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**Contention one, HEGEMONY:**

**The AUMF war paradigm makes knee jerk interventions inevitable which undermines foreign policy and causes overstretch**

**Cronin 13**, Professor of Public Policy

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**The war on al-Qaeda appears endless**, but **every war must end**. **The US and its allies have made dramatic progress against a** once **formidable terrorist organization known for its meticulous planning, coordinated attacks, and popular support**. Popular **support has dropped off**, **its leader is dead**, **and developments in the Arab world have shifted its focus back to fighting local enemies and hijacking local insurgencies.** **Compared to a decade ago**, **the threat** to the United States, the United Kingdom, and Western allies **is much reduced**. Although it can still inspire small attacks, **the organization that attacked the United States in 2001 is marginalized.** Research about how terrorism ends has influenced counterterrorism policy decisions.1 But what about the other side of that coin – the war against al-Qaeda. Recently published books on war termination have ignored it.2 How exactly will it end? For Americans, **the response to al-Qaeda’s 2001 attacks has always been a ‘war.’** Against the misgivings of experts and allies, **Congress resolved the US debate over ‘war’ or ‘crime’ three days after the 9/11 attacks**.3 With nearly 3000 dead Americans lying under hot debris, **the situation seemed clear: another attack was imminent. Only preventive military force could protect the country from further carnage, delivered either conventionally or with weapons of mass destruction**. **The** 2001 **Authorization for the Use of Military Force (AUMF)**, as robust as any formal war declaration preceding it, **bound the bureaucracy to frame the conflict as a ‘war’ rather than a law enforcement problem** – **and it was a war with no specified end.4** Even the 1941 war declarations upon Imperial Japan and Nazi Germany had directed the President ‘to bring the conflict(s) to a successful termination.’5 **The boundless 2001 authorization was followed by a series of continuing resolutions providing open-ended fundin**g, 94 per cent of which went to the Defense Department.6 For US policymakers, **calling the struggle a ‘war on terrorism’ and then a ‘war against al-Qaeda and its affiliates’ was not just semantics**. **Winding down in Afghanistan and Iraq is straightforward compared to ending the war against al-Qaeda**.7 For the United States both of those ‘overseas contingency operations’ conclude when US combat troops are withdrawn and a Status of Forces Agreement enacted to cover post-conflict arrangements. Yet planners often forget that both were launched as an integral part of the global response to deadly attacks against the World Trade Centre, the Pentagon, and ultimately a field in Pennsylvania. **The end of combat operations in Iraq and Afghanistan is not the end of the war begun in 2001**. **With smaller ongoing US operations from the Philippines to the Horn of Africa**, **a sustainable strategy must** also **weigh means and ends in the ongoing war against al-Qaeda**. **The alternative is to jerk willy-nilly from overspending to underspending, paranoia to complacency, short-term reaction to long-term decline.** **The war on terrorism has remained open-ended** in time, geography, and resources – including money, talent, and preemptive lethal force. **Ill-defined ends and means are placing US actions outside of familiar strategic, legal, and moral frameworks for evaluating their pros and cons.** **Military operations and tactics have prevailed**, from two massive counterinsurgencies to high-tempo special operations to drone attacks, **with a sustainable longer-term approach neglected.**8 **Efforts to create a balanced grand strategy across all aspects of US power** (**military, diplomatic, law enforcement, aid) have failed**, **unsupported by either the legal or the financial scaffolding of the post-9/11 campaign.** Without envisioning an end, **policymakers do not calibrate day-to-day plans so that ends and means are aligned**. **Through its unmatched operational, intelligence, and special operations capabilities, the United States government has made enormous progress**, killing bin Laden and crushing the leadership. Yet, **even as al-Qaeda is losing, the United States does not seem to be winning.** In this war, no one seems to know what ‘winning’ means. **Crime is endless, but wars end**. Contrary to popular myth, **wars do not all reach closure with surrender ceremonies** on battleships, treaty negotiations in French palaces, or even helicopter evacuations from embassy rooftops.9 **Nor do they necessarily return the status quo ante bellum**: **Going to war irrevocably alters the strategic landscape.** The American people will never recapture their pre-9/11 sense of safety, just as the intrusive security procedures and intelligence collection will never disappear. And **this is not the first authorization for the use of force against a nonstate actor**: Native Americans, pirates, and slave traders have all been named in earlier authorizations.10 But **while terrorism itself never ends, wars by their nature demand a distinction between ‘war’ and ‘peace.’** So far, **the United States government has no idea how to characterize ‘peace**.’ **This is a serious oversight. All the great strategists agree that war cannot be fought successfully without clear notions of an end state to guide, modulate, and focus operations.** More than 2500 years ago in ancient China, Sun Zi wrote of the chaotic Warring States period that ‘there has never been a protracted war from which a country has benefited’ and ‘hence what is essential in war is victory, not prolonged operations.’11 Reflecting on the Peloponnesian War, Thucydides wrote in fifth-century BCE, ‘[i]t is a common mistake in going to war to begin at the wrong end, to act first, and wait for disaster to discuss the matter.’12 In the second book of On War, von Clausewitz observes, ‘[y]et insofar as that aim is not the one that will lead directly to peace, it remains subsidiary and is also to be thought of as means …. What remains in the way of ends, then, are only those objects that lead directly to peace.’13 Fresh out of World War I, Col. J.F.C. Fuller observed, ‘[p]reparation for war or against war, from the grand strategical aspect, is the main problem of peace, just as the accomplishment of peaceful prosperity is the main problem of war.’14 And, following World War II, British strategist Basil Liddell Hart argued, ‘**while the horizon of strategy is bounded by the war, grand strategy looks beyond the war to the subsequent peace**. **It should not only combine the various instruments, but so regulate their use as to avoid damage to the future state of peace – for its security and prosperity.’15** In the twentieth century, **the advent of nuclear weapons meant that American strategic thinking came to be dominated more by economics and engineering than history**. But even there the imperative of war termination was brought home in books such as Fred Iklé’s 1971 classic, Every War Must End, published during the Vietnam War.16 **No country has ever benefited from an endless war, and the United States is no exception**. **American policymakers must envision the end of this war or it will further exhaust US forces, distort their strategic planning, and blind them to other threats**. **Thinking about how this war will end is crucial to prosecuting it successfully**. Yet, the more the United States fights, the longer the war’s trajectory seems to grow. Twelve years after 9/11, senior US Defense official Michael Sheehan told Congress that the war with al-Qaeda would continue ‘for 10 or 20 years’ more.17 How could that be? Clearly Al-Qaeda is not the same organization it was a decade ago. What does ‘success’ mean?18 The following first evaluates the ongoing US response in historical context, and then suggests how to bring the war against al-Qaeda to an end. Through the post-9/11 years, **the U**nited **S**tates **evolved in its answer to al-Qaeda**, **from major combat operations**, counterinsurgency and nation-building in Iraq and Afghanistan, **toward** juxtaposing the decline of al-Qaeda with **the rise of aggressive US special operations and paramilitary intelligence activity globally. Lacking a strong framework for strategy and war termination, the United States replaced the actual threat of al-Qaeda with the possibility of al-Qaeda** (or ‘associates’) **in a widening range of places.** An unforeseen legacy of defining al-Qaeda as a ‘global insurgency’ in 2005 was the impulse for US action against ‘transnational violent extremism’ universally in 2012.19 **Muslim insurgencies around the world became core US concerns. This was a crucial shifting of American ends, from the protection of the American homeland and the prevention of another attack, to the defense of all parts of the world from the potential for an Islamist extremist entity to hold any piece of territory, anywhere.** Former NSC official Mary Habeck put it this way: [**W]inning against al Qaeda** does not depend on body counts, but rather **would look very much like victories against other insurgents**: the spreading of security for populations in Somalia, Yemen, the Sahel, and elsewhere; the prevention of a return of al-Qaeda to those cleared areas; and the empowerment of legitimate governments that can control and police their own territories. **By these standards, we have not yet defeated al Qaeda**; in fact, **beyond Iraq, Afghanistan, and Somalia, we have hardly engaged the enemy at all**.20 **This implies that the** **U**nited **S**tates **should engage in a war on violent extremism anywhere, and** thus **fight an open-ended global campaign everywhere – a classic recipe for imperial overstretch. A worldwide perspective** also **emerged from the unfortunate US tendency to equate failed states with an al-Qaeda threat** (or potential al-Qaeda threat), **thus pulling many ungoverned corners of the globe into the US sphere of interest**.21 Along with the demand for zero risk at home, **such narrow thinking yielded reactionary, expeditionary responses instead of prioritization according to enduring US interests in deciding where to deploy. A light military footprint was not so light when it lacked a strategic framework and global boundaries**. In the absence of long-term strategic planning, the United States began to suffer four symptoms common to all prolonged wars: means became ends, tactics became strategy, boundaries were blurred, and the search for a perfect peace replaced reality.22

