development. High-skill businesses require a sufficient number of scientists and engineers. Many industries such as construction, landscaping, health care and hospitality services are reliant on immigrant labor. Farmers need seasonal workers for agricultural productivity. Critics who worry about resource drains must understand that immigrants spend money on goods and services, pay taxes and perform jobs and start businesses vital to our economy. Beyond the economy, immigration reform prospects improve considerably across a fresh political landscape that features a popular Democratic president armed with substantial Democratic majorities in the House and Senate, many who appear receptive to comprehensive reform. Obama has called repeatedly for big ideas and bold policy actions. The country needs new policies that emphasize the importance of immigrant workers \_ across the skills spectrum \_ to our country's long-term financial future. Our universities invest millions in training foreign students but then send them home without any U.S. job opportunities that would take advantage of their new skills. And investing in the children of middle- and lower-skilled immigrants is wise as we recognize their majority role in our workforce as the next generation rises.

#### Extinction

Harris and Burrows, ‘09 [Mathew, PhD European History at Cambridge, counselor in the National Intelligence Council (NIC) and Jennifer, member of the NIC’s Long Range Analysis Unit “Revisiting the Future: Geopolitical Effects of the Financial Crisis” <http://www.ciaonet.org/journals/twq/v32i2/f_0016178_13952.pdf>]

Increased Potential for Global Conflict Of course, the report encompasses more than economics and indeed believes the future is likely to be the result of a number of intersecting and interlocking forces. With so many possible permutations of outcomes, each with ample Revisiting the Future opportunity for unintended consequences, there is a growing sense of insecurity. Even so, history may be more instructive than ever. While we continue to believe that the Great Depression is not likely to be repeated, the lessons to be drawn from that period include the harmful effects on fledgling democracies and multiethnic societies (think Central Europe in 1920s and 1930s) and on the sustainability of multilateral institutions (think League of Nations in the same period). There is no reason to think that this would not be true in the twenty-first as much as in the twentieth century. For that reason, the ways in which the potential for greater conflict could grow would seem to be even more apt in a constantly volatile economic environment as they would be if change would be steadier. In surveying those risks, the report stressed the likelihood that terrorism and nonproliferation will remain priorities even as resource issues move up on the international agenda. Terrorism’s appeal will decline if economic growth continues in the Middle East and youth unemployment is reduced. For those terrorist groups that remain active in 2025, however, the diffusion of technologies and scientific knowledge will place some of the world’s most dangerous capabilities within their reach. Terrorist groups in 2025 will likely be a combination of descendants of long established groups\_inheriting organizational structures, command and control processes, and training procedures necessary to conduct sophisticated attacks\_and newly emergent collections of the angry and disenfranchised that become self-radicalized, particularly in the absence of economic outlets that would become narrower in an economic downturn. The most dangerous casualty of any economically-induced drawdown of U.S. military presence would almost certainly be the Middle East. Although Iran’s acquisition of nuclear weapons is not inevitable, worries about a nuclear-armed Iran could lead states in the region to develop new security arrangements with external powers, acquire additional weapons, and consider pursuing their own nuclear ambitions. It is not clear that the type of stable deterrent relationship that existed between the great powers for most of the Cold War would emerge naturally in the Middle East with a nuclear Iran. Episodes of low intensity conflict and terrorism taking place under a nuclear umbrella could lead to an unintended escalation and broader conflict if clear red lines between those states involved are not well established. The close proximity of potential nuclear rivals combined with underdeveloped surveillance capabilities and mobile dual-capable Iranian missile systems also will produce inherent difficulties in achieving reliable indications and warning of an impending nuclear attack. The lack of strategic depth in neighboring states like Israel, short warning and missile flight times, and uncertainty of Iranian intentions may place more focus on preemption rather than defense, potentially leading to escalating crises. 36 Types of conflict that the world continues to experience, such as over resources, could reemerge, particularly if protectionism grows and there is a resort to neo-mercantilist practices. Perceptions of renewed energy scarcity will drive countries to take actions to assure their future access to energy supplies. In the worst case, this could result in interstate conflicts if government leaders deem assured access to energy resources, for example, to be essential for maintaining domestic stability and the survival of their regime. Even actions short of war, however, will have important geopolitical implications. Maritime security concerns are providing a rationale for naval buildups and modernization efforts, such as China’s and India’s development of blue water naval capabilities. If the fiscal stimulus focus for these countries indeed turns inward, one of the most obvious funding targets may be military. Buildup of regional naval capabilities could lead to increased tensions, rivalries, and counterbalancing moves, but it also will create opportunities for multinational cooperation in protecting critical sea lanes. With water also becoming scarcer in Asia and the Middle East, cooperation to manage changing water resources is likely to be increasingly difficult both within and between states in a more dog-eat-dog world.

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#### The Executive Branch of the United States federal government should:

#### Institute civilian casualty data analysis after each drone use

#### Transfer control of the drone program from the CIA to the DOD

#### Establish channels for civilians harmed by drone strikes to come forward with their grievances or receive help

#### Publish clear guidelines for targeting to be carried out by nonpoliticians and make assassinations truly a last resort

#### and implement this through self-binding mechanisms including, but not limited to independent commissions to review and ensure compliance with the order and transparency measures that gives journalists access to White House decisionmaking.

#### CP ensures immediate reforms to drone program, reduces and resolve civilian casualties

Holewinski & Lewis, 11/6 --- \*executive director of the Center for Civilians in Conflict, AND \*\*research analyst and field representative for CNA’s Operations Evaluation Group (11/6/2013, Sarah Holewinski and Larry Lewis, “Five Ways Obama Can Fix Drones Right Now,” <http://www.defenseone.com/ideas/2013/11/five-ways-obama-can-fix-drones-right-now/73304/?oref=d-skybox>))

Drones aren’t magical. Any weapon system is only as effective as how it’s used. In that spirit, we offer here some practical steps Washington could immediately take to help drones meet President Obama’s criteria from his May speech, when he said, “Before any strike is taken, there must be near-certainty that no civilians will be killed or injured -- the highest standard we can set.”We believe the United States can live up to this admirable standard with deliberate effort. The good news is that we know it’s possible because it’s been done before. After taking a public bashing over civilian casualties in Afghanistan, U.S. commanders made a point of investigating, analyzing, responding to and learning lessons from civilian harm. They looked at the problem of civilian harm square in the eye and addressed it. We ask the Obama administration to do the same when using drones. Don’t equate precision with low civilian casualties “Precision” is the new black. The administration touts drones as the most precise weapon in history. But a drone isn’t precise in and of itself, and using this word incorrectly diverts needed discussions about gaps in policy or operations that risk civilian harm. Consider that a Center for Naval Analyses study in Afghanistan found that drone strikes were ten times more likely to cause casualties than strikes by manned aircraft. Why? Because of gaps in training, communications, and intelligence. Our point is that it’s not about the drone itself. Drones have weaknesses, just like any other weapon. For a drone to be more precise than a fighter jet, it needs the right inputs: quality intelligence, effective communications among the many players and knowledge of pattern of life. A big part of minimizing civilian harm is the operator knowing the identity of the target and whoever else is in the area. Video feeds can’t see into buildings or cars, and while “pattern of life” surveillance from the sky can give additional insight, this is by no means perfect. Drones may reduce civilian risk compared to massive air campaigns or invading ground forces, but these aren’t valid alternatives to fight terrorism. Alternatives to drones appear to be on the docket with recent special operations raids in Libya and Somalia, and this is a good thing. Special operations forces in Somalia stopped their raid because they saw women inside the building. A drone might have killed everyone inside. And of course, the State Department should have a big stake in other counterterrorism approaches, if only because drone strikes can get in the way of diplomacy with needed security partners. (Related: Obama Was Wrong When He Said the U.S. Doesn't Do Pinpricks) Know the real reality, not the desired one To avoid killing civilians to “near-certainty” means the U.S. needs to know how many civilians may be harmed. The reality is that there are big challenges to getting that information both before and after an air strike. Video feeds, often the primary intelligence option in a place like Pakistan, don’t show a civilian hiding in the basement of a home or an al Qaeda operative’s wife. While it has been said that independent assessments of civilian casualties tend to be too high, official U.S. estimates are certainly too low. The truth is likely to be somewhere in between. Civilian casualty data analysis can show root causes of each accident and point to ways that operations can be less harmful in the future. In Afghanistan, this learning process was more important for reducing civilian harm than any individual weapon system. Yet this analysis and learning doesn’t happen in Pakistan, Yemen or Somalia. It’s time the U.S. relearn what it did in Afghanistan and formally review the civilian impact of drone strikes, so that the program is informed by facts not hopes. A review like this, which is performed constantly on other issues, is likely to highlight operational practices that put civilians at more risk than necessary. Take the CIA out of the lead on dronesThe CIA will always have a supporting role in drone operations, but the military appears better suited for the command role. The drone program would benefit from long-established doctrine and recently improved processes for targeting and reducing civilian harm. And the military has a history of openly debating the ethical use of force.To his credit, President Obama pledged to transfer drone command from the CIA to the Department of Defense. Staffers on the Hill tell us that the process is slow going due to worries about DOD’s capacity to handle the entire drone program, and worry that special operations forces often act as a mini-CIA within the military without proper oversight. These are valid concerns, but they can be addressed. The Armed Services Committees should be proactive in solving the capacity and accountability issues. For example, military commanders leading a drone program could give a progress report to these committees every six months. Get thee a “civilian” mindset Any Air Force pilot who recently served in Afghanistan will tell you that the “civilian” is the center of gravity. Civilian casualties were simply not acceptable. Starting with Gen. Stanley McChrystal, former International Security Assistance Force chief, commanders drilled this mindset into their troops, understanding that civilian harm and anger crippled the mission. Better training and doctrine on avoiding civilians and responding properly to harm followed for all deploying forces. In our visits to bases both stateside and in Afghanistan, we saw a sea change for the better in how military personnel thought about civilian harm. The isolation of drone pilots from this shift in mindset means that new pilots do not benefit from an updated version of McChrystal’s shakedown on killing civilians And, the rapid expansion of the drone program means training time for these issues is scarce. Don’t walk away from civilian harm that happens From Roman to modern combat operations, civilian harm is an unfailing fact. Drone technology will not change this. Even with all the right inputs and training, there’s what one pilot called the "oops” factor. Whether casualties are in the single digits or hundreds, Washington should have some plan to address the inevitable. The U.S. has offered no channels for civilians harmed by drone strikes outside of declared theaters of conflict to come forward with their grievances or receive help. What’s striking is that the U.S. military in Vietnam, Korea, Afghanistan and Iraq did recognize civilian harm with great effect. Locals tended to view U.S. operations more favorably for making the effort. Not having troops on the ground where many drones strike doesn’t mean the U.S. should just walk away from civilian harm; doing so can cause long lasting resentment and invite criticism about American values. Partner states can investigate incidents of civilian harm. The State Department can broker assistance agreements with local officials. USAID programs can offer longer-term assistance to victims. Aid can even be channeled through the host government in some cases. Our point is that there are practical solutions to be found, if policymakers prioritize the principle.

#### Including self-binding mechanisms ensures effective constraints and executive credibility

Posner & Vermeule, 6 --- \*Prof of Law at U Chicago, AND \*\* Prof of Law at Harvard (9/19/2006, Eric A. Posner & Adrian Vermeule, “The Credible Executive,” <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=931501)>)