**That makes engagement impossible --- causes cycles of failed intervention and destroys alliances --- ending the war paradigm solves**

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A fourth problem with **the state-building obsession** was that it **distorted the United States’ sense of its central purpose and role in global politics**. Ever since World War II, **the United States has labored mightily to underwrite the stability of the international system. It has done this by assembling military alliances to protect its friends and deter its enemies, by helping construct a global architecture of trade and finance, and by policing the global commons**. **These actions have helped buttress an interdependent system of states that see their dominant interests in stability rather than conquest. Playing this role well demands sustained attention at all levels of government**, **in part to nurture the relationships essential to crisis management, diplomacy, and multilateral cooperation of all kinds**. Indeed, **the leading danger in the international system today is the peril that, assaulted by a dozen causes of rivalry and mistrust, the system will fragment into geopolitical chaos**. **The U.S. experience** since the 1990s, and growing evidence from Northeast Asia, **suggests that if the relatively stable post–Cold War era devolves into interstate rivalry, it will be not the result of weak states but that of the escalating regional ambitions, bitter historical memories, and flourishing nationalisms of increasingly competitive states. The U.S. role in counteracting the broader trends of systemic disintegration is** therefore **critical**. **The United States is the linchpin of a number of key alliances and networks; it provides the leadership and attractive force for many global diplomatic endeavors**, **and its dominant military position helps rule out thoughts of aggression in many quarters**. **The weak-state obsession has drawn attention away from such pursuits and made a resurgence of traditional threats more likely**. **Focusing on two seemingly endless wars and half a dozen other potential “stability operations” has eroded U.S. global engagement**, **diminished U.S. diplomatic creativity**, **and distracted U.S. officials from responding appropriately to changes in the global landscape**. When one reads the memoirs of Bush administration officials, **the dozen or more leading global issues beyond Afghanistan, Iraq, and the “war on terror” begin to sound like background noise**. **Top U.S. officials appear to have spent far more time between 2003 and 2011**, for example, **managing the fractious mess of Iraqi politics than tending to relationships with key global powers**. As a consequence, **senior U.S. officials have had less time to cultivate the leaders of rising regional powers, from Brazil to India to Turkey**. Sometimes, **U.S. actions or demands in state-building adventures have directly undermined other important relationships or diplomatic initiatives**, **as when Washington faced the global political reaction to the Iraq war.** **Such tradeoffs reflect a hallmark of the era of state building: secondary issues became dominant ones**. To be fair, this was partly the fault of globalization; around-the-clock media coverage now constantly shoves problems a world away onto the daily agendas of national leaders. Combined with the United States’ self-image as the indispensable nation, this intrusive awareness created political pressure to act on issues of limited significance to core U.S. interests. Yet this is precisely the problem: **U.S. perceptions of global threats and of the country’s responsibility to address them have become badly and perhaps permanently skewed. A great power’s reservoir of strategic attention is not infinite**. And **the United States has become geopolitically hobbled**, **seemingly uninterested in grand strategic initiatives or transformative diplomacy, as its attention constantly dances from one crisis to another**. A fifth problem flowed directly from the fourth. **To perform its global stabilizing role**, **the U**nited **S**tates **needs appropriately designed, trained, and equipped armed forces** -- **forces that can provide a global presence, prevail in high-end conflict contingencies, enable quick long-range strike and interdiction capabilities, and build and support local partners’ capacities**. **The state-building mission has skewed the operations, training, equipping, and self-conception of the U.S. military in ways that detract from these responsibilities**. **Much of the U.S. military has spent a decade focusing on state building and counterinsurgency** (COIN), **especially in its training and doctrine**, to the partial neglect of more traditional tasks. **Massive investments have gone into COIN-related equipment**, such as the MRAP (mine-resistant, ambush-protected) vehicles **built to protect U.S. troops from improvised explosive devices, draining billions of dollars from other national security resources**. **The result of these choices has been to weaken the U.S. military’s ability to play more geostrategic and**, ultimately, **more important roles**. **Between a demanding operational tempo**, **the requirements of refitting between deployments**, **and a shift in training to emphasize COIN**, **the U.S. military, especially its ground forces, lost much of its proficiency in full-spectrum combat operations.** Simply put, **the U.S. military would be far better positioned today** -- **better aligned with the most important roles for U.S. power, better trained for its traditional missions, better equipped for an emerging period of austerity** -- **had the state-building diversion never occurred**. AN ALTERNATIVE MODEL **None of this is meant to suggest that a concern for the problems posed by weak or failing states can or should disappear entirely from the U.S. foreign policy and national security agendas**. **Counterterrorism and its associated tasks will surely remain important**, and across the greater Middle East -- including Afghanistan after 2014 -- **internal turmoil may well have external consequences requiring some response from Washington**. **Effective local institutions do contribute to stability and growth, and the United States should do what it can to nurture them where possible**. **The difference is likely to be in the priority Washington accords such efforts**. The January 2012 Defense Strategic Guidance, for example, reflected the judgment that “**U.S. forces will no longer be sized to conduct large-scale, prolonged stability operations**” and announced an intention to pursue “innovative, low-cost, and small-footprint approaches” to achieving objectives. Recently, the vice chairman of the Joint Chiefs of Staff, Admiral James “Sandy” Winnefeld, went even further: “I **simply don’t know where the security interests of our nation are threatened enough to cause us to lead a future major, extended COIN campaign.**” In the future, **the United States is likely to rely less on power projection and more on domestic preparedness, replacing an urgent civilizing zeal with defensive self-protection**. **This makes sense, because the most appropriate answer to the dangers inherent in an era of interdependence and turbulence is domestic resilience**: hardened and redundant networks of information and energy, an emphasis on local or regional self-sufficiency to reduce the cascading effects of systemic shocks, improved domestic emergency-response and cybersecurity capacities, sufficient investments in pandemic response, and so forth. **Equally important is a resilient mindset**, one that treats perturbations as inevitable rather than calamitous and resists the urge to overreact. In this sense, the global reaction to the recent surge in piracy -- partly a product of poor governance in African states -- should be taken as a model: no state-building missions, but arming and protecting the ships at risk. When it does reach out into the world to deal with weak states, **the United States should rely on gradual progress through patient, long-term advisory and aid relationships, based on such activities as direct economic assistance tailored to local needs; training, exchanges, and other human-capacity-development programs; military-to-military ties; trade and investment policies; and more**. The watchwords should be patience, gradualism, and tailored responses: enhancing effective governance through a variety of models attuned to local patterns and needs, in advisory and supportive ways. **As weak states continue to generate specific threats, such as terrorism, the United States has a range of more limited tools available to mitigate them**. **It can**, for example, **return terrorism to its proper place as a law enforcement task and continue to work closely with foreign law enforcement agencies**. **It can help train and develop such agencies, as well as local militaries, to lead in the fight.** When necessary, **it can employ targeted coercive instruments -- classic intelligence work and clandestine operations, raids by special operations forces, and, with far greater selectivity than today, remote strikes -- to deal with particular threats, ideally in concert with the militaries of local allies**. **Some will contend that U.S. officials can never rule out expeditionary state building because events may force it back onto the agenda**. If **al Qaeda were to launch an attack that was planned in restored Taliban strongholds in a post-2014 Afghanistan**, or if a fragmentation and radicalization of Pakistani society were to place nuclear control at risk, some would recommend a return to interventionist state building. Yet after the United States’ recent experiences, it is doubtful that such a call would resonate. **The idea of a neo-imperial mission to strengthen weak states and stabilize chaotic societies always flew in the face of more important U.S. global roles and real mechanisms of social change**. There is still work to be done in such contexts, but in more prudent and discriminate ways. **Moving on from the civilizing mission will**, in turn, **make possible a more sustainable and effective national security strategy, allowing the United States to return its full attention to the roles and missions that mean far more to long-term peace and security**. **One of the benefits of this chang**e, ironically, **will be to allow local institutional development to proceed more organically and authentically, in its own ways and at its own pace. Most of all, the new mindset will reflect a simple facing up to reality after a decade of distraction**.

**Ending the war paradigm rebalances US foreign policy and makes US leadership sustainable—key to reorient away from short term military failures**

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Third, as the United States ends this war, **it must** also **rebalance US counterterrorism policy**. **Being at war**, **the U**nited **S**tates **has naturally overemphasized and overresourced the military response to al-Qaeda at the expense of the nonmilitary means**. **Decades of international experience with counterterrorism confirm that this emphasis on the use of military force has long-term disadvantages that will not serve American interests or security in the future**. As part of its transition toward postwar normality, **the United States must focus more energy on diplomacy and building the capacity of partner countries who are dealing with threats that also potentially threaten the US**. In particular, **enhancing the role of the Department of State in interagency efforts against counterterrorism is extremely important**. The formal promotion of the State Department’s Office for Combating Terrorism to a full Bureau of Counterterrorism in January 2012 was a step in the right direction toward enhancing its role in building international cooperation against terrorism through diplomatic channels.64 **The Pentagon has vastly overshadowed the State Department’s resources and leverage in developing US counterterrorism policy**, and **this is the time to readjust toward a more viable long-term national strategy**. **Modeling balanced counterterrorism policies is the best way forward**, **including not just direct action when required, but also lower profile, longer-term, more prosaic efforts such as prison monitoring, counter-recruitment, countering document fraud, airport security, Internet monitoring, and jihadist chat-room infiltration**. Fourth, and related, **the US government must do a better job of bringing its own costs and risks into sharper alignment, synching image and reality in the minds of Americans.** **Popular resilience is part of a winning strategy against al-Qaeda**, and **to build it the US government and its people must determine how to go from a state of war to a state of peace**, meaning a realistic condition of normality. **Ending the state of war against al-Qaeda will have an influence upon the US public psychologically and will shift the American narrative in ways that help the US government better adapt to ongoing global changes**. That is not to say that ‘terrorism’ will end. Three weeks after leaving office, outgoing Head of the National Counterterrorism Center Michael Leiter put it this way: The American people do need to understand that at least the smaller-scale terrorist attacks are with us for the foreseeable future …. The way that we fundamentally defeat that threat, which is very difficult to stop in its entirety, is to maintain a culture of resilience. Although this threat of terrorism is real and there will be tragic events that lead to the deaths of innocent people, it is not, in my view, an existential threat to our society.65 The President must openly and repeatedly say the same thing. **Continued cooperation on counterterrorism is vital.** But lastly, **the end of this war should bring with it a reassessment of US security commitments globally, with clear prioritization according to national interests**. Why, for example, is the United States beefing up its military presence in Africa while simultaneously arguing that the future lies in a rebalancing to Asia? **Such a strategic shift is impossible as long as it is willing to get sucked into local insurgencies by carrying out so-called ‘goodwill’ attacks on behalf of governments in Yemen, Somalia, and Pakista**n**. US forces are reacting to short-term threats against those governments, rather than building a viable global presence to protect the United States and its longstanding allies.** Americans must stop living on adrenaline and build a sustainable future by ending this war and developing some concept of what normality means. **The US goal for al-Qaeda must be to transition to where it is a manageable, albeit still dangerous, threat and American policymakers can focus more of their resources and attention on other priorities**. Al-Qaeda has not ended. But its ability to launch a major attack against the United States has declined. Critics will argue that the enemy always has a vote. This is true; but does he have a veto? **A major coordinated attack from abroad would be catastrophic**; however, smaller terrorist attacks on US soil are inevitable and have been the reality for decades. The next time there is a small jihadist attack on American soil – inspired by the legacy of al-Qaeda or even orchestrated by one of its new ‘associates’ – will Americans automatically extend this costly global war for another decade? The United States is not the first great power to meet a serious terrorist threat. **Being constantly on the defensive diminishes its global role and stature. While elements of the US government must continue to aggressively counter al-Qaeda, staying on an endless wartime footing is self-defeating.**