We suggest that the executive’s credibility problem can be solved by second-order mechanisms of executive signaling. In the general case, well-motivated executives send credible signals by taking actions that are more costly for ill-motivated actors than for well-motivated ones, thus distinguishing themselves from their ill-motivated mimics. Among the specific mechanisms we discuss, an important subset involve executive self-binding, whereby executives commit themselves to a course of action that would impose higher costs on ill-motivated actors. Commitments themselves have value as signals of benign motivations.This departs from the usual approach in legal scholarship. Legal theory has often discussed self-binding by “government” or government officials. In constitutional theory, it is often suggested that constitutions represent an attempt by “the people” to bind “themselves” against their own future decisionmaking pathologies, or relatedly that constitutional prohibitions represent mechanisms by which governments commit themselves not to expropriate investments or to exploit their populations.71 Whether or not this picture is coherent,72 it is not the question we examine here, although some of the relevant considerations are similar.73 We are not concerned with binding the president so that he cannot abuse his powers, but with how he might bind himself or take other actions that enhance his credibility, so that he can generate support from the public and other members of the government. Furthermore, our question is subconstitutional; it is whether a well-motivated executive, acting within an established set of constitutional and statutory rules, can use signaling to generate public trust. Accordingly we proceed by assuming that no constitutional amendments or new statutes will be enacted. Within these constraints, what can a well-motivated executive do to bootstrap himself to credibility? The problem for the well-motivated executive is to credibly signal his benign motivations; in general, the solution is to engage in actions that are less costly for good types than for bad types. We begin with some relevant law; then examine a set of possible mechanisms, emphasizing both the conditions under which they might succeed and the conditions under which they might not; and then examine the costs of credibility. A. A Preliminary Note on Law and Self-Binding Many of our mechanisms are unproblematic from a legal perspective, as they involve presidential actions that are clearly lawful. But a few raise legal questions; in particular, those that involve self-binding.74 Can a president bind himself to respect particular first-order policies? With qualifications, the answer is “yes, at least to the same extent that a legislature can.” Formally, a duly promulgated executive rule or order binds even the executive unless and until it is validly abrogated, thereby establishing a new legal status quo.75 The legal authority to establish a new status quo allows a president to create inertia or political constraints that will affect his own future choices. In a practical sense, presidents, like legislatures, have great de facto power to adopt policies that shape the legal landscape for the future. A president might commit himself to a long-term project of defense procurement or infrastructure or foreign policy, narrowing his own future choices and generating new political coalitions that will act to defend the new rules or policies.More schematically, we may speak of formal and informal means of self-binding: (1) The president might use formal means to bind himself. This is possible in the sense that an executive order, if otherwise valid, legally binds the president while it is in effect and may be enforced by the courts. It is not possible in the sense that the president can always repeal the executive order if he can bear the political and reputational costs of doing so. (2) The president might use informal means to bind himself. This is not only possible but frequent and important. Issuing an executive rule providing for the appointment of special prosecutors, as Nixon did, is not a formal self-binding.76 However, there may be large political costs to repealing the order. This effect does not depend on the courts’ willingness to enforce the order, even against Nixon himself. Court enforcement makes the order legally binding while it is in place, but only political and reputational enforcement can protect it from repeal. Just as a dessert addict might announce to his friends that he is going on a no-dessert diet in order to raise the reputational costs of backsliding and thus commit himself, so too the repeal of an executive order may be seen as a breach of faith even if no other institution ever enforces it. In what follows, we will invoke both formal and informal mechanisms. For our purposes, the distinction between the authority to engage in de jure self-binding (legally limited and well-defined) and the power to engage in de facto self-binding (broad and amorphous) is secondary. So long as policies are deliberately chosen with a view to generating credibility, and do so by constraining the president’s own future choices in ways that impose greater costs on ill-motivated presidents than on well-motivated ones, it does not matter whether the constraint is formal or informal. B. Mechanisms What signaling mechanisms might a well-motivated executive adopt to credibly assure voters, legislators and judges that his policies rest on judgments about the public interest, rather than on power-maximization, partisanship or other nefarious motives? Intrabranch separation of powers. In an interesting treatment of related problems, Neal Katyal suggests that the failure of the Madisonian system counsels “internal separation of powers” within the executive branch.77 Abdication by Congress means that there are few effective checks on executive power; second-best substitutes are necessary. Katyal proposes some mechanisms that would be adopted by Congress, such as oversight hearings by the minority party, but his most creative proposals are for arrangements internal to the executive branch, such as redundancy and competition among agencies, stronger civil-service protections and internal adjudication of executive controversies by insulated “executive” decisionmakers who resemble judges in many ways.78Katyal’s argument is relevant because the mechanisms he discusses might be understood as signaling devices, but his overall approach is conceptually flawed, on two grounds. First, the assumption that second-best constraints on the executive should reproduce the Madisonian separation of powers within the executive branch is never defended. The idea seems to be that this is as close as we can get to the first-best, while holding constant everything else in our constitutional order. But the general theory of second-best states that approaching as closely as possible to the first-best will not necessarily be the preferred strategy;79 the best approach may be to adjust matters on other margins as well, in potentially unpredictable ways. If the Madisonian system has failed in the ways Katyal suggests, the best compensating adjustment might be, for all we know, to switch to a parliamentary system. (We assume that no large-scale changes of this sort are possible, whereas Katyal seemingly assumes that they are, or at least does not make clear his assumptions in this regard). Overall, Katyal’s view has a kind of fractal quality – each branch should reproduce within itself the very same separation of powers structure that also describes the whole system – but it is not explained why the constitutional order should be fractal. Second, Katyal’s proposals for internal separation of powers are self-defeating: the motivations that Katyal ascribes to the executive are inconsistent with the executive adopting or respecting the prescriptions Katyal recommends.80 Katyal never quite says so explicitly, but he clearly envisions the executive as a power-maximizing actor, in the sense that the president seeks to remove all constraints on his current choices.81 Such an executive would not adopt or enforce the internal separation of powers to check himself. Executive signaling is not, even in principle, a solution to the lack of constraints on a power-maximizing executive in the sense Katyal implicitly intends. Although an illmotivated executive might bind himself to enhance his strategic credibility, as explained above, he would not do so in order to restore the balance of powers. Nor is it possible, given Katyal’s premise of legislative passivity or abdication, that Congress would force the internal separation of powers on the executive. In what follows, we limit ourselves to proposals that are consistent with the motivations, beliefs, and political opportunities that we ascribe to the well-motivated executive, to whom the proposals are addressed. This limitation ensures that the proposals are not self-defeating, whatever their costs. The contrast here must not be drawn too simply. A well-motivated executive, in our sense, might well attempt to increase his power. The very point of demonstrating credibility is to encourage voters and legislators to increase the discretionary authority of the executive, where all will be made better off by doing so. Scholars such as Katyal who implicitly distrust the executive, however, do not subscribe to this picture of executive motivations. Rather, they see the executive as an unfaithful agent of the voters; the executive attempts to maximize his power even where fully-informed voters would prefer otherwise. An actor of that sort will have no incentive to adopt proposals intended to constrain that sort of actor. Independent commissions. We now turn to some conceptually coherent mechanisms of executive signaling. Somewhat analogously to Katyal’s idea of the internal separation of powers, a well-motivated executive might establish independent commissions to review policy decisions, either before or after the fact. Presidents do this routinely, especially after a policy has had disastrous outcomes, but sometimes beforehand as well. Independent commissions are typically blue-ribbon and bipartisan.82 We add to this familiar process the idea that the President might gain credibility by publicly committing or binding himself to give the commission authority on some dimension. The president might publicly promise to follow the recommendations of such a commission, or to allow the commission to exercise de facto veto power over a policy decision before it is made, or might promise before the policy is chosen that the commission will be given power to review its success after the fact. To be sure, there will always be some wiggle room in the terms of the promise, but that is true of almost all commitments, which raise the costs of wiggling out even if they do not completely prevent it. Consider whether George W. Bush’s credibility would have been enhanced had he appointed a blue-ribbon commission to examine the evidence for weapons of mass destruction in Iraq before the 2003 invasion, and publicly promised not to invade unless the commission found substantial evidence of their existence. Bush would have retained his preexisting legal authority to order the invasion even if the commission found the evidence inadequate, but the political costs of doing so would have been large. Knowing this, and knowing that Bush shared that knowledge, the public could have inferred that Bush’s professed motive – elimination of weapons of mass destruction – was also his real motive. Public promises that inflict reputational costs on badly motivated behavior help the well-motivated executive to credibly distinguish himself from the ill-motivated one. The more common version of this tactic is to appoint commissions after the relevant event, as George W. Bush did to investigate the faulty reports by intelligence agencies that Iraq possessed weapons of mass destruction.83 If the president appoints after-the-fact commissions, the commissions can enhance his credibility for the next event—by showing that he will be willing, after that event, to subject his statements to scrutiny by public experts. Here, however, the demonstration of credibility is weaker, because there is no commitment to appoint any after-the-fact commissions in the future – merely a plausible inference that the president’s future behavior will track his past behavior. Bipartisan appointments. In examples of the sort just mentioned, the signaling arises from public position-taking. The well-motivated executive might produce similar effects through appointments to office.84 A number of statutes require partisan balance on multimember commissions; although these statutes are outside the scope of our discussion, we note that presidents might approve them because they allow the president to commit to a policy that legislators favor, thus encouraging legislators to increase the scope of the delegation in the first place.85 For similar reasons, presidents may consent to restrictions on the removal of agency officials, because the restriction enables the president to commit to giving the agency some autonomy from the president’s preferences.86 Similar mechanisms can work even where no statutes are in the picture. As previously mentioned, during World War II, FDR appointed Republicans to important cabinet positions, making Stimson his Secretary of War. Clinton appointed William Cohen, a moderate Republican, as Secretary of Defense in order to shore up his credibility on security issues. Bipartisanship of this sort might improve the deliberation that precedes decisions, by impeding various forms of herding, cascades and groupthink;87 however, we focus on its credibility-generating effects. By (1) expanding the circle of those who share the president’s privileged access to information, (2) ensuring that policy is partly controlled by officials with preferences that differ from the president’s, and (3) inviting a potential whistleblower into the tent, bipartisanship helps to dispel the suspicion that policy decisions rest on partisan motives or extreme preferences, which in turn encourages broader delegations of discretion from the public and Congress. A commitment to bipartisanship is only one way in which appointments can generate credibility. Presidents might simply appoint a person with a reputation for integrity, as when President Nixon appointed Archibald Cox as special prosecutor (although plausibly Nixon did so because he was forced to do so by political constraints, rather than as a tactic for generating credibility). A person with well-known preferences on a particular issue, even if not of the other party or widely respected for impartiality, can serve as a credible whistleblower on that issue. Thus presidents routinely award cabinet posts to leaders of subsets of the president’s own party, leaders whose preferences are known to diverge from the president’s on the subject; one point of this is to credibly assure the relevant interest groups that the president will not deviate (too far) from their preferences. The Independent Counsel Statute institutionalized the special prosecutor and strengthened it. But the statute proved unpopular and was allowed to lapse in 1999.88 This experience raises two interesting questions. First, why have presidents confined themselves to appointing lawyers to investigate allegations of wrongdoing; why have they not appointed, say, independent policy experts to investigate allegations of policy failure? Second, why did the Independent Counsel Statute fail? Briefly, the statute failed because it was too difficult to control the behavior of the prosecutor, who was not given any incentive to keep his investigation within reasonable bounds.89 Not surprisingly, policy investigators would be even less constrained since they would not be confined by the law, and at the same time, without legal powers they would probably be ignored on partisan grounds. A commission composed of members with diverse viewpoints is harder to ignore, if the members agree with each other. More generally, the decision by presidents to bring into their administrations members of other parties, or persons with a reputation for bipartisanship and integrity, illustrates the formation of domestic coalitions of the willing. Presidents can informally bargain around the formal separation of powers90 by employing subsets of Congress, or of the opposing party, to generate credibility while maintaining a measure of institutional control. FDR was willing to appoint Knox and Stimson, but not to give the Republicans in Congress a veto. Truman was willing to ally with Arthur Vandenbergh but not with all the Republicans; Clinton was willing to appoint William Cohen but not Newt Gingrich. George W. Bush likewise made a gesture towards credibility by briefing members of the Senate Intelligence Committee – including Democrats – on the administration’s secret surveillance program(s), which provided a useful talking point when the existence of the program(s) was revealed to the public. Counter-partisanship. Related to bipartisanship is what might be called counterpartisanship: presidents have greater credibility when they choose policies that cut against the grain of their party’s platform or their own presumed preferences.91 Only Nixon could go to China, and only Clinton could engineer welfare reform. Voters and publics rationally employ a political heuristic: the relevant policy, which voters are incapable of directly assessing, must be highly beneficial if it is chosen by a president who is predisposed against it by convictions or partisan loyalty.92 Accordingly, those who wish to move U.S. terrorism policy towards greater security and less liberty might do well to support the election of a Democrat.93 By the same logic, George W. Bush is widely suspected of nefarious motives when he rounds up alleged enemy combatants, but not when he creates a massive prescription drug benefit. Counter-partisanship can powerfully enhance the president’s credibility, but it depends heavily on a lucky alignment of political stars. A peace-loving president has credibility when he declares a military emergency but not when he appeases; a belligerent president has credibility when he offers peace but not when he advocates military solutions. A lucky nation has a well-motivated president with a belligerent reputation when international tensions diminish (Ronald Reagan) and a president with a pacific reputation when they grow (Abraham Lincoln, who opposed the Mexican War). But a nation is not always lucky. Transparency. The well-motivated executive might commit to transparency, as a way to reduce the costs to outsiders of monitoring his actions.94 The FDR strategy of inviting potential whistleblowers from the opposite party into government is a special case of this; the implicit threat is that the whistleblower will make public any evidence of partisan motivations. The more ambitious case involves actually exposing the executive’s decisionmaking processes to observation. To the extent that an ill-motivated executive cannot publicly acknowledge his motivations or publicly instruct subordinates to take them into account in decisionmaking, transparency will exclude those motivations from the decisionmaking process. The public will know that only a well-motivated executive would promise transparency in the first place, and the public can therefore draw an inference to credibility.Credibility is especially enhanced when transparency is effected through journalists with reputations for integrity or with political preferences opposite to those of the president. Thus George W. Bush gave Bob Woodward unprecedented access to White House decisionmaking, and perhaps even to classified intelligence,95 with the expectation that the material would be published. This sort of disclosure to journalists is not real-time transparency – no one expects meetings of the National Security Council to appear on CSPAN – but the anticipation of future disclosure can have a disciplining effect in the present. By inviting this disciplining effect, the administration engages in signaling in the present through (the threat of) future transparency.

### 1NC K

#### aff’s use of the law is a militaristic tactic that creates legal legitimacy to propel more frequent, more deadly violent interventions that ensure infrastructural violence that maims civilians – they actively displace moral questions in favor of a pathologically detached question of legality

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(Thomas, *International Studies Quarterly* 46, The New Law of War: Legitimizing Hi-Tech and Infrastructural Violence)

The role of military lawyers in all this has, according to one study, “changed irrevocably” ~Keeva, 1991:59!. Although liberal theorists point to the broad normative contours that law lends to international relations, the Pentagon wields law with technical precision. During the Gulf War and the Kosovo campaign, JAGs opined on the legal status of multinational forces, the U.S. War Powers Resolution, rules of engagement and targeting, country fly-overs, maritime interceptions, treatment of prisoners, hostages and “human shields,” and methods used to gather intelligence. Long before the bombing began, lawyers had joined in the development and acquisition of weapons systems, tactical planning, and troop training. In the Gulf War, the U.S. deployed approximately 430 military lawyers, the allies far fewer, leading to some amusing but perhaps apposite observations about the legalistic culture of America ~Garratt, 1993!. Many lawyers reviewed daily Air Tasking Orders as well as land tactics. Others found themselves on the ground and at the front. According to Colonel Rup- pert, the idea was to “put the lawyer as far forward as possible” ~Myrow, 1996–97!. During the Kosovo campaign, lawyers based at the Combined Allied Operations Center in Vicenza, Italy, and at NATO headquarters in Brussels approved every single targeting decision. We do not know precisely how decisions were taken in either Iraq or Kosovo or the extent to which the lawyers reined in their masters. Some “corrections and adjustments” to the target lists were made ~Shot- well, 1993:26!, but by all accounts the lawyers—and the law—were extremely accommodating. The exigencies of war invite professional hazards as military lawyers seek to “find the law” and to determine their own responsibilities as legal counselors. A 1990 article in Military Law Review admonished judge advocates not to neglect their duty to point out breaches of the law, but not to become military ombuds- men either. The article acknowledged that the JAG faces pressure to demonstrate that he can be a “force multiplier” who can “show the tactical and political soundness of his interpretation of the law” ~Winter, 1990:8–9!. Some tension between law and necessity is inevitable, but over the past decade the focus has shifted visibly from restraining violence to legitimizing it. The Vietnam-era perception that law was a drag on operations has been replaced by a zealous “client culture” among judge advocates. Commanding officers “have come to realize that, as in the relationship of corporate counsel to CEO, the JAG’s role is not to create obstacles, but to find legal ways to achieve his client’s goals—even when those goals are to blow things up and kill people” ~Keeva, 1991:59!. Lt. Col. Tony Montgomery, the JAG who approved the bombing of the Belgrade television studios, said recently that “judges don’t lay down the law. We take guidance from our government on how much of the consequences they are willing to accept” ~The Guardian, 2001!. Military necessity is undeterred. In a permissive legal atmosphere, hi-tech states can meet their goals and remain within the letter of the law. As noted, humanitarian law is firmest in areas of marginal military utility. When opera- tional demands intrude, however, even fundamental rules begin to erode. The Defense Department’s final report to Congress on the Gulf War ~DOD, 1992! found nothing in the principle of noncombatant immunity to curb necessity. Heartened by the knowledge that civilian discrimination is “one of the least codified portions” of the law of war ~p. 611!, the authors argued that “to the degree possible and consistent with allowable risk to aircraft and aircrews,” muni- tions and delivery systems were chosen to reduce collateral damage ~p. 612!. “An attacker must exercise reasonable precautions to minimize incidental or collat- eral injury to the civilian population or damage to civilian objects, consistent with mission accomplishments and allowable risk to the attacking forces” ~p. 615!. The report notes that planners targeted “specific military objects in populated areas which the law of war permits” and acknowledges the “commingling” of civilian and military objects, yet the authors maintain that “at no time were civilian areas as such attacked” ~p. 613!. The report carefully constructed a precedent for future conflicts in which human shields might be deployed, noting “the presence of civilians will not render a target immune from attack” ~p. 615!. The report insisted ~pp. 606–607! that Protocol I as well as the 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons “were not legally applicable” to the Gulf War because Iraq as well as some Coalition members had not ratified them. More to the point that law follows practice, the report claimed that certain provisions of Protocol I “are not a codification of the customary practice of nations,” and thus “ignore the realities of war” ~p. 616!. Nor can there be any doubt that a more elaborate legal regime has kept pace with evolving strategy and technology. Michael Ignatieff details in Virtual War ~2000! how targets were “developed” in 72-hour cycles that involved collecting and reviewing aerial reconnaissance, gauging military necessity, and coding antici- pated collateral damage down to the directional spray of bomb debris. A judge advocate then vetted each target in light of the Geneva Conventions and calcu- lated whether or not the overall advantage to be gained outweighed any expected civilian spillover. Ignatieff argues ~2000:198–199! that this elaborate symbiosis of law and technology has given birth to a “veritable casuistry of war.” Legal fine print, hand-in-hand with new technology, replaced deeper deliberation about the use of violence in war. The law provided “harried decision-makers with a critical guarantee of legal coverage, turning complex issues of morality into technical issues of legality.” Astonishingly fine discrimination also meant that unintentional civilian casualties were assumed to have been unintentional, not foreseen tragedies to be justified under the rule of double effect or the fog of war. The crowning irony is that NATO went to such lengths to justify its targets and limit collateral damage, even as it assured long-term civilian harm by destroying the country’s infrastructure. Perhaps the most powerful justification was provided by law itself. War is often dressed up in patriotic abstractions—Periclean oratory, jingoistic newsreels, or heroic memorials. Bellum Americanum is cloaked in the stylized language of law. The DOD report is padded with references to treaty law, some of it obscure, that was “applicable” to the Gulf War, as if a surfeit of legal citation would convince skeptics of the propriety of the war. Instances of humane restraint invariably were presented as the rule of law in action. Thus the Allies did not gas Iraqi troops, torture POWs, or commit acts of perfidy. Most striking is the use of legal language to justify the erosion of noncombatant immunity. Hewing to the legal- isms of double effect, the Allies never intentionally targeted civilians as such. As noted, by codifying double effect the law artificially bifurcates intentions. Har- vard theologian Bryan Hehir ~1996:7! marveled at the Coalition’s legalistic word- play, noting that the “briefers out of Riyadh sounded like Jesuits as they sought to defend the policy from any charge of attempting to directly attack civilians.” The Pentagon’s legal narrative is certainly detached from the carnage on the ground, but it also oversimplifies and even actively obscures the moral choices involved in aerial bombing. Lawyers and tacticians made very deliberate decisions about aircraft, flight altitudes, time of day, ordnance dropped, confidence in intelligence, and so forth. By expanding military necessity to encompass an extremely prudential reading of “force protection,” these choices were calculated to protect pilots and planes at the expense of civilians on the ground, departing from the just war tradition that combatants assume greater risks than civilians. While it is tempting to blame collateral damage on the fog of war, much of that uncertainty has been lifted by technology and precision law. Similarly, in Iraq and in Yugoslavia the focus was on “degrading” military capabilities, yet a loose view of dual use spelled the destruction of what were essentially social, economic, and political targets. Coalition and NATO officials were quick to apologize for accidental civilian casualties, but in hi-tech war most noncombatant suffering is by design. Does the law of war reduce death and destruction? International law certainly has helped to delegitimize, and in rare cases effectively criminalize, direct attacks on civilians. But in general humanitarian law has mirrored wartime practice. On the ad bellum side, the erosion of right authority and just cause has eased the path toward war. Today, foreign offices rarely even bother with formal declarations of war. Under the United Nations system it is the responsibility of the Security Council to denounce illegal war, but for a number of reasons its members have been extremely reluctant to brand states as aggressors. If the law were less accommodating, greater effort might be devoted to diplomacy and war might be averted. On the in bello side the ban on direct civilian strikes remains intact, but double effect and military demands have been contrived to justify unnecessary civilian deaths. Dual use law has been stretched to sanction new forms of violence against civilians. Though not as spectacular as the obliteration bombing to which it so often is favorably compared, infrastructural war is far deadlier than the rhetoric of a “clean and legal” conflict suggests. It is true that rough estimates of the ratio of bomb tonnage to civilian deaths in air attacks show remarkable reductions in immediate collateral damage. There were some 40.83 deaths per ton in the bombing of Guernica in 1937 and 50.33 deaths per ton in the bombing of Tokyo in 1945. In the Kosovo campaign, by contrast, there were between .077 and .084 deaths per ton. In Iraq there were a mere .034 ~Thomas, 2001:169!. According to the classical definition of collateral damage, civilian protection has improved dramatically, but if one takes into account the staggering long-term effects of the war in Iraq, for example, aerial bombing looks anything but humane. For aerial bombers themselves modern war does live up to its clean and legal image. While war and intervention have few steadfast constituents, the myth of immaculate warfare has eased fears that intervening soldiers may come to harm, which polls in the U.S., at least, rank as being of great public concern, and even greater military concern. A new survey of U.S. civilian and military attitudes found that soldiers were two to four times more casualty-averse than civilians thought they should be ~Feaver and Kohn, 2001!. By removing what is perhaps the greatest restraint on the use of force—the possibility of soldiers dying—law and technology have given rise to the novel moral hazards of a “postmodern, risk-free, painless war” ~Woollacott, 1999!. “We’ve come to expect the immacu- late,” notes Martin Cook, who teaches ethics at the U.S. Army War College in Carlisle, PA. “Precision-guided munitions make it very much easier to go to war than it ever has been historically.” Albert Pierce, director of the Center for the Study of Professional Military Ethics at the U.S. Naval Academy argues, “standoff precision weapons give you the option to lower costs and risks . . . but you might be tempted to do things that you might otherwise not do” ~Belsie, 1999!. Conclusion The utility of law to legitimize modern warfare should not be underestimated. Even in the midst of war, legal arguments retain an aura of legitimacy that is missing in “political” justifications. The aspirations of humanitarian law are sound. Rather, it is the instrumental use of law that has oiled the skids of hi-tech violence. Not only does the law defer to military necessity, even when very broadly defined, but more importantly it bestows on those same military demands all the moral and psychological trappings of legality. The result has been to legalize and thus to justify in the public mind “inhumane military methods and their consequences,” as violence against civilians is carried out “behind the protective veil of justice” ~af Jochnick and Normand, 1994a:50!. Hi-tech states can defend hugely destructive, essentially unopposed, aerial bombardment by citing the authority of seemingly secular and universal legal standards. The growing gap between hi- and low-tech means may exacerbate inequalities in moral capital as well, as the sheer barbarism of “premodern” violence committed by ethnic cleansers or atavistic warlords makes the methods employed by hi-tech warriors seem all the more clean and legal by contrast. This fusion of law and technology is likely to propel future American interventions. Despite assurances that the campaign against terrorism would differ from past conflicts, the allied air war in Afghanistan, marked by record numbers of unmanned drones and bomber flights at up to 35,000 feet, or nearly 7 miles aloft, rarely strayed from the hi-tech and legalistic script. While the attack on the World Trade Center confirmed a thousand times over the illegality and inhu- manity of terrorism, the U.S. response has raised further issues of legality and inhumanity in conventional warfare. Civilian deaths in the campaign have been substantial because “military objects” have been targeted on the basis of extremely low-confidence intelligence. In several cases targets appear to have been chosen based on misinformation and even rank rumor. A liberal reading of dual use and the authorization of bombers to strike unvetted “targets of opportunity” also increased collateral damage. Although 10,000 of the 18,000 bombs, missiles, and other ordnance used in Afghanistan were precision-guided munitions, the war resulted in roughly 1000 to 4000 direct civilian deaths, and, according to the UNHCR, produced 900,000 new refugees and displaced persons. The Pentagon has nevertheless viewed the campaign as “a more antiseptic air war even than the one waged in Kosovo” ~Dao, 2001!. General Tommy Franks, who commanded the campaign, called it “the most accurate war ever fought in this nation’s history” ~Schmitt, 2002!.9 No fundamental change is in sight. Governments continue to justify collateral damage by citing the marvels of technology and the authority of international law. One does see a widening rift between governments and independent human rights and humanitarian relief groups over the interpretation of targeting and dual-use law. But these disputes have only underscored the ambiguities of human- itarian law. As long as interventionist states dominate the way that the rules of war are crafted and construed, hopes of rescuing law from politics will be dim indeed.

#### **militarism is a fundamentally unsustainable system that is the root cause of all extinction threats and ensures mass structural violence – non-violence is the only possible response**

Kovel 2

(Joel, “The United States Military Machine”, http://www.joelkovel.org/americanmilitary.htm; Jacob)