**U.S. engagement solves nuclear war and fosters global cooperation**

**Brooks, Ikenberry, and Wolforth 13**, Professors of Government and international Politics

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Of course, even if it is true that the costs of deep **engagement** fall far below what advocates of retrenchment claim, they would not be worth bearing unless they **yielded greater benefits**. In fact, they do. **The most obvious benefit** of the current strategy **is that it reduces the risk of a dangerous conflict**. **The U**nited **S**tates' **security commitments deter states with aspirations to regional hegemony from contemplating expansion and dissuade U.S. partners from trying to solve security problems on their own** in ways that would end up threatening other states. **Skeptics discount this benefit by arguing that U.S. security guarantees aren't necessary** to prevent dangerous rivalries from erupting. **They maintain that the high costs of territorial conquest and the many tools countries can use to signal their benign intentions are enough to prevent conflict**. In other words, **major powers could peacefully manage regional multipolarity without the American pacifier**. But **that outlook is too sanguine**. If **Washington got out of East Asia, Japan and South Korea would likely expand their military capabilities and go nuclear**, **which could provoke a destabilizing reaction from China**. It's worth noting that **during the Cold War, both South Korea and Taiwan tried to obtain nuclear weapons; the only thing that stopped them was the U**nited **S**tates, **which used its security commitments to restrain their nuclear temptations.** Similarly, **were the U**nited **S**tates **to leave the Middle East**, the countries currently backed by Washington -- notably, **Israel, Egypt, and Saudi** **Arabia** -- **might** act in ways that would **intensify the region's security dilemmas**. There would even be reason to worry about Europe. Although it's hard to imagine the return of great-power military competition in a post-American Europe, it'**s not difficult to foresee governments there refusing to pay the budgetary costs of higher military outlays and the political costs of increasing EU defense cooperation. The result might be a continent incapable of securing itself from threats on its periphery, unable to join foreign interventions on which** U.S. **leaders might want European help, and vulnerable to the influence of outside rising powers**. **Given how easily a U.S. withdrawal from key regions could lead to dangerous competition**, **advocates of retrenchment** **tend to put forth another argument: that such rivalries wouldn't actually hurt the United States**. To be sure, few doubt that the United States could survive the return of conflict among powers in Asia or the Middle East -- but at what cost? **Were states** in one or both of these regions **to start competing against one another, they would likely boost their military budgets**, arm **client states, and perhaps even start regional proxy wars**, **all of which should concern the United States**, in part because **its lead in military capabilities would narrow.** Greater **regional insecurity could also produce cascades of nuclear proliferation as powers such as Egypt, Saudi Arabia, Japan, South Korea, and Taiwan built nuclear forces of their own.** **Those countries' regional competitors might then also seek nuclear arsenals.** **Although nuclear deterrence can promote stability** between two states with the kinds of nuclear forces that the Soviet Union and the United States possessed, **things get shakier when there are multiple nuclear rivals with less robust arsenals**. As **the number of nuclear powers increases, the probability of illicit transfers, irrational decisions, accidents, and unforeseen crises goes up.** The case for abandoning the United States' global role misses the underlying security logic of the current approach. **By reassuring allies and actively managing regional relations, Washington dampens competition in the world's key areas**, thereby **preventing the emergence of a hothouse in which countries would grow new military capabilities.** For proof that this strategy is working, one need look no further than the defense budgets of the current great powers: on average, since 1991 they have kept their military expenditures as a percentage of GDP to historic lows, and they have not attempted to match the United States' top-end military capabilities. Moreover, all of the world's most modern militaries are U.S. allies, and the United States' military lead over its potential rivals is by many measures growing. On top of all this, **the current grand strategy acts as a hedge against the emergence regional hegemons**. Some supporters of retrenchment argue that the U.S. military should keep its forces over the horizon and pass the buck to local powers to do the dangerous work of counterbalancing rising regional powers. Washington, they contend, should deploy forces abroad only when a truly credible contender for regional hegemony arises, as in the cases of Germany and Japan during World War II and the Soviet Union during the Cold War. Yet **there is already a potential contender for regional hegemony** -- China -- and to **balance it, the United States will need to maintain its key alliances in Asia and the military capacity to intervene there**. The implication is that the United States should get out of Afghanistan and Iraq, reduce its military presence in Europe, and pivot to Asia. Yet that is exactly what the Obama administration is doing. MILITARY DOMINANCE, ECONOMIC PREEMINENCE Preoccupied with security issues, **critics of the current grand strategy miss one of its most important benefits: sustaining an open global economy and a favorable place for the United States within it**. To be sure, **the sheer size of its output would guarantee the United States a major role in the global econom**y whatever grand strategy it adopted. Yet **the country's military dominance undergirds its economic leadership**. In addition to protecting the world economy from instability, **its military commitments and naval superiority help secure the sea-lanes and other shipping corridors that allow trade to flow freely and cheaply**. **Were the United States to pull back from the world, the task of securing the global commons would get much harder. Washington would have less leverage with which it could convince countries to cooperate on economic matters and less access to the military bases** throughout the world **needed to keep the seas open.** A global role also lets the United States structure the world economy in ways that serve its particular economic interests. During the Cold War, **Washington used its overseas security commitments to get allies to embrace the economic policies it preferred** -- convincing West Germany in the 1960s, for example, to take costly steps to support the U.S. dollar as a reserve currency. U**.S. defense agreements work the same way toda**y. For example, **when negotiating the 2011 free-trade agreement with South Korea, U.S. officials took advantage of Seoul's desire to use the agreement as a means of tightening its security relations with Washington.** As one diplomat explained to us privately, "We asked for changes in labor and environment clauses, in auto clauses, and the Koreans took it all." Why? Because they feared a failed agreement would be "a setback to the political and security relationship." More broadly, **the United States wields its security leverage to shape the overall structure of the global economy**. Much of what the United States wants from the economic order is more of the same: for instance, **it likes the current structure of the World Trade Organization and the International Monetary Fund and prefers that free trade continue. Washington wins when U.S. allies favor this status quo,** and one reason they are inclined to support the existing system is because they value their military alliances. Japan, to name one example, has shown interest in the Trans- Pacific Partnership, the Obama administration's most important free-trade initiative in the region, less because its economic interests compel it to do so than because Prime Minister Yoshihiko Noda believes that his support will strengthen Japan's security ties with the United States. The United States' geopolitical dominance also helps keep the U.S. dollar in place as the world's reserve currency, which confers enormous benefits on the country, such as a greater ability to borrow money. This is perhaps clearest with Europe: the EU's dependence on the United States for its security precludes the EU from having the kind of political leverage to support the euro that the United States has with the dollar. **As with other aspects of the global economy, the United States does not provide its leadership for free: it extracts disproportionate gains. Shirking that responsibility would place those benefits at risk.** CREATING COOPERATION **What goes for the global economy goes for other forms of international cooperation.** Here, too, **American leadership benefits many countries** but disproportionately helps the United States. **In order to counter transnational threats, such as terrorism, piracy, organized crime, climate change, and pandemics, states have to work together and take collective action**. But **cooperation does not come about effortlessly**, especially when national interests diverge. **The U**nited **S**tates' **military efforts to promote stability and its broader leadership make it easier for Washington to launch joint initiatives and shape them in ways that reflect U.S. interests**. After all, **cooperation is hard to come by in regions where chaos reigns, and it flourishes where leaders can anticipate lasting stability.** U**.S. alliances** are about security first, but they also **provide the political framework and channels of communication for cooperation on nonmilitary issues**. NATO, for example, has spawned new institutions, such as the Atlantic Council, a think tank, that make it easier for Americans and Europeans to talk to one another and do business. Likewise, consultations with allies in East Asia spill over into other policy issues; for example, when American diplomats travel to Seoul to manage the military alliance, they also end up discussing the Trans-Pacific Partnership. Thanks to conduits such as this, **the United States can use bargaining chips in one issue area to make progress in others**. **The benefits of these communication channels are especially pronounced when it comes to fighting the kinds of threats that require new forms of cooperation, such as terrorism and pandemics.** With its alliance system in place, **the United States is in a stronger position than it would otherwise be to advance cooperation and share burdens**. For example, the intelligence-sharing network within NATO, which was originally designed to gather information on the Soviet Union, has been adapted to deal with terrorism. Similarly, after a tsunami in the Indian Ocean devastated surrounding countries in 2004, Washington had a much easier time orchestrating a fast humanitarian response with Australia, India, and Japan, since their militaries were already comfortable working with one another. The operation did wonders for the United States' image in the region. **The United States' global role also has the more direct effect of facilitating the bargains among governments that get cooperation going in the first place**. As the scholar Joseph Nye has written, "The American military role in deterring threats to allies, or of assuring access to a crucial resource such as oil in the Persian Gulf, means that the provision of protective force can be used in bargaining situations. Sometimes the linkage may be direct; more often it is a factor not mentioned openly but present in the back of statesmen's minds."