I want to talk to you this evening about war - not the immediate threat of us war against Iraq, but about how this conflict is an instance of a larger tendency toward war-making endemic to our society. In other words, the phrase from the folksong, “I ain’t gonna study war no more,” should be rethought. I think we do have to study war. Not to make war but to understand more deeply how it is put together and about the awful choices that are now being thrust upon us. These remarks have been stimulated by recent events, which have ancient roots, but have taken on a new shape since the collapse of the Soviet Union, the rise of the second Bush administration, and the inception of the so-called “War on Terror.” The shape is that of permanent warfare- war-making that has no particular strategic goal except total us dominance over global society. Hence, a war without end and whose internal logic is to perpetuate itself. We are, in other words, well into World War III, which will go on whether or not any other state such as Iraq is involved. It is quite probable that this administration will go to war in Iraq, inasmuch as certain very powerful people crave it. But it is not necessarily the case, given the fact that the war against Iraq is such a lunatic proposal that many other people in high places are against it and too many people are marching against it. And while war against Iraq is a very serious matter that needs to be checked by massive popular resistance, equally serious are the structures now in place in the United States dictating that whether or not the war in Iraq takes place, there will be another war to replace it, and others after that, unless some very basic changes take place. America Has Become a War-Making Machine The United States has always been a bellicose and expansive country, built on violent conquest and expropriation of native peoples. Since the forming of the American republic, military interventions have occurred at the rate of about once a year. Consider the case of Nicaragua, a country utterly incapable of being any kind of a threat to its giant northern neighbor. Yet prior to the Sandinista revolution in 1979 (which was eventually crushed by us proxy forces a decade later), our country had invaded Nicaragua no fewer than 14 times in the pursuit of its imperial interests. A considerable number of contemporary states, such as Britain, South Africa, Russia, and Israel, have been formed in just such a way. But one of the special conditions of the formation of America, despite its aggressivity, was an inhibition against a military machine as such. If you remember, no less a figure than George Washington warned us against having a standing army, and indeed the great bulk of us interventions prior to World War II were done without very much in the way of fixed military institutions. However, after WWII a basic change set in. War-weary America longed for demobilization, yet after a brief beginning in this direction, the process was halted and the permanent warfare state started to take shape. In part, this was because policy planners knew quite well that massive wartime mobilization had been the one measure that finally lifted America out of the Great Depression of the 1930s. One of the lessons of that time was that propounded by the British economist John Maynard Keynes, to the effect that capitalist societies could ameliorate chronic [economic] crises by infusions of government spending. The Great War had certified this wisdom, and permanent military expenditure readily became the received wisdom. This was greatly reinforced by the drastic realignment of capitalist power as a result of the war. America was essentially the only capitalist power in 1945 that did not lay in ruins and/or have its empire shattered. The world had been realigned and the United States had assumed a global imperial role. Policy planners like George Kennan lucidly realized that this meant safeguarding extreme inequalities in wealth, which implied a permanent garrison to preserve the order of things. The notion was especially compelling given that one other state, the Soviet Union, had emerged a great power from the war and was the bellwether of those forces that sought to break down the prevailing distribution of wealth. The final foundation stone for the new military order was the emergence of frightful weapons of mass destruction, dominance over which became an essential element for world hegemony. The Iron Triangle These factors crystallized into the Cold War, the nuclear arms race, and, domestically, into those structures that gave institutional stability and permanence to the system: the military-industrial complex (mic). Previously the us had used militarism to secure economic advantage. Now, two developments greatly transformed our militarism: the exigencies of global hegemony and the fact that militarism became a direct source of economic advantage, through the triangular relations of the mic with the great armament industries comprising one leg, the military establishment another, and the state apparatus the third, profits, power, and personnel could flow through the system and from the system. Clearly, this arrangement had the potential to greatly undermine American democracy. It was a “national security state” within the state but also extended beyond it into the economy and society at large, virtually insulated from popular input, and had the power to direct events and generate threats. Another conservative war hero-become-president, Dwight Eisenhower, warned the nation in a speech in 1961 against the emerging permanent war machine, but this time, the admonitions were not heeded.\* The machine made a kind of war against the Soviet system for 35 years. Although actual guns were not fired between the two adversaries, as many as 10 million people died in its varied peripheral conflicts, from Korea to Vietnam, Angola, El Salvador, Nicaragua, and Guatemala. The Cold War divided the world into bipolar imperial camps, directed by gigantic superpowers that lived off each other’s hostility. It was a terrible war whose immense suffering took place largely outside the view of the American people, but it also brought about an uneasy kind of stability in the world order, in part through the standoff in nuclear weapons. During the Ford and Carter administrations, another great crisis seized the world capitalist economy. Having matured past the rebuilding that followed the world war, a period of stagnation set in, which still has the global economy in its grip despite episodic flashes of vigor. Predictably, a spate of militarism was central to the response. A “Second Cold War” took place under Reagan, featuring an accelerated nuclear arms race, which was deliberately waged so as to encourage Soviet countermeasures in the hope that this would cause breakdown in the much weaker, bloated, and corrupt Russian system. The plan worked splendidly: by 1989-91, the mighty Soviet empire collapsed, and the bipolar world order became unipolar, setting a stage for the current phase. The fall of the Soviet Union was widely expected to bring a ìpeace dividend.î This would have been the case according to the official us line, parroted throughout the media and academe, that our military apparatus was purely defensive (after all, we have no Department of War, only one of "Defense") and reactive to Soviet expansionism and military/nuclear threat. As this was no longer a factor, so the reasoning wentóindeed, as the us now stood bestride the world militarily as had no power since the Roman Empireóconventional logic predicted a general diminution in American militarism after 1991, with corresponding benefits to society. The last decade has at least settled this question, for the effect on us aggression, interventionism, and the militarization of society has been precisely the opposite. In other words, instead of braking, the machine accelerated. Removal of Soviet power did not diminish Americaís imperial appetite: it removed inhibitions on its internally driven expansiveness. As a result, enhanced war-making has replaced the peace dividend. The object of this machine has passed from dealing with Soviet Communism to a more complex and dispersed set of oil wars (Iraq I and now II), police actions against international miscreants (Kosovo), and now the ubiquitous War Against Terror, aimed variously at Islamic fundamentalists, Islam as a whole, or anybody irritated enough with the ruling order to take up some kind of arms against it. The comparison with the Roman Empire is here very exact. As the eminent economist and sociologist Joseph Schumpeter described Rome in 1919: “There was no corner of the known world where some interest was not alleged to be in danger or under actual attack. If the interests were not Roman, they were those of Rome’s allies. And if Rome had no allies existed, the allies would be invented. The fight was always invested with the order of legality. Rome was always being attacked by evil-minded neighbors.” The logic of constant threat meshes with that of ruthless expansion, which we see everywhere in this epoch of unipolar world dominion. Currently, the military budget of the us is 334 billion dollars. The budget for the next fiscal year is 379 billion dollars- an increase of more than 10 percent. By 2007, the projected military budget of the us is to be an astounding 451 billion dollars: almost half a trillion dollars, without the presence of anything resembling a conventional war. The present military budget is greater than the sum of all other military budgets. In fact, it is greater than the entire federal budget of Russia, once America's immortal adversary, and comprises more than half - 52 percent of all discretionary spending by the us government. (By comparison, education accounts for 8 percent of the federal budget.) A considerable portion of this is given over to "military Keynesianism," according to the well-established paths of the mic. Thus, although in the first years after the fall of the ussr certain firms like General Dynamics, which had played a large role in the nuclear arms race, suffered setbacks, that problem has been largely reversed for the entire class of firms fattening at the trough of militarism. It is fair to say, though, that the largesse is distributed over a wider scale, in accordance with the changing pattern of armaments. us Armies Taking Root Everywhere From having scarcely any standing army in 1940, American armies now stand everywhere. One feature of us military policy since WWII is to make war and then stay where war was made, rooting itself in foreign territory. Currently, the us has military bases in 113 countries, with 11 new ones formed since the beginning of the War Against Terror. The us now has bases in Kazakhstan, Uzbekistan, and Kurdistan, encircling China and creating new sources of military tension. On these bases, the us military has erected some 800,000 buildings. Imagine that: 800,000 buildings in foreign countries that are now occupied by us military establishments. And America still maintains large forces in Germany, Japan, and Korea, with tens of thousands of troops permanently on duty (and making mischief, as two us servicemen recently ran over and killed two Korean girls, provoking massive demonstrations). After the first Gulf War the us military became installed in Saudi Arabia and Kuwait, in which latter place it currently occupies one quarter of the country - 750 square miles devoted to military activity. This huge investment is no doubt determined by proximity to Iraq. Again, after going to war in Kosovo, the us left behind an enormous base in a place called Bondsteel. These self-expanding sites of militarism are permanent goads to terrorist organizations. Recall that one of Osama bin Laden's professed motivations for al-Qaeda's attacks on American facilities was the presence of us bases in his home country of Saudi Arabia. The bases are also permanent hazards to the environment - indeed, the us, with some 800,000 buildings on these military sites, is the world's largest polluter and the largest consumer of fossil fuels. With territorial expansion of the us military apparatus, there is a corresponding expansion of mission. For instance, in Colombia, where billions of us dollars are spent in the "War on Drugs," us troops are now being asked to take care of pipelines through which vital oil reserves are passing. In addition, the War on Drugs is now subsumed into the War Against Terror. The signifier of Terror has virtually unlimited elasticity, for once an apparatus reaches the size of the us military machine, threats can be seen anywhere. With the inauguration of the new hard-line president of Colombia, Alvaro Uribe, the us authorized the use of 1.7 billion dollars in military aid hitherto limited to anti-drug operations for direct attacks on deeply entrenched farc guerrillas. This redirection of aid came after Colombian officials and their American supporters in the Congress and Bush administration argued that the change was needed as part of the global campaign against terrorism. Within this overall picture, American armed forces are undergoing a qualitative shift of enormous proportion. In words read by President Bush: “Our forces in the next century must be agile, lethal, readily deployable, and must require a minimum of logistical support. We must be able to project our power over long distances in days or weeks rather than months. On land our heavy forces must be lighter, our light forces must be more lethal. All must be easier to deploy.” Crossing Weapons Boundaries - Both Nuclear and Conventional As a result, many boundaries and limits of the bipolar era have been breached. For example, the distinction between nuclear and conventional weapons had always constituted a radical barrier. The standoff between the us and the ussr was epitomized by mind-numbing hydrogen bomb-missiles facing each other in a scenario called “Mutual Assured Destruction.î”In short, a strategic condition of deterrence prevailed, which made nuclear weapons seem unthinkable. With the demise of the ussr, deterrence no longer inhibits us nuclear weaponry, and the weapons themselves have proliferated downward, becoming miniaturized and increasingly tactical rather than strategic. Meanwhile, the genie of the weapons industries has developed ever more destructive “conventional” weapons. These include non-explosive devices of awesome power, such as laser beams, microwaves, and large-scale climate manipulation, along with a new generation of super-powerful explosive devices. Thus the strongest non-nuclear weapons are now considerably more lethal than the least powerful nuclear weapons, making the latter thinkable and eliminating a major barrier against their employment. These so-called conventional bombs have already been used, for example, in Afghanistan, where the us employed a gigantic explosive weapon, called a “Bunker Buster” to root out al-Qaeda combatants in underground bunkers. They are based upon the “daisy cutter,” a giant bomb about the size of a Volkswagen Beetle and capable of destroying everything within a square kilometer. Significantly, the model used in Afghanistan, the B61-11, already employs nuclear technology, the infamous depleted uranium warhead, capable by virtue of its extreme density, of great penetrating power. Depleted uranium (du) is a by-product of the nuclear power industry (chiefly being U-238 created in the extraction of U-235 from naturally occurring uranium ore). Over 500,000 tons of deadly du have accumulated and 4-5,000 more tons are being produced every year. Like all products of the nuclear power industry, du poses immense challenges of disposal. It has this peculiar property of being almost twice as dense as lead and it is radioactive with a half-life of 4.5 billion years. Wherever depleted uranium is used, it has another peculiar property of exploding, vaporizing at 56 degrees centigrade, which is just like a little more than half the way to boiling water. So it is very volatile, it explodes, it forms dust and powders that are inhaled, disburses widely, and produces lethal cancers, birth defects, and so forth for 4.5 billion years. In the case of depleted uranium, the challenge of disposal was met by incorporating the refuse from the “peaceful” branch of nuclear technology into the war-making branch. Already used in anti-tank projectiles in the first Iraq war (approximately 300 tons worth) and again in Yugoslavia (approximately 10-15 tons were used in each of the various Yugoslav wars), it is presumed, although the defense department coyly denies it, that this material was also used in the Afghanistan war. Depleted uranium has spread a plague of radioactivity and further rationalized the use of nuclear weapons as such. Consequently, the B61-11 is about to be replaced with the BLU113, where the bunker buster will now be a small nuclear weapon, almost certainly spear-tipped with du. Pollutants to Earth and Space To the boundaries crossed between nuclear and non-nuclear weapons, and between the peaceful and militaristic uses of atomic technology, we need to add those between earth and its lower atmosphere on the one hand, and space on the other. The administration is poised to realize the crackpot and deadly schemes of the Reagan administration to militarize space and to draw the rest of the world into the scheme, as client and victim. In November 2002, Bush proposed that nato allies build missile defense systems, with components purchased, needless to add, from Boeing, Raytheon, etc, even as Congress was approving a fiscal 2003 defense budget containing $7.8 billion authorization for missile defense research and procurement, as part of the $238 billion set aside for Star Wars over the next 20 years. The administration now is poised to realize the crackpot and deadly schemes of the Reagan administration to militarize space and to draw the rest of the world into the scheme, as client and victim. A new missile defense system bureaucracy has risen. It is currently developing such wild items as something called ìbrilliant pebblesî which involves the release of endless numbers of mini satellites into outer space. All of this was to protect the world against the threat of rogue states such as North Korea. As the Seattle Times reported, the us expects the final declaration to, “express the need to examine options to protect allied forces, territories, and population centers against the full range of missile threats.” As an official put it, "This will establish the framework within which nato allies could work cooperatively toward fielding the required capabilities. With the us withdrawal this year from the anti-ballistic treaty with Russia, it is no longer a question of whether missile defenses will be deployed. The relevant questions are now what, how, and when. The train is about to pull out of the station; we invite our friends, allies, and the Russian Federation to climb on board." The destination of this train is defensive only in the Orwellian sense, as the missiles will be used to defend us troops in the field. In other words, they will be used to defend armies engaged in offensive activities. What is being “defended” by the Strategic Defense Initiative (sdi), therefore, is the initiative to make war everywhere. Space has now become the ultimate battlefield. And not just with use of these missiles. The High Frequency Active Aural Research Program (haarp) is also part of sdi. This amounts to weather warfare: deliberately manipulating climate to harm and destroy adversaries. A very dubious enterprise, to say the least, in an age when global warming and climate instability are already looming as two of the greatest problems facing civilization. The chief feature is a network of powerful antennas capable of creating controlled local modifications of the ionosphere and hence producing weather disturbances and so forth. All of these technical interventions are accompanied by many kinds of institutional and political changes. The National Aeronautics and Space Administration, nasa, for instance, is now a partner in the development of this strategic defense initiative. The very way in which the United Nations was drawn into the resolution in the war against Iraq is a breach and a violation of the original un Charter, which is to never make war, never to threaten to make war on any member state. The un was a peacemaking institution, but now the Super power has forced it into its orbit. The scrapping of the abm and other elements of the treaty structure (non- proliferation, test-ban) that had organized the world of the Cold War is one part of a process of shedding whatever might inhibit the cancerous growth of militarism. It also creates an atmosphere of general lawlessness in the world. This is felt at all levels, from the rise of an ultra-militarist clique in the White House to the formal renunciation of no-first-use nuclear strategy, the flouting of numerous un regulations, the doctrine of pre-emptive war, and, as the logical outcome of all these developments, the condition of Permanent War and its accompaniment of general lawlessness, media slavishness, and a wave of repression for whose parallel we have to go back to the Alien and Sedition acts of the 1790s, or Trumanís loyalty oaths of 1947. Militarism cannot be reduced to politics, economics, technology, culture, or psychology. All these are parts of the machine, make the machine go around, and are themselves produced by the actions of the machine. There is no doubt, in this regard, that the machine runs on natural resources (which have to be secured by economic, political, and military action), and that it is deeply embedded in the ruling corporate order. There is no contradiction here, but a set of meshing parts, driven by an insensate demand for fossil fuel energy. As a man from Amarillo, Texas put it when interviewed by npr as to the correctness of Bush’s plan to go to war in Iraq: “I agree with the president, because how else are we going to get the oil to fly the F-16s?” We go to war, in other words, to get the oil needed to go to war. A Who's Who List of MIC Beneficiaries The fact that our government is front-loaded with oil magnates is another part of the machine. It is of interest, therefore, that Unocal, for example, celebrated Condoleezza Riceís ascendancy to the post of National Security Advisor by naming an oil tanker after her. Or that Dick Cheney, originally a poor boy, became a rich man after the first Gulf War, when he switched from being Secretary of Defense, in charge of destroying the Kuwait oil fields, to ceo of a then-smallish company, Halliburton, in charge of rebuilding the same oil fields. Or that G.W. Bush himself, aside from his failed venture with Harken Oil, is scion of a family and a dynasty that controls the Carlyle Group, founded in 1987 by a former Carter administration official. Carlyle is now worth over $13 billion and its high officials include President Bush I, his Secretary of State (and fixer of the coup that put Bush II in power) James Baker, Reaganís Secretary of Defense Frank Carlucci, former British Prime Minister John Major, and former Phillipine President Fidel Ramos, among others. The Carlyle Group has its fingers everywhere, including ìdefenseî, where it controls firms making vertical missile launch systems currently in use on us Navy ships in the Arabian sea, as well as a range of other weapons delivery systems and combat vehicles. And as a final touch which the worldís people would be much better off for knowing, there are very definite connections between Carlyle and the family of Osama bin Laden - a Saudi power whose fortunes have been fused with those of the United States since the end of World War II. Thus the military-industrial complex lives, breathes, and takes on new dimensions. There is a deep structural reason for the present explosion of us militarism, most clearly traceable in the activities of Vice President Cheney, made clear in the energy report that he introduced with the generous assistance of Enron executives in May 2001. According to the report, American reliance on imported oil will rise by from about 52 percent of total consumption in 2001 to an estimated 66 percent in 2020. The reason for this is that world production, in general, and domestic production in particular are going to remain flat (and, although the report does not discuss this, begin dropping within the next 20 years). Meanwhile consumptionówhich is a direct function of the relentless drive of capitalism to expand commodity productionóis to grow by some two- thirds. Because the usage of oil must rise in the worldview of a Cheney, the us will actually have to import 60 percent more oil in 2020 to keep itself going than it does today. This means that imports will have to rise from their current rate of about 10.4 million barrels per day to about 16.7 million barrels per day. In the words of the report: “The only way to do this is persuade foreign suppliers to increase their production to sell more of their output to the us.” The meaning of these words depends of course on the interpretation of “persuade”, which in the us lexicon is to be read, I should think, as requiring a sufficient military machine to coerce foreign suppliers. At that point they might not even have to sell their output to the us, as it would already be possessed by the superpower. Here we locate the root material fact underlying recent us expansionism. This may seem an extravagant conclusion. However an explicit connection to militarismóand Iraqóhad been supplied the month before, in April 2001, in another report prepared by James Baker and submitted to the Bush cabinet. This document, called “Strategic Energy Policy Challenges for the 21st Century,” concludes with refreshing candor that ìthe us remains a prisoner of its energy dilemma, Iraq remains a destabilizing influence to the flow of oil to international markets from the Middle East, Saddam Hussein has also demonstrated a willingness to threaten to use the oil weapon and to use his own export program to manipulate oil markets, therefore the us should conduct an immediate policy review toward Iraq, including military, energy, economic, and political diplomatic assessments. Note the absence of reference to “weapons of mass destruction,” or aid to terrorism, convenient rationalizations that can be filled in later. Clearly, however things turn out with Iraq, the fundamental structural dilemma driving the military machine pertains to the contradictions of an empire that drives toward the invasion of all social space and the total control over nature. Since the former goal meets up with unending resistance and the latter crashes against the finitude of the material world, there is no recourse except the ever-widening resort to force. But this, the military monster itself, ever seeking threats to feed upon, becomes a fresh source of danger, whether of nuclear war, terror, or ecological breakdown. The situation is plainly unsustainable, a series of disasters waiting to happen. It can only be checked and brought to rationality by a global uprising of people who demand an end to the regime of endless war. This is the only possible path by which we can pull ourselves away from the abyss into which the military machine is about to plunge, dragging us all down with it.

#### the aff’s certain calculations about war are an impossibly arrogant form of mechanical, sterile analysis that eases the path towards war. their language is coopted to provide rhetorical ammunition for militarists. our alternative is not pure pacifism, but rather a pacifist analysis that injects moral and epistemic doubt into our decisionmaking about war – this is the only way to formulate better policies that address structural causes of war and avoids inevitable cycles of violence

Neu 13 – prof @ U of Brighton

(Michael, International Relations 27(4), December, The Tragedy of Justified War)