**Terrorism**

**Contention two, TERRORISM:**

**Nuclear terrorism is feasible, there are no barriers and there’s motivation for an attack now**

**Bunn et al. 14**

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Unfortunately, **nuclear and radiological terrorism remain real and dangerous threats**.1 **The conclusion the assembled leaders reached at the Washington Nuclear Security Summit** and **reaffirmed in Seoul remains correct**: “**Nuclear terrorism continues to be one of the most challenging threats to international security**. **Defeating this threat requires strong national measures and international cooperation** given its potential global political, economic, social, and psychological consequences.”2 There are three types of nuclear or radiological terrorist attack: • Nuclear weapons. **Terrorists might** be able to **get and detonate an assembled nuclear weapon made by a state, or make a crude nuclear bomb from stolen separated plutonium or HEU**. This would be the most difficult type of nuclear terrorism for terrorists to accomplish— but **the devastation could be absolutely horrifying**, with political and economic aftershocks reverberating around the world. • “Dirty bombs.” **A far simpler approach would be for terrorists to obtain radiological materials**— available in hospitals, industrial sites, and more—**and disperse them to contaminate an area with radioactivity, using explosives or any number of other means.** In most scenarios of such attacks, few people would die from the radiation—but **the attack could spread fear, force the evacuation of many blocks of a major city, and inflict billions of dollars in costs of cleanup and economic disruption**. While a dirty bomb attack would be much easier for terrorists to carry out than an attack using a nuclear explosive, **the consequences would be far les**s—an expensive and disruptive mess, but not the heart of a major city going up in smoke. • Nuclear sabotage. **Terrorists could potentially cause a Fukushima-like meltdown at a nuclear reactor or sabotage a spent fuel pool or high-level waste store**. An unsuccessful sabotage would have little effect, but **a successful one could spread radioactive material over a huge** area. Both **the scale of the consequences and the difficulty of carrying out a successful attack would be intermediate between nuclear weapons and dirty bombs**. Overall, while actual terrorist **use of a nuclear weapon** may be the least likely of these dangers, its consequences **would be so overwhelming that we believe it poses the most significant risk**. A similar judgment drove the decision to focus the four-year effort on securing nuclear weapons and the materials needed to make them. Most of this report will focus on the threat of terrorist use of nuclear explosives, but the overall global governance framework for nuclear security is relevant to all of these dangers. **The danger of nuclear terrorism is driven by** three key factors—**terrorist intent** to escalate to the nuclear level of violence; **potential terrorist capability** to do so; **and the vulnerability of nuclear weapons and the materials** needed to enable terrorists to carry out such an attack—the motive, means, and opportunity of a monstrous crime. Terrorist intent. While most terrorist groups are still focused on small-scale violence for local political purposes, **we now live in an age that includes some groups intent on inflicting large-scale destruction to achieve their objectives**. Over the past quarter century, **both al Qaeda and the Japanese terror cult Aum Shinrikyo seriously sought nuclear weapons and the nuclear materials and expertise needed to make them. Al Qaeda had a focused program reporting directly to Ayman al-Zawahiri** (**now head of the group**), **which progressed as far as carrying out crude but sensible conventional explosive tests for the nuclear program** in the desert of Afghanistan. There is some evidence that **North Caucusus terrorists also sought nuclear weapons**—**including incidents in which terrorist teams were caught carrying out reconnaissance on Russian nuclear weapon storage sites, whose locations are secret**.3 **Despite the death of Osama bin Laden and the severe disruption of the core of al Qaeda, there are no grounds for complacency**. There is every reason to believe **Zawahiri remains eager to inflict destruction on a nuclear scale**. Indeed, **despite the large number of al Qaeda leaders who have been killed or captured**, **nearly all of the key players in al Qaeda’s nuclear program remain alive and at large**—including Abdel Aziz al-Masri, an Egyptian explosives expert who was al Qaeda’s “nuclear CEO.” In 2003, **when al Qaeda operatives were negotiating to buy three of what they thought were nuclear weapons**, **senior al Qaeda officials told them to go ahead and make the purchase if a Pakistani expert with equipment confirmed the items were genuine**. The US government has never managed to determine who the Pakistani nuclear weapons expert was in whom al Qaeda had such confidence—and what he may have been doing in the intervening decade. More fundamentally, with at least two, and probably three, **groups having gone down this path in the past 25 years, there is no reason to expect they will be the last**. **The danger of nuclear terrorism will remain as long as nuclear weapons, the materials needed to make them, and terrorist groups bent on large-scale destruction co-exist.** Potential terrorist capabilities. **No one knows what capabilities a secret cell of al Qaeda may have managed to retain or build.** Unfortunately, **it does not take a Manhattan Project to make a nuclear bomb**—indeed, **over 90 percent of the Manhattan Project effort was focused on making the nuclear materials**, not on designing and building the weapons. **Numerous studies by the United States and other governments** have **concluded that it is plausible that a sophisticated terrorist group could make a crude nuclear bomb if it got enough separated plutonium or HEU.**4 A “gun-type” bomb, such as the weapon that obliterated Hiroshima, fundamentally involves slamming two pieces of HEU together at high speed. An “implosion-type” bomb, which is needed to get a sub-stantial explosive yield from plutonium, requires crushing nuclear material to a higher density—a more complex task, but still plausible for terrorists, especially if they got knowledgeable help. **Many analysts argue that**, **since states spend billions of dollars and assign hundreds or thousands of people to building nuclear weapons, it is totally implausible that terrorists could carry out this task.** Unfortunately, this argument is wrong, for two reasons. First, as the Manhattan Project statistic suggests, **the difficult part of making a nuclear bomb is making the nuclear material.** That is what states spend billions seeking to accomplish. **Terrorists are highly unlikely to ever be able to make their own bomb material**—but **if they could get stolen material, that step would be bypassed.** Second, **it is far easier to make a crude, unsafe, unreliable bomb of uncertain yield, which might be delivered in the back of a truck, than to make the kind of nuclear weapon a state would want in its arsenal**—a safe, reliable weapon of known yield that can be delivered by missile or combat aircraft. It is highly unlikely terrorists will ever be able to build that kind of nuclear weapon. Remaining vulnerabilities. **While many countries have done a great deal to strengthen nuclear security**, **serious vulnerabilities remain.** **Around the world**, **there are stocks of nuclear weapons or materials whose security systems are not sufficient to protect against the full range of plausible outsider and insider threats they may fac**e. As incidents like the intrusion at Y-12 in the United States in 2012 make clear, **many nuclear facilities and transporters still grapple with serious problems of security culture**. It is fair to say that **every country where nuclear weapons, weapons usable nuclear materials, major nuclear facilities, or dangerous radiological sources exist has more to do to ensure that these items are sustainably secured and accounted for.** At least three lines of evidence confirm that **important nuclear security weaknesses continue to exist.** First, **seizures of stolen HEU and separated plutonium continue to occur**, including, **mostly recently HEU seizures in 2003, 2006, 2010, and 2011**.5 These **seizures may result from material stolen long ago**, but, **at a minimum, they make clear that stocks of HEU and plutonium remain outside of regulatory control**. Second, **in cases where countries do realistic tests to probe whether security systems can protect against teams of clever adversaries determined to find a weak point, the adversaries sometimes succeed**—**even when their capabilities are within the set of threats the security system is designed to protect against**. **This happens with some regularity in the United States** (though less often than before the 9/11 attacks); **if more countries carried out comparable performance tests, one would likely see similar results**. Third, in **real non-nuclear thefts and terrorist attacks around the world**, **adversaries sometimes demonstrate capabilities and tactics well beyond what many nuclear security systems would likely be able to handle** (see the discussion of the recent Västberga incident in Sweden). Of course, **the initial theft of nuclear material would be only the first step.** Adversaries would have to smuggle the material to wherever they wanted to make their bomb, and ultimately to the target. A variety of measures have been put in place in recent years to try to stop nuclear smuggling, from radiation detectors to national teams trained and equipped to deal with nuclear smuggling cases—and more should certainly be done. But **once nuclear material has left the facility where it is supposed to be, it could be anywhere, and finding and recovering it poses an enormous challenge**. **The immense length of national borders, the huge scale of legitimate traffic, the myriad potential pathways across these borders, and the small size and weak radiation signal of the materials needed to make a nuclear bomb make nuclear smuggling extraordinarily difficult to stop.** There is also the danger that **a state such as North Korea might consciously decide to provide nuclear weapons or the materials needed to make them to terrorists.** **This possibility cannot be ruled out**, but there is strong reason to believe that such conscious state decisions to provide these capabilities are a small part of the overall risk of nuclear terrorism. Dictators determined to maintain their power are highly unlikely to hand over the greatest weapon they have to terrorist groups they cannot control, who might well use it in ways that would provoke retaliation that would remove the dictator from power forever. Although nuclear forensics is by no means perfect, it would be only one of many lines of evidence that could potentially point back to the state that provided the materials; no state could ever be confident they could make such a transfer without being caught.6 And terrorists are unlikely to have enough money to make a substantial difference in either the odds of regime survival or the wealth of a regime’s elites, even in North Korea, one of the poorest countries on earth. On the other hand, **serious risks would arise in North Korea**, **or other nuclear-armed states, in the event of state collapse**—**and as North Korea’s stockpile grows, one could imagine a general managing some of that stockpile concluding he could sell a piece of it and provide a golden parachute for himself and his family without getting caught**. **No one knows the real likelihood of nuclear terrorism.** But **the consequences of a terrorist nuclear blast would be so catastrophic that even a small chance is enough to justify urgent action to reduce the risk**. **The heart of a major city could be reduced to a smoldering radioactive ruin, leaving tens to hundreds of thousands of people dead.** The perpetrators or others might claim to have more weapons already hidden in other major cities and threaten to set them off if their demands were not met—potentially provoking uncontrolled evacuation of many urban centers. **Devastating economic consequences would reverberate worldwide**. Kofi Annan, while serving as Secretary-General of the United Nations, warned that **the global economic effects of a nuclear terrorist attack in a major city would push “tens of millions of people into dire poverty,” creating a “second death toll throughout the developing world**.”