Just war theory is not concerned with millions of starving people who could be saved from death and disease with a fraction of the astronomical amount of money that, every year, goes into the US defence budget alone (a budget that could no longer be justified if the United States ran out of enemies one day). It is not interested in exposing the operat- ing mechanisms of a global economic structure that is suppressive and exploitative and may be conducive to outbreaks of precisely the kind of violence that their theory is con- cerned with. As intellectually impressive as analytical just war accounts are, they do not convey any critical sense of Western moralism. It is as though just war theory were written for a different world than the one we occupy: a world of morally responsible, structurally unconstrained, roughly equal agents, who have non-complex and non-exploitative relationships, relationships that lend themselves to easy epistemic access and binary moral analysis. Theorists write with a degree of confidence that fails to appreciate the moral and epistemic fragility of justified war, the long-term genesis of violent conflict, structural causes of violence and the moralistic attitudes that politicians and the media are capable of adopting. To insist that, in the final analysis, the injustice of wars is completely absorbed by their being justified reflects a way of doing moral philosophy that is frighteningly mechanical and sterile. It does not do justice to individual persons,59 it is nonchalant about suffering of unimaginable proportions and it suffocates a nuanced moral world in a rigid binary structure designed to deliver unambiguous, action-guiding recommendations. According to the tragic conception defended here, justified warfare constitutes a moral evil, not just a physical one – whatever Coates’ aforementioned distinction is supposed to amount to. If we do not recognise the moral evil of justified warfare, we run the risk of speaking the following kind of language when talking to a tortured mother, who has witnessed her child being bombed into pieces, justifiably let us assume, in the course of a ‘just war’: See, we did not bomb your toddler into pieces intentionally. You should also consider that our war was justified and that, in performing this particular act of war, we pursued a valid moral goal of destroying the enemy’s ammunition factory. And be aware that killing your toddler was not instrumental to that pursuit. As you can see, there was nothing wrong with what we did. (OR: As you can see, we only infringed the right of your non-liable child not to be targeted, but we did not violate it.) Needless to say, we regret your loss. This would be a deeply pathological thing to say, but it is precisely what at least some contemporary just war theorists would seem to advise. The monstrosity of some accounts of contemporary just war theory seems to derive from a combination of the degree of certainty with which moral judgments are offered and the ability to regard the moral case as closed once the judgments have been made. One implication of my argument for just theorists is clear enough: they should critically reflect on the one-dimensionality of their dominant agenda of making binary moral judgments about war. If they did, they would become more sympathetic to the pacifist argument, not to the conclusion drawn by pacifists who are also caught in a binary mode of thinking (i.e. never wage war, regardless of the circumstances!) but to the timeless wisdom that forms the essence of the pacifist argument. It is wrong to knowingly kill and maim people, and it does not matter, at least not as much as the adherents of double effect claim, whether the killing is done intentionally or ‘merely’ with foresight. The difference would be psychological, too. Moral philosophers of war would no longer be forced to concede this moral truth; rather, they would be free to embrace it. There is no reason for them to disrespect the essence of pacifism. The just war theorist Larry May implicitly offers precisely such a tragic vision in his sympathetic discussion of ‘Grotius and Contingent Pacifism’. According to May, ‘war can sometimes be justified on the same grounds on which certain forms of pacifism are themselves grounded’.60 If this is correct, just war theorists have good reason to stop calling themselves by their name. They would no longer be just war theorists, but unjust war theorists, confronting politicians with a jus contra bellum, rather than offering them a jus ad bellum. Beyond being that, they would be much ‘humbler in [their] approach to considering the justness of war’ (or, rather, the justifiability), acknowledging that: notions of legitimate violence which appear so vivid and complete to the thinking individual are only moments and snapshots of a wider history concerning the different ways in which humans have ordered their arguments and practices of legitimate violence. Humility in this context does not mean weakness. It involves a concern with the implicit danger of adopting an arrogant approach to the problem of war.61 Binary thinking in just war theory is indeed arrogant, as is the failure to acknowledge the legitimacy of – and need for – ambiguity, agony and doubt in moral thinking about war. Humble philosophers of war, on the contrary, would acknowledge that any talk of justice is highly misleading in the context of war.62 It does not suffice here, in my view, to point out that ‘we’ have always understood what ‘they’ meant (assuming they meant what we think they meant). Fiction aside, there is no such thing as a just war. There is also no such thing as a morally justified war that comes without ambiguity and moral remainders. Any language of justified warfare must therefore be carefully drafted and constantly questioned. It should demonstrate an inherent, acute awareness of the fragility of moral thinking about war, rather than an eagerness to construct unbreakable chains of reasoning. Being uncertain about, and agonised by, the justifiability of waging war does not put a moral philosopher to shame. The uncertainty is not only moral, it is also epistemic. Contemporary just war theorists proceed as if certainty were the rule, and uncertainty the exception. The world to which just war theory applies is one of radical and unavoidable uncertainty though, where politicians, voters and combatants do not always know who their enemies are; whether or not they really exist (and if so, why they exist and how they have come into existence); what weapons the enemies have (if any); whether or not, when, and how they are willing to employ them; why exactly the enemies are fought and what the consequences of fighting or not fighting them will be. Philosophers of war should also become more sensitive to the problem of political moralism. The just war language is dangerous, particularly when spoken by eager, self- righteous, over-confident moralists trying to make a case. It would be a pity if philosophers of war, despite having the smartest of brains and the best of intentions, effectively ended up delivering rhetorical ammunition to political moralists. To avoid being inadvertently complicit in that sense, they could give public lectures on the dangers of political moralism, that is, on thinking about war in terms of black and white, good and evil and them and us. They could warn us against Euro-centrism, missionary zeal and the emperors’ moralistic clothes. They could also investigate the historical genesis and structural conditionality of large-scale aggressive behaviour in the global arena, deconstruct- ing how warriors who claim to be justified are potentially tied into histories and structures, asking them: Who are you to make that claim? A philosopher determined to go beyond the narrow discursive parameters provided by the contemporary just war paradigm would surely embrace something like Marcus’ ‘second-order regulative principle’, which could indeed lead to ‘“better” policy’.63 If justified wars are unjust and if it is true that not all tragedies of war are authentic, then political agents ought to prevent such tragedies from occurring. This demanding principle, however, may require a more fundamental reflection on how we ‘conduct our lives and arrange our institutions’ (Marcus) in this world. It is not enough to adopt a ‘wait and see’ policy, simply waiting for potential aggressions to occur and making sure that we do not go to war unless doing so is a ‘last resort’. Large-scale violence between human beings has causes that go beyond the individual moral failure of those who are potentially aggressing, and if it turns out that some of these causes can be removed ‘through more careful decision-making’ (Lebow), then this is what ought to be done by those who otherwise deprive themselves, today, of the possibility of not wronging tomorrow.

### 1NC Solvency

#### Executive will circumvent the plan --- has institutional incentives and public support to expand its powers

Barron & Lederman, 8 --- \*Professor of Law at Harvard, AND \*\* Visiting Professor of Law at Georgetown

(February 2008, David J. Barron and Martin S. Lederman, Harvard Law Review, “THE COMMANDER IN CHIEF AT THE LOWEST EBB -- A CONSTITUTIONAL HISTORY,” 121 Harv. L. Rev. 941)

VII. Conclusion

Powers once claimed by the Executive are not easily relinquished. One sees from our narrative how, in a very real sense, the constitutional law of presidential power is often made through accretion. A current administration eagerly seizes upon the loose claims of its predecessors, and applies them in ways perhaps never intended or at least not foreseen or contemplated at the time they were first uttered. The unreflective notion that the "conduct of campaigns" is for the President alone to determine has slowly insinuated itself into the consciousness of the political departments (and, at times, into public debate), and has gradually been invoked in order to question all manner [\*1112] of regulations, from requirements to purchase airplanes, to limitations on deployments in advance of the outbreak of hostilities, to criminal prohibitions against the use of torture and cruel treatment. In this regard, the claims of the current Administration represent as clear an example of living constitutionalism in practice as one is likely to encounter. There is a radical disjuncture between the approach to constitutional war powers the current President has asserted and the one that prevailed at the moment of ratification and for much of our history that followed.

But that dramatic deviation did not come from nowhere. Rarely does our constitutional framework admit of such sudden creations. Instead, the new claims have drawn upon those elements in prior presidential practice most favorable to them. That does not mean our constitutional tradition is foreordained to develop so as to embrace unchecked executive authority over the conduct of military campaigns. At the same time, it would be wrong to assume, as some have suggested, that the emergence of such claims will be necessarily self-defeating, inevitably inspiring a popular and legislative reaction that will leave the presidency especially weakened. In light of the unique public fears that terrorism engenders, the more substantial concern is an opposite one. It is entirely possible that the emergence of these claims of preclusive power will subtly but increasingly influence future Executives to eschew the harder work of accepting legislative constraints as legitimate and actively working to make them tolerable by building public support for modifications. The temptation to argue that the President has an obligation to protect the prerogatives of the office asserted by his or her predecessors will be great. Congress's capacity to effectively check such defiance will be comparatively weak. After all, the President can veto any effort to legislatively respond to defiant actions, and impeachment is neither an easy nor an attractive remedy.

#### Restricting drone use causes a shift to ground operations which increases civilian casualties

Bowden, 13 --- national correspondent for The Atlantic (8/14/2013, Mark, “The Killing Machines; How to think about drones,” <http://www.theatlantic.com/magazine/archive/2013/09/the-killing-machines-how-to-think-about-drones/309434/?single_page=true>)

No civilian death is acceptable, of course. Each one is tragic. But any assessment of civilian deaths from drone strikes needs to be compared with the potential damage from alternative tactics. Unless we are to forgo the pursuit of al-Qaeda terrorists entirely, U.S. forces must confront them either from the air or on the ground, in some of the remotest places on Earth. As aerial attacks go, drones are far more precise than manned bombers or missiles. That narrows the choice to drone strikes or ground assaults.

Sometimes ground assaults go smoothly. Take the one that killed Osama bin Laden. It was executed by the best-trained, most-experienced soldiers in the world. Killed were bin Laden; his adult son Khalid; his primary protectors, the brothers Abu Ahmed al-Kuwaiti and Abrar al-Kuwaiti; and Abrar’s wife Bushra. Assuming Bushra qualifies as a civilian, even though she was helping to shelter the world’s most notorious terrorist, civilian deaths in the raid amounted to 20 percent of the casualties. In other words, even a near-perfect special-ops raid produced only a slight improvement over the worst estimates of those counting drone casualties. Many assaults are not that clean.

In fact, ground combat almost always kills more civilians than drone strikes do. Avery Plaw, a political scientist at the University of Massachusetts, estimates that in Pakistani ground offensives against extremists in that country’s tribal areas, 46 percent of those killed are civilians. Plaw says that ratios of civilian deaths from conventional military conflicts over the past 20 years range from 33 percent to more than 80 percent. “A fair-minded evaluation of the best data we have available suggests that the drone program compares favorably with similar operations and contemporary armed conflict more generally,” he told The New York Times.

When you consider the alternatives—even, and perhaps especially, if you are deeply concerned with sparing civilians—you are led, as Obama was, to the logic of the drone.

#### Ex ante review is worse than the suqo

#### Authority – prior review legitimizes targeted killing for non-immanent threats – locks in the status quo program

Jaffer, Director-ACLU Center for Democracy, 13 (Jameel Jaffer, Director of the ACLU's Center for Democracy, “Judicial Review of Targeted Killings,” 126 Harv. L. Rev. F. 185 (2013), http://www.harvardlawreview.org/issues/126/april13/forum\_1002.php)

But to recognize that judicial review is indispensible in this context is not to say that Congress should establish a specialized court, still less that it should establish such a court to review contemplated killings before they are carried out. First, the establishment of such a court would almost certainly entrench the notion that the government has authority, even far away from conflict zones, to use lethal force against individuals who do not present imminent threats. When a threat is truly imminent, after all, the government will not have time to apply to a court for permission to carry out a strike. Exigency will make prior judicial review infeasible. To propose that a court should review contemplated strikes before they are carried out is to accept that the government should be contemplating strikes against people who do not present imminent threats. This is why the establishment of a specialized court would more likely institutionalize the existing program, with its elision of the imminence requirement, than narrow it.

#### Deference - Judges won’t want to wade into national security measures – they would defer to the executive if it is an issue of imminence

Vladeck, editor- Journal of National Security Law & Policy, 13 (Steve Vladeck, professor of law and the associate dean for scholarship at American University Washington College of Law, senior editor of the Journal of National Security Law & Policy, Why a “Drone Court” Won’t Work–But (Nominal) Damages Might…, Sunday, February 10, 2013, <http://www.lawfareblog.com/2013/02/why-a-drone-court-wont-work/>)

III. Drone Courts and the Legitimacy Problem That brings me to perhaps the biggest problem we should all have with a “drone court”–the extent to which, even if one could design a legally and practically workable regime in which such a tribunals could operate, its existence would put irresistible pressure on federal judges to sign off even on those cases in which they have doubts. As a purely practical matter, it would be next to impossible meaningfully to assess imminence, the existence of less lethal alternatives, or the true nature of a threat that an individual suspect poses ex ante. Indeed, it would be akin to asking law enforcement officers to obtain judicial review before they use lethal force in defense of themselves or third persons–when the entire legal question turns on what was actually true in the moment, as opposed to what might have been predicted to be true in advance. At its core, that’s why the analogy to search warrants utterly breaks down–and why it would hardly be surprising if judges in those circumstances approved a far greater percentage of applications than they might have on a complete after-the-fact record. Judges, after all, are humans. In the process, the result would be that such ex ante review would do little other than to add legitimacy to operations the legality of which might have otherwise been questioned ex post. Put another way, ex ante review in this context would most likely lead to a more expansive legal framework within which the targeted killing program could operate, one sanctioned by judges asked to decide these cases behind closed doors; without the benefit of adversary parties, briefing, or presentation of the facts; and with the very real possibility that the wrong decision could directly lead to the deaths of countless Americans. Thus, even if it were legally and practically possible, a drone court would be a very dangerous idea.

#### Intel gathering The plan gives a perverse incentive to not collect information---the CP corrects that

Taylor 13 (Paul, is a Senior Fellow, Center for Policy & Research. Focus on national security policy, international relations, targeted killings, and drone operations. “Former DOD Lawyer Frowns on Drone Court,” http://centerforpolicyandresearch.com/2013/03/23/former-dod-lawyer-frowns-on-drone-court/)

Lastly, there is the concern of creating perverse incentives: whether a person’s name or identity is known has never been a factor in determining the legality of targeting an otherwise-lawful military target. But by creating a separate legal regime for known targets, we could create a disincentive to collect information about a target. We do not want a military or intelligence agency that keeps itself intentionally uninformed. Nor do we want to halt a military operation in progress simply because one of the targets is recognized late. Conducting the review ex post would not eliminate these issues, but it would substantially mitigate them. The military (or CIA, if it keeps its program), would not fear an interruption of its operations, and could even have an incentive to collect more information in order to later please a court that has plenty of time to look back at the past operations and question whether an individual was in fact targeted.

### 1NC Accountability

#### Western conception of a failed African state is steeped in racism and causes intervention

**Bello 7** (Walden, “Selling US Wars”, senior analyst of Focus on the Global South and professor of sociology at the University of the Philippine, p. 6-7)

#### State failure, David Sogge tells us, has many labels—"weak states, fragile states, crisis states, Countries at Risk of Instability, Low-income Countries Under Stress." But it is a term that panders to Western condescension and to its strong sense of superiority. This discourse of state failure emerges really after the end of the Cold War. Before that the West, led by the US, was much more concerned about the "threats" represented by "strong" but enemy states to the world order, which therefore needed the benevolent guardianship of the US and the Atlantic Alliance. In the 1990s "state failure" became the source of danger. According to some right-wing ideologues, what was happening in the Balkans, Asia, and Africa reflected an encroaching "anarchy," a "re-primitivization" of man's behavior, a resurfacing of barbarisms and ethnic hostilities inconceivable in the more "civilized" parts of the world. Left to fester, these places would become hotbeds of terrorism and retrograde forms of development antithetical to the needs of a globalizing economy and to the associated stability that only the West (led by the US) could provide. After 9/11, these fears were further accentuated. While some of the characteristics of a weak state—inadequate provision of vital public services, great country-wide lawlessness, immense difficulties in establishing and giving effect to collectively binding decisions—are clearly recognizable, they can fit a very wide array of countries. The more important question is "failure for whom"? Who decides the norms according to which failure is to be judged? And why? The disturbing answer here is that it is invariably the powerful countries of the West who decide. For them "success" is measured by the degree of "fit" of other states in the developing world (whether in the Balkans, Central, West, or South Asia, sub-Saharan Africa, the Caribbean, or the Americas) to the current scheme of things—neoliberal globalization stabilized by, above all, the power and authority of the US. Thus recalcitrant states unwilling to accept the rules as laid down by the US as well as those states well-endowed with valuable raw materials but poorly governed, can all be designated as "failed" or "failing" states with the sword of Damocles - the threat of external intervention —hanging over them. -The part of the world where the stigma of "failed states" is most likely to be applied (though far from being the only geographical area) is sub-Saharan Africa, where internecine strife, often connected to issues of control over scarce or valued material resources (minerals, timber, oil, diamonds, et cetera) of considerable importance to Western powers, has been of great intensity. This has drawn in the Western powers, including the US, and led to direct or indirect (via the UN) forms of military intervention. The US has generally seen the strategic importance of these regions in terms of the resources they possess rather than considering them of geopolitical significance. Thus, human rights abuses, whether in Sudan or Rwanda or in the Republic of Congo, have not been taken as realities that compel military interventions by the US or other Western powers. Geopolitical rather than moral considerations have usually been a much stronger spur to direct military interventions. Moreover, interventions can be covert as well as overt, indirect as well as direct, partial as well as comprehensive. Direct intervention is one way of "punishing" recalcitrant states and creating "friendly" ones. But at another level, low-intensity warfare against "undesirables" (be they the forces of politicized Islam or other anti-US currents) will do. After all, state failure comes in many degrees and guises and the response to it need not always be regime change but different forms of "nation-building," "state-building," and "institution-building." Yet those who most talk of the dangers of state failure and its spreading ambit refuse to recognize the reasons most responsible fir it. For Sogge, there are two crucially important reasons for this. First, neoliberal forms of economic globalization demand that states greatly reduce their involvement in the economy but bemoan their failure to overcome the negative consequences neoliberal recipes for growth and development—rising debt, escalating inequalities, and greater poverty in much of Africa and elsewhere. Export-oriented primary production as the main source - elites only reinforces their disregard for widespread domestic development. Unmotivated dependent studies, says Sogge, show clearly that the two sources for state breakdown and deep instability are rising socieoeconomic inequalities (not just poverty) and the criminalization and informal privatization of state apparatuses mean to serve the public