**There are no checks on acquisition – lack of border controls and ease of theft**

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The main worry about the theft and trafficking of nuclear and radiological materials is that they will end up in the hands of terrorist groups, who will use them in INDs or RDDs. Even in the case of an RDD, which is a more likely scenario but would be much less lethal than an IND, radioactive contamination in a densely populated area could have serious economic and social consequences. Although a successful RDD attack has never been perpetrated, **there’s evidence** that **terrorists** have **invested in** such **devices: Chechen separatists were involved in two incidents involving radioactive materials** in November 1995 and December 1998, and more recently **intelligence agencies** in mainland Europe, Thailand, the UK and the US have **managed to foil RDD plots** before they reached fruition. In 2012, the International Atomic Energy Agency (**IAEA**) Incident and Trafficking Database **reported 160 incidents involving the illegal trade and movement of nuclear or other radioactive material across** national **borders**. Of those, 17 involved possession and related criminal activities, 24 involved theft or loss and 119 involved other unauthorised activities. **Two incidents involved** highly enriched uranium (**HEU**) in unauthorised activities. There were also three incidents involving dangerous Category 1–3 radioactive sources, two of which were thefts. **Information reported** to the database **demonstrates** that: • the **availability of unsecured nuclear and other radioactive material persists** • although effective border control measures help to detect illicit trafficking, **effective controls aren’t uniformly implemented at all international border points** • individuals and **groups are prepared to engage in trafficking** this material. The **possibility of** RDD or, worse, IND **detonation is real** and, while the **risks** need to be kept in perspective, they **need to be taken seriously**. One of the most worrying recent cases of illicit trafficking involving HEU occurred in June 2011 in Moldova, where officials arrested six people with a quantity of weapon-grade material. The group claimed to have access to plutonium and up to 9 kilograms of HEU, which they were willing to sell for $31 million. A serious buyer, reportedly of North African origin, appears to have been involved and remains at large. **Research reactors are considered vulnerable to thefts of nuclear and radiological materials because they’re often located on university campuses or in larger scientific research centres, which are relatively open to the public or have many users and visitors**. Moreover, other than the amended Convention on the Physical Protection of Nuclear Material, which has yet to enter into force, there’s no internationally binding requirement for securing these facilities. Since 2003, however, the US and the IAEA have been working with various countries to reduce the risks associated with research reactors. Many countries with HEU-fuelled research reactors, including some in Australia’s near neighbourhood, have taken part in securing HEU and converting the reactors to use low-enriched uranium (LEU). In particular, HEU has been removed and secured from Indonesia, the Philippines, Thailand and, most recently, Vietnam. Of course, LEU-fuelled research reactors remain a target for terrorists who wish to spread ionising radiation or damage a symbolic facility representing technological progress, and most research reactors have substantial quantities of sealed sources that are potentially vulnerable to theft.

**Nuclear terror causes great power nuclear retaliation – poor attribution**

**Ayson 10**, Robert Ayson 10, Professor of Strategic Studies and Director of the Centre for Strategic Studies: New Zealand – Victoria University of Wellington, “After a Terrorist Nuclear Attack: Envisaging Catalytic Effects”, Studies in Conflict & Terrorism, 33(7), July