#### Drone courts don’t establish legitimacy – critics won’t be satisfied and the courts lack necessary expertise

Groves 2013 – fellow at Heritage Foundation (April 10, Steven, “Drone Strikes: The Legality of U.S. Targeting Terrorists Abroad” <http://www.heritage.org/research/reports/2013/04/drone-strikes-the-legality-of-us-targeting-terrorists-abroad>)

The proponents of a drone court apparently do not appreciate the potential unintended consequences of establishing such an authority. The idea is wrongheaded and raises more questions than it answers. For instance, could the drone court decide as a matter of law that a targeted strike is not justified because the United States is not engaged in an armed conflict with al-Qaeda? Could the drone court rule that members of a force associated with al-Qaeda (e.g., AQAP) may not be targeted because AQAP was not directly involved in the September 11 attacks and therefore the strike is not authorized under the AUMF? The proposed drone court cannot avoid these fundamental questions since the justification for the targeted strikes is dependent on the answers to these questions. Even if the proposed drone court attempts to eschew intervention into foundational questions such as the existence of an armed conflict, it still would not be in a position to rule on the “easy” questions involved in each and every drone strike. Does the target constitute an “imminent threat” to the United States? When civilian casualties may occur as a result of the strike, does the drone court have the authority to overrule the targeting decision as a violation of the principle of proportionality? Is the target an innocent civilian or a civilian “directly participating in hostilities”? Should U.S. forces attempt to capture the target before resorting to a drone strike? Is capture feasible? Any drone court, even if constituted with former military and intelligence officials, is ill suited to weigh all of the competing factors that go into a decision to target an al-Qaeda operative and make a timely decision, particularly when there is often only a short window of time to order a strike. Regardless, creating a judicial or quasi-judicial review process will not ameliorate, much less resolve, objections to U.S. targeted killing practices. Critics will continue to demand more judicial process, including appeals from the proposed drone court, and additional transparency no matter what kind of forum is established to oversee targeting decisions.

### 1NC Norms

**Realist predictions of Asian instability fail – empirically disproven and bad scholarship.**

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Following the end of the Cold War in 1991, some scholars in the West began to predict that Asia was "ripe for rivalry."'12 They based this prediction on the following factors: wide disparities in the levels of economic and military power among nations in the region; their different political systems, ranging from to totalitarian; historical animosities; and the lack of international institutions. Many scholars thus envisaged a return of power politics after decades when conflict in Asia was dominated by the Cold War tension between the United States and the Soviet Union. In addition, scholars envisaged a re- turn of arms racing and the possibility of major conflict among Asian countries, almost all of which had rapidly changing internal and external environments. More specific predictions included the growing possibility of Japanese rearmament;' increased Chinese adventurism spurred by China's rising power and ostensibly revisionist intentions;'4 conflict or war over the status of Taiwan;'5 terrorist or missile attacks from a rogue North Korea against South Korea, Japan, or even the United States;16 and arms racing or even conflict in Southeast Asia, prompted in part by unresolved territorial disputes.7" More than a dozen years have passed since the end of the Cold War, yet none of these pessimistic predictions have come to pass. Indeed there has not been a major war in Asia since the 1978-79 Vietnam-Cambodia-China conflict; and with only a few exceptions (North Korea and Taiwan), Asian countries do not fear for their survival. Japan, though powerful, has not rearmed to the extent it could. China seems no more revisionist or adventurous now than it was before the end of the Cold War. And no Asian country appears to be balancing against China. In contrast to the period 1950-80, the past two decades have witnessed enduring regional stability and minimal conflict. Scholars should directly confront these anomalies, rather than dismissing them. Social scientists can learn as much from events that do not occur as from those that do. The case of Asian security provides an opportunity to examine the usefulness of accepted international relations paradigms and to determine how the assumptions underlying these theories can become misspecified. Some scholars have smuggled ancillary and ad hoc hypotheses about preferences into realist, institutionalist, and constructivist theories to make them fit various aspects of the Asian cases, including: assumptions about an irrational North Korean leadership, predictions of an expansionist and revisionist China, and depictions of Japanese foreign policy as "abnormal."' Social science moves forward from the clear statement of a theory, its causal logic, and its predictions. Just as important, however, is the rigorous assessment of the theory, especially if predictions flowing from it fail to materialize. Exploring why scholars have misunderstood Asia is both a fruitful and a necessary theoretical exercise.

**Representations of South China Sea conflict are security constructs.**

**CALLAHAN 2004** – PROF IR AND DIRECTOR CENTRE FOR CHINESE STUDIES U DURHAM

*CONTINGENT STATES: GREATER CHINA AND TRANSNATIONAL RELATIONS*, PAGE 71-74

In addition to the track-one diplomacy of ASEAN and ARF meet­ings, dispute resolution activities are taking place at the South China Sea Informal Working Group workshops organized annually by Indo­nesia and Canada (South China Sea Informal Working Group Zoot). This track-two diplomacy has been hailed as a significant new devel­opment not just because it integrates China into multilateral forums (Lee Lai To t999, 59ff; Austin 1998, 304), but because it also is part of the construction of a new sense of "international society" in Asia and beyond. The disputes that are "located at the junction of outer fringes of China and Southeast Asia" are "a catalyst for initiating fun­damental changes in existing patterns of state interaction" (Odgaard 20o2, io, 3; Odgaard 2003, zi).¶ But while joining the regional structures, attending the confer­ences, writing white papers, developing a cadre of international law experts, making encouraging statements on general issues, and even signing on to a Code of Conduct, Beijing has resisted multi­lateral solutions to the South China Sea disputes. After eight years of track-two diplomacy, the Indonesian workshops leader was less optimistic about their influence, because China had shown itself "unwilling to agree to concrete moves" (in Stenseth 1999, 13; Lee Lai To i999, 80). China has encouraged the ambiguity of the South China Sea Informal Working Group; it has realized that, once it specifies its claim, it will have to defend it in the context of inter­national law, and that a claim to most of the South China Sea as historic waters would be very difficult to defend (Valencia 1995, i3). Even the Code of Conduct does not promote multilateral reso­lution (see Odgaard zoo3, zz); China still prefers to deal with rival claimants on a bilateral basis. Although Beijing has offered joint development of resources to rival claimants at various times, closer examination shows that joint development is always under Beijing's leadership. One scholar in Beijing compared "joint development" in the South China Sea to a "joint venture" corporation in Beijing: while economic investment and profits are shared, the corporation is still under Chinese sovereign jurisdiction (Interviews 1999).¶ China further formalized its claim in February 1992, when the National People's Congress passed the "Law of the People's Republic of China on its Territorial Waters and Contiguous Areas." This ac­tion disturbed the region because it unilaterally made a legal claim for ownership not just of the islands in the South China Sea but also for Taiwan, the Diaoyu Islands, Penghu Islands, Dongsha Islands, and "other islands that belong to the PRC" ("Law on Territorial Waters" BBC/SWB 28 November i99z, Wh-2). But even this ag­gressive unilateral action is still phrased in the familiar language of state sovereignty: the law is "to enable the PRC to exercise its sovereignty over its territorial waters and its rights to exercise con­trol over their adjacent areas, and to safeguard state security as well as its maritime rights and interests" ("Law on Territorial Waters" BBC/SWB 28 November 1992, W/T-z). The right to defend this sovereignty through military action is included in this law. Once again, both sympathetic and critical readings of China's diplomacy in the South China Sea reaffirm that China is being converted to the Westphalian notion of the sovereignty of nation-states.¶ To put it another way, Chinese actions in the South China Sea are quite predictable. **China is involved in the age-old process of "writing security"** (Campbell 7yg8a). Through its military and dip­lomatic narratives, China-like the other states in the dispute-is creating a problem in the South China Sea to craft and manage bor­ders that otherwise do not make sense.¶ Although the South China Sea is commonly seen as one of the main "security problems" in East Asia, in fact there is **little ac­tual conflict** there. As in the Kasmiri conflict between India and Pakistan, where the greatest casualties are to altitude sickness and frostbite (Krishna 1996, zoo-ZOi), in the South China Sea soldiers do not fight each other so much as storms and sunstroke. As the newspaper articles tell us, the main enemy in the South China Sea is the sea itself: "In October 1993, Typhoon No. Zo hit the main pillbox. High waves rolled over the rooftop of the three-story-high building. Erected structures and equipment lying on an area of 60o square meters of the construction site were swept away" (Hu Zhanfan rgg4, m). When the sea does not get you, the sun will: "[W]e heard of instances of asphalt felt melting and thermome­ters bursting under the scorching sun of the Nansha islands" (Hu Zhanfan 1994, 11; Whiting 1998, z99). The "Nansha Spirit" de­scribes enduring the hardship of the weather conditions, rather than surviving the horrors of battle. Hence equipment upgrading concen­trates on stronger air conditioners and better fresh water supplies, rather than on bigger guns (Ling Xingzheng 1998; Zheng Degang 1999; Austin i998, 3r2). Indeed, although the South China Sea dis­putes are a hot topic in English-language security studies journals, the Chinese press, and popular histories, they are not a common item in *Chinese* security studies journals (Stenseth 1999, 36). The *White Paper on China's National Defense* Zoo2 declares, "The situation in the South China Sea area has been basically stable, as the relevant countries have signed the Declaration on the Conduct of Parties in the South China Sea."In other words, there is no "there" there: in addition to a lack of military conflict, there is no substantial territory to defend, fisheries are depleted, and there is little sign of the promised petrochemical riches. National maritime territory has to be created to **manufacture threats** to national security that are tied to writing the security of the newly discovered ancient "sacred territory." It is the conceptu­alization of "security" itself, which **creates the subjectivity** of the state, that has made "a relatively peaceful area into one of serious security concerns" (Zha, Daojiong zooi, 34). As Walker puts it, "the **subject of security** is the ***subject***of security" (Walker Ty97, 78; Campbell r9y8a, i9g).¶ The South China Sea disputes thus show how the primary pur­pose of state security is not to secure a particular nation-state, **but to secure the limitation of politics to the** spatio-temporal demarca­tions of state sovereignty that limit identity to citizenship. The very active project of transforming China from a continental power to a maritime power serves as a cogent example of security not ***defend­*ing us so much as "tell[ing] us who we must be**" (Walker 1997, 7i-72; Campbell z998a, i99). To rethink security-and to rethink the "problem" and "solution" of the Spratly Islands disputes-we have to "rethink the character and location of the political" by asking who or what is to be secured, and under what conditions? (Walker i997,ti9).¶ While most reconsiderations of critical security studies stop here by questioning the subject of security, I will engage in both criticism and recovery. In the next section we move from the South China Sea disputes as an "empirical problem" of how to fairly divide up the goods, to see the disputes as a conceptual problem of how to write security and sovereignty in different ways. Rather than simply move beyond the state for new post-state concepts of security, we see how modern state subjectivity uses historical trajectories to respond to pressures: we look, rather than to the nation-state of the PRC, to the civilization-state of Greater China.

#### Impact inevitable – surveillance triggers the link

Boyle 2013 - assistant professor of political science (Michael J., “The costs and consequences of drone warfare,” International Affairs 89: 1 (2013) 1–29 <http://www.chathamhouse.org/sites/default/files/public/International%20Affairs/2013/89_1/89_1Boyle.pdf>, )

A second consequence of the spread of drones is that many of the traditional concepts which have underwritten stability in the international system will be radically reshaped by drone technology. For example, much of the stability among the Great Powers in the international system is driven by deterrence, specifically nuclear deterrence.1" Deterrence operates with informal rules of the game and tacit bargains that govern what states, particularly those holding nuclear weapons, may and may not do to one another.'\*6 While it is widely understood that nuclear-capable states will conduct aerial surveillance and spy on one another, overt military confrontations between nuclear powers are rare because they are assumed to be costly and prone to escalation. One open question is whether these states will exercise the same level of restraint with drone surveillance, which is unmanned, low cost, and possibly deniable. States may be more willing to engage in drone overflights which test the resolve of their rivals, or engage in 'salami tactics' to see what kind of drone-led incursion, if any, will motivate a response.'" This may have been Hezbollah's logic in sending a drone into Israeli airspace in October 2012, possibly to relay information on Israel's nuclear capabilities.1'8 After the incursion, both Hezbollah and Iran boasted that the drone incident demonstrated their military capabilities.'19 One could imagine two rival states—for example, India and Pakistan—deploying drones to test each other's capability and resolve, with untold consequences if such a probe were misinterpreted by the other as an attack. As drones get physically smaller and more precise, and as they develop a greater flying range, the temptation to use them to spy on a rival's nuclear programme or military installations might prove too strong to resist. If this were to happen, drones might gradually erode the deterrent relationships that exist between nuclear powers, thus magnifying the risks of a spiral of conflict between them.

#### No impact to global drone prolif and it’s impossible to solve

Alejandro Sueldo 12, J.D. candidate and Dean’s Fellow at the University of California, Berkeley, School of Law and a PhD candidate at the Department of War Studies at King’s College London of the University of London, 4/11/12, “The coming drone arms race,” <http://dyn.politico.com/printstory.cfm?uuid=70B6B991-ECA7-4E5F-BE80-FD8F8A1B5E90>

Should enough states follow the U.S. example, the practice of preemptively targeting and killing suspected threats may develop into customary international law. Such a norm, however, which requires consistent state practice arising out of a sense of legal obligation, now looks unlikely. While targeted killing policies are arguably executed by states citing a legal obligation to protect themselves from imminent threats, widespread state practice is still uncommon. But international law does not forbid drones. And given the lack of an international regime to control drones, state and non-state actors are free to determine their future use. This lack of international consensus about how to control drones stems from a serious contradiction in incentives. Though drones pose grave challenges, they also offer states lethal and non-lethal capabilities that are of great appeal. Because the potential for drone technology is virtually limitless, states are now unwilling to control how drones evolve.