A Catalytic Response: Dragging in the Major Nuclear Powers

A terrorist nuclear attack, and even the use of nuclear weapons in response by the country attacked in the first place, would not necessarily represent the worst of the nuclear worlds imaginable. Indeed, there are reasons to wonder whether **nuclear terrorism should** ever **be regarded as** belonging in the category of truly **existential threats**. A contrast can be drawn here with the global catastrophe that would come from a massive nuclear exchange between two or more of the sovereign states that possess these weapons in significant numbers. Even the worst terrorism that the twenty-first century might bring would fade into insignificance alongside considerations of what a general nuclear war would have wrought in the Cold War period. And it must be admitted that as long as the major nuclear weapons states have hundreds and even thousands of nuclear weapons at their disposal, there is always the possibility of a truly awful nuclear exchange taking place precipitated entirely by state possessors themselves. But these two nuclear worlds—**a non-state actor nuclear attack and a catastrophic interstate nuclear exchange**—**are not necessarily separable**. It is just possible that some sort of terrorist attack, and especially an act of **nuclear terrorism, could precipitate a chain of events leading to a massive exchange of nuclear weapons between two or more of the states that possess them**. In this context, today's and tomorrow's terrorist groups might assume the place allotted during the early Cold War years to new state possessors of small nuclear arsenals who were seen as raising the risks of a catalytic nuclear war between the superpowers started by third parties. These risks were considered in the late 1950s **and** early 1960s as concerns grew about nuclear proliferation, the so-called n+1 problem. It may require a considerable amount of imagination to depict an especially plausible situation where an act of **nuclear terrorism could lead to such a massive inter-state nuclear war**. For example, in the event of a terrorist nuclear attack on the United States, it might well be wondered just how Russia and/or China could plausibly be brought into the picture, not least because they seem unlikely to be fingered as the most obvious state sponsors or encouragers of terrorist groups. They would seem far too responsible to be involved in supporting that sort of terrorist behavior that could just as easily threaten them as well. Some possibilities, however remote, do suggest themselves. For example, how might the United States react if it was thought or discovered that the fissile material used in the act of nuclear terrorism had come from Russian stocks,[40](http://www.informaworld.com.proxy-remote.galib.uga.edu/smpp/section?content=a923238837&fulltext=713240928#EN0040) and if for some reason Moscow denied any responsibility for nuclear laxity? The correct attribution of that nuclear material to a particular country might not be a case of science fiction given the observation by Michael May et al. that while the debris resulting from a nuclear explosion would be “spread over a wide area in tiny fragments, its radioactivity makes it detectable, identifiable and collectable, and a wealth of information can be obtained from its analysis: the efficiency of the explosion, the materials used and, most important … some indication of where the nuclear material came from.”[41](http://www.informaworld.com.proxy-remote.galib.uga.edu/smpp/section?content=a923238837&fulltext=713240928#EN0041) Alternatively, if the act of nuclear terrorism came as a complete surprise, and **American officials refused to believe that a terrorist group was fully responsible** (or responsible at all) **suspicion would shift immediately to state possessors**. Ruling out Western ally countries like the United Kingdom and France, and probably Israel and India as well, **authorities** in Washington **would be left with a** very **short list consisting of North Korea**, perhaps **Iran** if its program continues, **and** possibly **Pakistan.** But at what stage would Russia and China be definitely ruled out in this high stakes game of nuclear Cluedo? In particular, **if** the act of **nuclear terrorism occurred against a backdrop of existing tension in Washington's relations with Russia and/or China**, and at a time when threats had already been traded between these major powers, **would** officials and political **leaders not be tempted to assume the worst?** Of course, the chances of this occurring would only seem to increase if the United States was already involved in some sort of limited armed conflict with Russia and/or China, or if they were confronting each other from a distance in a proxy war, as unlikely as these developments may seem at the present time. The reverse might well apply too: should a nuclear terrorist attack occur in Russia or China during a period of heightened tension or even limited conflict with the United States, could Moscow and Beijing resist the pressures that might rise domestically to consider the United States as a possible perpetrator or encourager of the attack? **Washington's early response to a terrorist nuclear attack on its own soil might also raise the possibility of an unwanted (and nuclear** **aided) confrontation with Russia and**/or **China.** **For example**, **in the noise and confusion during the immediate aftermath of the terrorist nuclear attack, the U.S. president might** be expected to **place the** country's armed forces, including its **nuclear arsenal, on** a **high**er stage of **alert**. In such a tense environment, when careful planning runs up against the friction of reality, it is just possible that Moscow and/or China might mistakenly read this as a sign of U.S. intentions to use force (and possibly nuclear force) against them. In that situation, the **temptations to preempt** such actions **might grow**, although it must be admitted that any preemption would probably still meet with a devastating response. As part of its initial response to the act of nuclear terrorism (as discussed earlier) **Washington might** decide to **order a significant** conventional (or **nuclear) retaliatory** or disarming **attack against** the leadership of the terrorist group and/or **states** seen to support that group. Depending on the identity and especially the location of these targets, **Russia and/or China might interpret such action as** being far too close for their comfort, and potentially as an **infringement on their spheres of influence** and even on their sovereignty. One far-fetched but perhaps not impossible scenario might stem from a judgment in Washington that some of the main aiders and abetters of the terrorist action resided somewhere such as Chechnya, perhaps in connection with what Allison claims is the “Chechen insurgents' … long-standing interest in all things nuclear.”[42](http://www.informaworld.com.proxy-remote.galib.uga.edu/smpp/section?content=a923238837&fulltext=713240928#EN0042) American pressure on that part of the world would almost certainly raise alarms in Moscow that might require a degree of advanced consultation from Washington that the latter found itself unable or unwilling to provide.

**Even localized nuclear war causes extinction**

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

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

**But the war paradigm fails and causes backlash**

**Davies 2/6**, Internally cites the State Department’s Terrorism Reports and the Eminent Jurist Panel, Nicolas J. S. Davies is author of “Blood On Our Hands: The American Invasion and Destruction of Iraq.” He wrote the chapter on “Obama At War” for the just released book, “Grading the 44th President: A Report Card on Barack Obama’s First Term as a Progressive Leader.”, http://www.intrepidreport.com/archives/12086