# 2NC

### 2NC FW

#### **Subject formation is what we are trying to accomplish in debate on an everyday level, we form better subjects by attuning our ethical sensibilities to the violence of militarism – comparatively more effective than a hubristic fantasy that we can change the world**

Chandler, Professor of IR at Westminster, 13

(The World of Attachment? The Post-humanist Challenge to Freedom and Necessity, Millenium: Journal of International Studies, 41(3), 516– 534)

The world of becoming thereby is an ontologically flat world without the traditional hierarchies of existence and a more shared conception of agency. For Bennett, therefore, ‘to begin to experience the relationship between persons and other materialities more horizontally, is to take a step toward a more ecological sensibility’.78 Here there is room for human agency but this agency involves a deeper understanding of and receptivity to the world of objects and object relations. Rather than the hubristic focus on transforming the external world, the ethico-political tasks are those of work on the self to erase hubristic liberal traces of subject-centric understandings, understood to merely create the dangers of existential resentment. Work on the self is the only route to changing the world. As Connolly states: ‘To embrace without deep resentment a world of becoming is to work to “become who you are”, so that the word “become” now modifies “are” more than the other way around.’ Becoming who you are involves the ‘microtactics of the self’, and work on the self can then extend into ‘micropolitics’ of more conscious and reflective choices and decisions and lifestyle choices leading to potentially higher levels of ethical self-reflectivity and responsibility. Bennett argues that against the ‘narcissism’ of anthropomorphic understandings of domination of the external world, we need ‘some tactics for cultivating the experience of our selves as vibrant matter’. Rather than hubristically imagining that we can shape the world we live in, Bennett argues that: ‘Perhaps the ethical responsibility of an individual human now resides in one’s response to the assemblages in which one finds oneself participating. Such ethical tactics include reflecting more on our relationship to what we eat and considering the agentic powers of what we consume and enter into an assemblage with. In doing so, if ‘an image of inert matter helps animate our current practice of aggressively wasteful and planet-endangering consumption, then a materiality experienced as a lively force with agentic capacity could animate a more ecologically sustainable public’. For new materialists, the object to be changed or transformed is the human – the human mindset. By changing the way we think about the world and the way we relate to it by including broader, more non-human or inorganic matter in our considerations, we will have overcome our modernist ‘attachment disorders’ and have more ethically aware approaches to our planet. In cultivating these new ethical sensibilities, the human can be remade with a new self and a ‘new self-interest’.

### 2NC AT: Perm

#### **mutually exclusive – the quest for negative peace trades off with positive peace through pacifism**

Pankhurst 3

(Donna-, May 1, Development in Practice, “The 'sex war' and other wars: towards a feminist approach to peace building”, Vol. 13 # 2&3, Infomaworld; Jacob)

Turning to the meanings of the term ‘peace’, Galtung’s (1985) conception of negative peace has come into widespread use, and is probably the most common meaning given to the word, i.e. the end or absence of widespread violent conflict associated with war. A ‘peaceful’ society in this sense may therefore include a society in which social violence (against women, for instance) and/or structural violence (in situations of extreme inequality, for example) are prevalent. Moreover, this limited ‘peace goal’, of an absence of specific forms of violence associated with war, can and often does lead to a strategy in which all other goals become secondary. The absence of analysis of the deeper (social) causes of violence also paves the way for peace agreements that leave major causes of violent conflict completely unresolved. Negative peace may therefore be achieved by accepting a worse state of affairs than that which motivated the outburst of violence in the first place, for the sake of (perhaps short-term) ending organised violence. Galtung’s alternative vision, that of positive peace, requires not only that all types of violence be minimal or non-existent, but also that the major potential causes of future conflict be removed. In other words, major conflicts of interest, as well as their violent manifestation, need to be resolved. Positive peace encompasses an ideal of how society should be, but the details of such a vision often remain implicit, and are rarely discussed. Some ideal characteristics of a society experiencing positive peace would include: an active and egalitarian civil society; inclusive democratic political structures and processes; and open and accountable government. Working towards these objectives opens up the field of peace building far more widely, to include the promotion and encouragement of new forms of citizenship and political participation to develop active democracies. It also opens up the fundamental question of how an economy is to be managed, with what kind of state intervention, and in whose interests. But more often than not discussion of these important issues tends to be closed off, for the sake of ‘ending the violence’, leaving major causes of violence and war unresolved—including not only economic inequalities, but also major social divisions and the social celebration of violent masculinities.

#### Movements DA

#### mounting public pressure against drones in the status quo forces massive scaling-back of militaristic targeted killing. the affirmative’s cosmetic restriction saves the drone program by abating public anger. the negative’s pacifist demand rides a wave of public outcry to spark a larger opposition to militarism.

Zenko 13 – fellow @ CFR

(Micah Zenko is the Douglas Dillon fellow in the Center for Preventive Action (CPA) at the Council on Foreign Relations (CFR). Previously, he worked for five years at the Harvard Kennedy School and in Washington, DC, at the Brookings Institution, Congressional Research Service, and State Department's Office of Policy Planning, Council Special Report No. 65, January 2013, “U.S. Drone Strike Policies”, i.cfr.org/content/publications/attachments/Drones\_CSR65.pdf‎)

In his Nobel Peace Prize acceptance speech, President Obama declared: “Where force is necessary, we have a moral and strategic interest in binding ourselves to certain rules of conduct. Even as we confront a vicious adversary that abides by no rules, I believe the United States of America must remain a standard bearer in the conduct of war.”63 Under President Obama drone strikes have expanded and intensified, and they will remain a central component of U.S. counterterrorism operations for at least another decade, according to U.S. officials.64 But much as the Bush administration was compelled to reform its controversial counterterrorism practices, it is likely that the United States will ultimately be forced by domestic and international pressure to scale back its drone strike policies. The Obama administration can preempt this pressure by clearly articulating that the rules that govern its drone strikes, like all uses of military force, are based in the laws of armed conflict and inter- national humanitarian law; by engaging with emerging drone powers; and, most important, by matching practice with its stated policy by limiting drone strikes to those individuals it claims are being targeted (which would reduce the likelihood of civilian casualties since the total number of strikes would significantly decrease). The choice the United States faces is not between unfettered drone use and sacrificing freedom of action, but between drone policy reforms by design or drone policy reforms by default. Recent history demonstrates that domestic political pressure could severely limit drone strikes in ways that the CIA or JSOC have not anticipated. In support of its counterterrorism strategy, the Bush administration engaged in the extraordinary rendition of terrorist suspects to third countries, the use of enhanced interrogation techniques, and warrantless wiretapping. Although the Bush administration defended its policies as critical to protecting the U.S. homeland against terrorist attacks, unprecedented domestic political pressure led to significant reforms or termination. Compared to Bush-era counterterrorism policies, drone strikes are vulnerable to similar—albeit still largely untapped—moral outrage, and they are even more susceptible to political constraints because they occur in plain sight. Indeed, a negative trend in U.S. public opinion on drones is already apparent. Between February and June 2012, U.S. support for drone strikes against suspected terrorists fell from 83 per- cent to 62 percent—which represents less U.S. support than enhanced interrogation techniques maintained in the mid-2000s.65 Finally, U.S. drone strikes are also widely opposed by the citizens of important allies, emerging powers, and the local populations in states where strikes occur.66 States polled reveal overwhelming opposition to U.S. drone strikes: Greece (90 percent), Egypt (89 percent), Turkey (81 percent), Spain (76 percent), Brazil (76 percent), Japan (75 percent), and Pakistan (83 percent).67 This is significant because the United States cannot conduct drone strikes in the most critical corners of the world by itself. Drone strikes require the tacit or overt support of host states or neighbors. If such states decided not to cooperate—or to actively resist—U.S. drone strikes, their effectiveness would be immediately and sharply reduced, and the likelihood of civilian casualties would increase. This danger is not hypothetical. In 2007, the Ethiopian government terminated its U.S. military presence after public revelations that U.S. AC-130 gun- ships were launching attacks from Ethiopia into Somalia. Similarly, in late 2011, Pakistan evicted all U.S. military and intelligence drones, forc- ing the United States to completely rely on Afghanistan to serve as a staging ground for drone strikes in Pakistan. The United States could attempt to lessen the need for tacit host-state support by making signifi- cant investments in armed drones that can be flown off U.S. Navy ships, conducting electronic warfare or missile attacks on air defenses, allow- ing downed drones to not be recovered and potentially transferred to China or Russia, and losing access to the human intelligence networks on the ground that are critical for identifying targets. According to U.S. diplomats and military officials, active resis- tance—such as the Pakistani army shooting down U.S. armed drones— is a legitimate concern. In this case, the United States would need to either end drone sorties or escalate U.S. military involvement by attack- ing Pakistani radar and antiaircraft sites, thus increasing the likelihood of civilian casualties.68 Beyond where drone strikes currently take place, political pressure could severely limit options for new U.S. drone bases. For example, the Obama administration is debating deploying armed drones to attack al-Qaeda in the Islamic Maghreb (AQIM) in North Africa, which would likely require access to a new airbase in the region. To some extent, anger at U.S. sovereignty violations is an inevitable and necessary trade-off when conducting drone strikes. Nevertheless, in each of these cases, domestic anger would partially or fully abate if the United States modified its drone policy in the ways suggested below.

#### **the will of the people expressed through a peace movement is the most effective method for social change against militarism – the nation-state system is broken and corrupt – since the aff doesn’t change that, any risk they shut out the peace movement means you vote negative**

Moore 5 – fellow @ Harvard’s Berkman Center

(John, Extreme Democracy, The Second Superpower Rears its Beautiful Head, p. 37-40)

As the United States government becomes more belligerent in using its power in the world, many people are longing for a “second superpower” that can keep the US in check. Indeed, many people desire a superpower that speaks for the interests of planetary society, for long-term well-being, and that encourages broad participation in the democratic process. Where can the world find such a second superpower? No nation or group of nations seems able to play this role, although the European Union sometimes seeks to, working in concert with a variety of institutions in the field of international law, including the United Nations. But even the common might of the European nations is barely a match for the current power of the United States.¶ There is an emerging second superpower, but it is not a nation. Instead, it is a new form of international player, constituted by the “will of the people” in a global social movement. The beautiful but deeply agitated face of this second superpower is the worldwide peace campaign, but the body of the movement is made up of millions of people concerned with a broad agenda that includes social development, environmentalism, health, and human rights. This movement has a surprisingly agile and muscular body of citizen activists who identify their interests with world society as a whole—and who recognize that at a fundamental level we are all one. These are people who are attempting to take into account the needs and dreams of all 6.3 billion people in the world—and not just the members of one or another nation. Consider the members of Amnesty International who write letters on behalf of prisoners of conscience, and the millions of Americans who are participating in email actions against the war in Iraq. Or the physicians who contribute their time to Doctors Without Borders/Medecins Sans Frontieres. ¶ While some of the leaders have become highly visible, what is perhaps most interesting about this global movement is that it is not really directed by visible leaders, but, as we will see, by the collective, emergent action of its millions of participants. Surveys suggest that at least 30 million people in the United States identify themselves this way—approximately 10% of the US population. The percentage in Europe is undoubtedly higher. The global membership in Asia, South America, Africa and India, while much lower in percentage of the total population, is growing quickly with the spread of the Internet. What makes these numbers important is the new cyberspace- enabled interconnection among the members. This body has a beautiful mind. Web connections enable a kind of near-instantaneous, mass improvisation of activist initiatives. For example, the political activist group Moveon.org, which specializes in rapid response campaigns, has an email list of more than two million members. During the 2002 elections, Moveon.org raised more than $700,000 in a few days for a candidate’s campaign for the US senate. It has raised thousands of dollars for media ads for peace—and it is now amassing a worldwide network of media activists dedicated to keeping the mass media honest by identifying bias and confronting local broadcasters.¶ New forms of communication and commentary are being invented continuously. Slashdot and other news sites present high quality peer- reviewed commentary by involving large numbers of members of the web community in recommending and rating items. Text messaging on mobile phones, or texting, is now the medium of choice for communicating with thousands of demonstrators simultaneously during mass protests. Instant messaging turns out to be one of the most popular methods for staying connected in the developing world, because it requires only a bit of bandwidth, and provides an intimate sense of connection across time and space. The current enthusiasm for blogging is changing the way that people relate to publication, as it allows real-time dialogue about world events as bloggers log in daily to share their insights. Meta-blogging sites crawl across thousands of blogs, identifying popular links, noting emergent topics, and providing an instantaneous summary of the global consciousness of the second superpower. ¶ The Internet and other interactive media continue to penetrate more and more deeply all world society, and provide a means for instantaneous personal dialogue and communication across the globe. The collective power of texting, blogging, instant messaging, and email across millions of actors cannot be overestimated. Like a mind constituted of millions of inter- networked neurons, the social movement is capable of astonishingly rapid and sometimes subtle community consciousness and action. ¶ Thus the new superpower demonstrates a new form of “emergent democracy” that differs from the participative democracy of the US government. Where political participation in the United States is exercised mainly through rare exercises of voting, participation in the second superpower movement occurs continuously through participation in a variety of web-enabled initiatives. And where deliberation in the first superpower is done primarily by a few elected or appointed officials, deliberation in the second superpower is done by each individual—making sense of events, communicating with others, and deciding whether and how to join in community actions. Finally, where participation in democracy in the first superpower feels remote to most citizens, the emergent democracy of the second superpower is alive with touching and being touched by each other, as the community works to create wisdom and to take action.¶ How does the second superpower take action? Not from the top, but from the bottom. That is, it is the strength of the US government that it can centrally collect taxes, and then spend, for example, $1.2 billion on 1,200 cruise missiles in the first day of the war against Iraq. By contrast, it is the strength of the second superpower that it could mobilize hundreds of small groups of activists to shut down city centers across the United States on that same first day of the war. And that millions of citizens worldwide would take to their streets to rally. The symbol of the first superpower is the eagle—an awesome predator that rules from the skies, preying on mice and small animals. Perhaps the best symbol for the second superpower would be a community of ants. Ants rule from below. And while I may be awed seeing eagles in flight, when ants invade my kitchen they command my attention.¶ In the same sense as the ants, the continual distributed action of the members of the second superpower can, I believe, be expected to eventually prevail. Distributed mass behavior, expressed in rallying, in voting, in picketing, in exposing corruption, and in purchases from particular companies, all have a profound effect on the nature of future society. More effect, I would argue, than the devastating but unsustainable effect of bombs and other forms of coercion.¶ Deliberation in the first superpower is relatively formal—dictated by the US constitution and by years of legislation, adjudicating, and precedent. The realpolitik of decision making in the first superpower—as opposed to what is taught in civics class—centers around lobbying and campaign contributions by moneyed special interests—big oil, the military-industrial complex, big agriculture, and big drugs—to mention only a few. In many cases, what are acted upon are issues for which some group is willing to spend lavishly. By contrast, it is difficult in the US government system to champion policy goals that have broad, long-term value for many citizens, such as environment, poverty reduction and third world development, women’s rights, human rights, health care for all. By contrast, these are precisely the issues to which the second superpower tends to address its attention.¶ Deliberation in the second superpower is evolving rapidly in both cultural and technological terms. It is difficult to know its present state, and impossible to see its future. But one can say certain things. It is stunning how quickly the community can act—especially when compared to government systems. The Internet, in combination with traditional press and television and radio media, creates a kind of “media space” of global dialogue. Ideas arise in the global media space. Some of them catch hold and are disseminated widely. Their dissemination, like the beat of dance music spreading across a sea of dancers, becomes a pattern across the community. Some members of the community study these patterns, and write about some of them. This has the effect of both amplifying the patterns and facilitating community reflection on the topics highlighted. A new form of deliberation happens. A variety of what we might call “action agents” sits figuratively astride the community, with mechanisms designed to turn a given social movement into specific kinds of action in the world. For example, fundraisers send out mass appeals, with direct mail or the Internet, and if they are tapping into a live issue, they can raise money very quickly. This money in turn can be used to support activities consistent with an emerging mission.

#### The focus on transparency and accountability is a ruse that obscures broader militarism and legitimates the institutional defense of drones

Gregory 2014, Distinguished Professor of Geography at the University of British Columbia in Vancouver

Derek, “Drone geographies,” Radical Philosophy 183, Jan/Feb

My view is both narrow and wide. It is narrow because I discuss only the use of Predators and Reapers by the US Air Force in Afghanistan and Iraq, sometimes as part of Joint Special Operations Command, and their involvement in CIA-directed targeted killings in Pakistan, Yemen and Somalia. Other advanced militaries also operate drones, some of them armed and some for intelligence, surveillance and reconnaissance (ISR), as part of networked military violence, but it is even more difficult to detail their operations. The US Army and Marine Corps use drones too, but most of these are much smaller and limited to providing ISR for close combat and ground attack. Within these limits, my view is also wide, however, because I want to disclose the matrix of military violence that these remote platforms help to activate. Much of the critical response to drones is unduly preoccupied with the technical (or techno-cultural) object – the drone – and virtually ignores these wider dispositions and propensities. This is, I will argue, both an analytical and a political mistake.¶ Homeland insecurities¶ Fig. 1¶ Fig. 1¶ The first set of geographies is located within the United States, where the US Air Force describes its remote operations as ‘projecting power without vulnerability’. Its Predators and Reapers are based in or close to the conflict zone, where Launch and Recovery crews are stationed to handle take-off and landing via a C-band line-of-sight data link; given the technical problems that dog what Jordan Crandall calls ‘the wayward drone’, there are also large maintenance crews in-theatre to service the aircraft.3 Once airborne, however, control is usually handed to flight crews stationed in the continental United States via a Ku-band satellite link to a ground station at Ramstein Air Base in Germany and a fibre-optic cable across the Atlantic. The network also includes senior officers and military lawyers who monitor operations from US Central Command’s Combined Air Operations Center at Al Udeid Air Base in Qatar, and specialized image analysts in the United States who scrutinize the full-motion video feeds from the aircraft and are linked in via the Air Force’s Distributed Common Ground System. Taken together, the suite of four aircraft that constitutes a Combat Air Patrol capable of providing coverage twenty-four hours a day seven days a week involves 192 personnel, and most of them (133) are located outside the combat zone and beyond immediate danger (Figure 1). This is risk-transfer war with a vengeance, where virtually all the risks are transferred to populations overseas.4 Those who live in the attack zones often criticize drone strikes as cowardly, but the fact that most of those flying these online missions do not put their own lives on the line has also sparked a series of domestic debates about military ethics and codes of honour. These have traditionally invoked a reciprocity of risk that gave war what Clausewitz saw as its moral force: to kill with honour, the soldier must be prepared to die. Now the remote warrior remains the vector of violence but is no longer its potential victim.5¶ Indeed, some critics have ridiculed the drone crews as ‘cubicle warriors’ who merely ‘commute’ to war.6 The remotely piloted aircraft can remain in the air for at least 18 hours – some have recorded flights of more than 40 hours – and this requires crews to work in shifts of 10–12 hours and to alternate between home and work. Many of them report considerable difficulty in this interdigitation. As in previous wars, crews of conventional aircraft are forward deployed at varying distances from the conflict, and when they return to their bases at the end of a mission they remain within a military space that enables them to maintain focus and ‘psychic integrity’. The same is true for the Launch and Recovery crews, but it is much harder for crews of Predators and Reapers in the United States, who, as one of them put it, ‘commute to work in rush-hour traffic, slip into a seat in front of a bank of computers, fly a warplane to shoot missiles at an enemy thousands of miles away, and then pick up the kids from school or a gallon of milk at the grocery store on [their] way home for dinner’. He described it as living ‘a schizophrenic existence between two worlds’; the sign at the entrance to Creech Air Force Base announced ‘You are now entering CENTCOM AOR [Area of Operations]’, but ‘it could just as easily have read “You are now entering C.S. Lewis’s Narnia” for all that my two worlds intersected.’7 ‘The weirdest thing for me’, one pilot admitted, is ‘getting up in the morning, driving my kids to school and killing people’.8 Another confirms ‘the peculiar new disconnect of fighting a telewar’ from ‘a padded seat in American suburbia’ and commuting home ‘always alone with what he has done’.9¶ Remote crews are perhaps most vulnerable to this form of post-traumatic stress disorder – a product not so much of what they have seen as what they have done, though the two are of course connected – and it must be aggravated by the constant switching between worlds. In George Brant’s play Grounded a pilot describes the difficulty of maintaining the separation necessary for her to decompress, and gradually and ever more insistently one space keeps superimposing itself over the other; the fixed, precise sensor of the Gorgon Stare yields to a blurred vision in which she finds it virtually impossible to know where (or who) she is. The two worlds begin to become one: the desert on the night drive home from Creech starts to look like the greyed-out desert landscape in Afghanistan, and the face of a little girl on the screen, the daughter of a High Value Target, turns into the face of her own child.10 Brant’s play is all the more powerful because public attention has been artfully orchestrated so that it does not make that connection: it too is insulated by a ‘remote split’. When critics of CIA-directed drone strikes in Pakistan and elsewhere demand to know about their legal basis and the rules and procedures that are followed, they divert the public gaze from Waziristan to Washington. Madiha Tahir has noted how what she calls the Obama administration’s ‘theatrical performance of faux secrecy’ over its drone war in Pakistan’s Federally Administered Tribal Areas (FATA) – a teasing dance in which the veil of official secrecy is deliberately let slip once, twice, three times – functions to draw its audience’s eye towards the American body politic and away from the Pakistani bodies on the ground. It has been a hideously effective sideshow, in which Obama and an army of barkers and hucksters – unnamed spokesmen ‘speaking on condition of anonymity’ because they are ‘not authorized to speak on the record’, and front-of-house spielers like Harold Koh and John Brennan11 – induce not only a faux secrecy but its obverse, a faux intimacy in which public debate is focused on transparency and accountability as the only ‘games’ worth playing. Yet when you ask people who live under the drones what they want, Tahir continues,¶ They do not say ‘transparency and accountability’. They say they want the killing to stop. They want to stop dying. They want to stop going to funerals – and being bombed even as they mourn. Transparency and accountability, for them, are abstract problems that have little to do with the concrete fact of regular, systematic death.12

### 2NC Structural Violence First

#### **Prefer this impact – structural violence is invisible and exponential – ethics**

Nixon 11

(Rob, Rachel Carson Professor of English, University of Wisconsin-Madison, Slow Violence and the Environmentalism of the Poor, pgs. 2-3)

Three primary concerns animate this book, chief among them my conviction that we urgently need to rethink-politically, imaginatively, and theoretically-what I call "slow violence." By slow violence I mean a violence that occurs gradually and out of sight, a violence of delayed destruction that is dispersed across time and space, an attritional violence that is typically not viewed as violence at all. Violence is customarily conceived as an event or action that is immediate in time, explosive and spectacular in space, and as erupting into instant sensational visibility. We need, I believe, to engage a different kind of violence, a violence that is neither spectacular nor instantaneous, but rather incremental and accretive, its calamitous repercussions playing out across a range of temporal scales. In so doing, we also need to engage the representational, narrative, and strategic challenges posed by the relative invisibility of slow violence. Climate change, the thawing cryosphere, toxic drift, biomagnification, deforestation, the radioactive aftermaths of wars, acidifying oceans, and a host of other slowly unfolding environmental catastrophes present formidable representational obstacles that can hinder our efforts to mobilize and act decisively. The long dyings-the staggered and staggeringly discounted casualties, both human and ecological that result from war's toxic aftermaths or climate change-are underrepresented in strategic planning as well as in human memory. Had Summers advocated invading Africa with weapons of mass destruction, his proposal would have fallen under conventional definitions of violence and been perceived as a military or even an imperial invasion. Advocating invading countries with mass forms of slow-motion toxicity, however, requires rethinking our accepted assumptions of violence to include slow violence. Such a rethinking requires that we complicate conventional assumptions about violence as a highly visible act that is newsworthy because it is event focused, time bound, and body bound. We need to account for how the temporal dispersion of slow violence affects the way we perceive and respond to a variety of social afflictions-from domestic abuse to posttraumatic stress and, in particular, environmental calamities. A major challenge is representational: how to devise arresting stories, images, and symbols adequate to the pervasive but elusive violence of delayed effects. Crucially, slow violence is often not just attritional but also exponential, operating as a major threat multiplier; it can fuel long-term, proliferating conflicts in situations where the conditions for sustaining life become increasingly but gradually degraded.

### 2NC AT: What About Hitler?

#### **hypothetical and historical examples of potential wars that could be just sanitize historical and political violence and are divorced from what happens in the contemporary world – that’s a conservative distraction tactic, new link**

Neu 13 – prof @ U of Brighton

(Michael, International Relations 27(4), The Tragedy of Justified War)

The target of my critique is contemporary analytic just war theory: a theory that constructs highly sophisticated chains of reasoning in order to press the complex world of war into a neat binary moral structure of right and wrong. For all its analytic complexity, and as a result of its proponents’ obsession with questions of individual responsibility and liability to be killed, contemporary just war theory has become both ahistorical and apolitical. The just war discourse no longer needs to be connected to anything happening in the real world in order to make perfect sense to those participating in it. Examples of analytic just war reductionism abound.1 Likewise, fictitious scenarios blossom, as they fit the binary just war accounts better than the real world ever could. Consider, for example, the way in which Jeff McMahan draws a distinction between just and justified wars. Since he is not able to offer an actual historical example (the Soviet Union’s war against Finland in 1939–1940 is only an approximation), he entertains the reader with the following thought experiment: Suppose that country A is about to be unjustly invaded by a ruthless and more powerful country, B. A’s only hope of successful defense is to station forces in the territory of a smaller, weaker, neighboring country, C, in order to be able to attack B’s forces from prepared positions as they approach A along the border between B and C. A’s government requests permission from the government of C to deploy its forces on C’s territory for this purpose, but C’s government, foreseeing that allowing A to use its territory in this way would result in considerable destruction, denies the request. Suppose that C is within its rights to deny A the use of its territory but that, all things considered, it is nonetheless justifiable for A to avoid an otherwise inevitable defeat at the hands of B by going to war against C in order to be able to deploy troops there, provided that it will withdraw immediately after fighting off the invading forces from B ... Given that C is not morally required to sacrifice its territory for the sake of A, it seems that C does nothing to make itself liable to attack by A. On the account I have offered, therefore, A does not have a just cause for war against C. Yet if A is nevertheless morally justified in going to war against C, it must be possible for there to be wars that are morally justified yet unjust. A war is just when there is a just cause and all other relevant conditions of justification are also satisfied. But, while all just wars are morally justified, it seems that not all morally justified wars are just wars. I have quoted this passage at length because it embodies what is wrong with contemporary just war theory: it often deals with neat fictitious worlds, rather than the complex real world; it makes clinical moral judgments about large-scale killing, mutilating and suffering, and it proceeds as if absolute moral and epistemic certainty could always be obtained.

Contemporary just war theorists have turned the world of war into a sterile analytic playground.

# 1NR

### 2NC Circumvention

#### Obama’s done it before --- means there’s no aff

Pollack, 13 --- professor of history emeritus at Michigan State

(2/5/2013, Norman, “For the Glory of What? Drones, Israel, and the Eclipse of Democracy,” <http://www.counterpunch.org/2013/02/05/drones-israel-and-the-eclipse-of-democracy/>)

Bisharat first addresses the transmogrification of international law by Israel’s military lawyers. We might call this damage control, were it not more serious. When the Palestinians first sought to join the I.C.C., and then, to receive the UN’s conferral of nonmember status on them, Israel raised fierce opposition. Why? He writes: “Israel’s frantic opposition to the elevation of Palestine’s status at the United Nations was motivated precisely by the fear that it would soon lead to I.C.C. jurisdiction over Palestinian claims of war crimes. Israeli leaders are unnerved for good reason. The I.C.C. could prosecute major international crimes committed on Palestinian soil anytime after the court’s founding on July 1, 2002.” In response to the threat, we see the deliberate reshaping of the law: Since 2000, “the Israel Defense Forces, guided by its military lawyers, have attempted to remake the laws of war by consciously violating them and then creating new legal concepts to provide juridical cover for their misdeeds.” (Italics, mine) In other words, habituate the law to the existence of atrocities; in the US‘s case, targeted assassination, repeated often enough, seems permissible, indeed clever and wise, as pressure is steadily applied to the laws of war. Even then, “collateral damage” is seen as unintentional, regrettable, but hardly prosecutable, and in the current atmosphere of complicity and desensitization, never a war crime. (Obama is hardly a novice at this game of stretching the law to suit the convenience of, shall we say, the national interest? In order to ensure the distortion in counting civilian casualties, which would bring the number down, as Brennan with a straight face claimed, was “zero,” the Big Lie if ever there was one, placing him in distinguished European company, Obama redefined the meaning of “combatant” status to be any male of military age throughout the area (which we) declared a combat zone, which noticeably led to a higher incidence of sadism, because it allowed for “second strikes” on funerals—the assumption that anyone attending must be a terrorist—and first responders, those who went to the aid of the wounded and dying, themselves also certainly terrorists because of their rescue attempts.) These guys play hardball, perhaps no more than in using—by report—the proverbial baseball cards to designate who would be next on the kill list. But funerals and first responders—verified by accredited witnesses–seems overly much, and not a murmur from an adoring public.

#### The executive always has the upper hand – rally around the leader effect

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.

### 2NC – Authority

#### Ex ante locks in current review

Vladeck 13 (Stephen I. Vladeck Professor of Law and Associate Dean for Scholarship, American University Washington College of Law, “DRONES AND THE WAR ON TERROR: WHEN CAN THE U.S.TARGET ALLEGED AMERICAN TERRORISTS OVERSEAS?,” http://judiciary.house.gov/hearings/113th/02272013\_2/Vladeck%2002272013.pdf)

In the process, the result would be that such ex ante review would do little other than to add the vestiges of legitimacy to operations the legality of which might have otherwise been questioned ex post. Put another way, ex ante review in this context would most likely lead to a more expansive legal framework within which the targeted killing program could operate, one sanctioned by judges asked to decide these cases behind closed doors; without the benefit of adversary parties, briefing, or presentation of the facts; and with the very real possibility that the wrong decision could directly lead to the deaths of countless Americans. Thus, even if it were legally and practically possible, a drone court would be a very dangerous idea.

#### The state secrets doctrine prevents solvency

Rosen 2011 - Professor of Law and Director, Center for Military Law and Policy, Texas Tech University School of Law (Richard D., “PART III: ARTICLE: DRONES AND THE U.S. COURTS” 37 Wm. Mitchell L. Rev. 5280)

Assuming a complaint survives the jurisdictional, justiciability, immunity, and other hurdles to lawsuits challenging U.S. drone policy, the state secrets doctrine is likely to bring the suit to a quick end. n93 Under the doctrine, the United States may prevent the disclosure of information in judicial proceedings if there is a reasonable danger of revealing military or state secrets. n94 Once the privilege is properly invoked and a court is satisfied that release would pose a reasonable danger to secrets of state, "even the most compelling necessity cannot overcome the claim of privilege." n95 Not only will the state secrets doctrine thwart plaintiffs from acquiring or introducing evidence vital to their case, n96 it could result in dismissal of the cases themselves. Under the doctrine, the courts will dismiss a case either because the very subject of the case involves state secrets, n97 or a case cannot proceed without the privileged evidence or presents an unnecessary risk of revealing [\*5293] protected secrets. n98 Employing drones as a weapons platform against terrorists and insurgents in an ongoing armed conflict implicates both the nation's military tactics and strategy as well as its delicate relations with friendly nations. n99 As such, lawsuits challenging the policy cannot be tried without access to and the possible disclosure of highly classified information relating to the means, methods, and circumstances under which drones are employed. VI. Conclusion The instinctive reaction of most lawyers to a party's unlawful actions is to turn to the courts for redress. Although the lawfulness of U.S. policy of attacking al Qaeda and Taliban leaders with drones is contentious, the controversy must be resolved through the political process and outside the courts.