Twelve years into **America’s “war on terror**,” it is time to admit that it has **failed catastrophically, unleashing violence, war and instability in an “arc of terror” stretching from West Africa to the Himalayas and beyond**. If we examine the pretext for all this chaos, that it could possibly be a legitimate or effective response to terrorism, it quickly becomes clear that it has been the exact opposite, **fueling a global explosion of terrorism and a historic breakdown of law and order.** The U.S. **State Department’s “terrorism” reports present a searing indictment of the “war on terror”** on its own terms. **From** 19**87 to** 20**01, the State Department’s “Patterns of Global Terrorism” reports** had **documented** a **steady decline in terrorism around the world, from 665 incidents in 1987 to only 355 incidents in 2001**. But since 2001, **the** U.S. “**war on terror**” has **succeeded in fueling the most dramatic and dangerous rise in terrorism ever seen.** The State Department reports seem, at first glance, to show some short-term success, with total terrorist incidents continuing to decline, to 205 incidents in 2002 and 208 in 2003. But the number of more serious or “significant” incidents (involving death, serious injury, abduction, kidnapping, major property damage or the likelihood of such results) was already on the rise, from 123 incidents in 2001 to 172 in 2003. But then the 2004 report, due to be published in March 2005, revealed that the number of incidents had spiked to an incredible 2,177, including 625 “significant” incidents, even though the report excluded attacks on U.S. occupation forces in Iraq. Secretary of State Condoleeza Rice took decisive action, not to urgently review this dangerous failure of U.S. policy, but to suppress the report. We only know what it said thanks to whistleblowers who leaked it to the media, and to Larry Johnson, an ex-CIA and State Department terrorism expert and a member of Ray McGovern’s Veteran Intelligence Professionals for Sanity. Rice eventually released a reformatted version of the 2004 report, ostensibly replacing “Patterns of Global Terrorism” with a new report titled “Country Reports on Terrorism” that excluded all statistical data. The State Department has continued to publish “Country Reports on Terrorism” every year, and was forced to include a “statistical annex” beginning with the report for 2005. The reports also include disclaimers that this data should not be used to compare patterns of terrorism from one year to the next because of the “evolution in data collection methodology”. In other words, a report that used to be called “Patterns in Global Terrorism” should not be used to study patterns in global terrorism! So, what is the State Department afraid we might find if we used it to do just that? Let’s take a look. The politicization of these reports certainly undermines their reliability, but, as Secretary Rice understood very well, the dramatic rise in global terrorism that they reveal is undeniable. The numbers obviously spiked in Iraq and Afghanistan while under U.S. occupation, so we’ll exclude the figures for those periods in those countries. The rationale for the “war on terror” was always that, by “fighting them there”, we wouldn’t have to “fight them here”, so we’ll just look at the effect “here” and everywhere else. On that limited basis, the **State Department reports nonetheless document an explosion of terrorism**, from 208 incidents in 2003 to 2,177 in 2004 to 7,103 incidents in 2005. Since then, the total has fluctuated between a high of 7,251 incidents in 2008 and a low of 5,029 incidents in 2009, after President Obama’s election temporarily raised hopes of a change in U.S. policy. The State Department has not issued a report for 2013 yet, but the number of “terrorist” incidents in 2012 remained at 5,748, documenting an intractable crisis that is the direct result of U.S. policy. The **ineffectiveness of the war on terror is intricately entwined with** its **illegitimacy**. In my book, Blood On Our Hands: the American Invasion and Destruction of Iraq, I argued that the illegitimacy of the hostile U.S. military occupation of Iraq was at the root of all its other problems. The U.S. forces who illegally invaded the country lacked any real authority to restore the rule of law and order that they themselves had destroyed. Even today, two years after expelling U.S. forces, the Iraqi government installed by the U.S. occupation remains crippled by fundamental illegitimacy in the eyes of its people. The United States’ “war on terror” faces the same problem on a global scale. **The notion of fighting “terror with terror” or a “war on terror” was always fundamentally flawed,** both legally and in its prospects for success. As Ben Ferencz, the only surviving prosecutor from the Nuremberg war crimes trials, explained to NPR on September 19th 2001, a week after the mass murders of 2,753 people in his hometown, New York City: “It is never a legitimate response to punish people who are not responsible for the wrong done. We must make a distinction between punishing the guilty and punishing others. **If you simply retaliate en masse by bombing Afghanistan**, let us say, **or the Taliban, you will kill many people who don’t approve of what has happened**. I wouldn’t say there is no appropriate role (for the military), but the role should be consistent with our ideals . . . our principles are respect for the rule of law, not charging in blindly and killing people because we are blinded by our tears and our rage. We must first draw up an indictment and specify what the crimes were, calling upon all states to arrest and detain the persons named in the indictment so they can be interrogated by U.S. examiners . . . I realize that (the judicial process) is slow and cumbersome, but it is not inadequate . . . We don’t have to rewrite any rules. We have to apply the existing rules.” Ferencz took issue with the use of terms like “war”, “war crimes” and “terrorism.” “What has happened here is not war in its traditional sense . . . War crimes are crimes that happen in wartime. There is confusion there . . . Don’t use the term “war” crimes, because that suggests there is a war going on and it’s a violation of the rules of war. This is not in that category. We are getting confused with our terminology in our determination to put a stop to these terrible crimes . . . To call them “terrorists” is also a misleading term. There’s no agreement on what terrorism is. One man’s terrorism is another man’s heroism . . . We try them for mass murder. That’s a crime under every jurisdiction and that’s what’s happened here and that is a crime against humanity.” British military historian Michael Howard told NPR that U.S. leaders were making “a very natural but a terrible and irrevocable error” in declaring a “war on terrorism.” He elaborated in a lecture in London a few weeks later: ” . . . to use, or rather to misuse the term ‘war’ is not simply a matter of legality, or pedantic semantics. It has deeper and more dangerous consequences. **To declare that one is “at war” is immediately to create a war psychosis that may be totally counter-productive for the objective that we seek. It will arouse an immediate expectation, and demand, for spectacular military action** against some easily identifiable adversary, preferably a hostile state . . .” In the U.S. Congress in 2001, Barbara Lee stood alone against a sweeping Authorization for the Use of Military Force (**AUMF), giving the president** the **authority to use “all necessary and appropriate force against those nations, organizations, or persons” whom he judged to have “planned, authorized, committed or aided” the mass murders of September 11th.** Barbara Lee implored her colleagues not to “become the evil we deplore,” but she was the only member with the clarity and courage to vote “No” to the AUMF. Twelve years later, she has 31 co-sponsors for H.R. 198, a bill to finally repeal the 2001 AUMF. They include former civil rights leader John Lewis, who said recently, “If I had to do it all over again, I would have voted with Barbara Lee. It was raw courage on her part. So, because of that, I don’t vote for funding for war. I vote against preparation for the military. I will never again go down that road.”

**Counterterror is failing now --- maintaining the war paradigm confers legitimacy to terrorists and increases resentment**

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**The term “shadow wars”** aptly **describes the U.S. approach to the war on terror**. Policymakers perceive they are fighting an enemy composed of shadow and dust, one hidden in and facilitated by the dark underworld of global politics. But **to prosecute this campaign, the U.S. has** itself, to borrow a term from the writer J.R.R. Tolkien, “**fallen into shadow”: Its moral high ground and once-principled politics have been replaced by a recourse to policies such as arbitrary detention, torture and extrajudicial killings that have tarnished its reputation and bolstered its enemies**. **The blowback from these policies demonstrates that a** just **war cannot be fought using unjust means—indeed their use erodes the moral authority to fight truly just wars when the need arises.** Winding down this “war” both necessitates and provides a window for stepping out of the shadows and adhering to basic standards of international law and human rights. An Ineffective and Counterproductive Paradigm **The perpetrators of 9/11 have been brought to** a kind of **justice**: Osama **bin Laden has been killed**, along with many of his lieutenants; **the extremist government that harbored him has been replaced with a more secular regime**; **and 9/11 mastermind Khalid Sheikh Mohammed is in custody and on trial** for his role in the events of that day. Yet this took 12 years, nearly 7,000 U.S. service members dead, tens of thousands of Iraqi and Afghan civilians dead, displaced, injured or bereaved, as well as an unreasonably high cost in both treasure and U.S. credibility. Moreover, success in punishing the architects of 9/11 has not been matched by success in prosecuting the war’s wider aims. It is increasingly clear that **the military occupations of Iraq and Afghanistan have achieved neither a reduction in overall global terror levels nor in the ideology of global jihadism**. **While attacks by al-Qaida-affiliated groups have** always **constituted** only **a tiny proportion of the global total of incidents of terrorism**—**which remains a low security threat relative to others**—**the Global Terrorism Database at the University of Maryland indicates such incidents have in fact been far more numerous since the onset of the “war on terror”** in 2001 than they were in the preceding decade. **Jihadism as an ideology also appears to be on the rise worldwide,** **with increasingly decentralized al-Qaida splinter groups proliferating** (.pdf), **fueled by images of civilian casualties at the hands of U.S. drones and Western-backed secular Arab regimes.** The U.S. has been aware of these trends (.pdf) since at least 2006. But **instead of reconsidering the war paradigm to address the risk of terrorism**, **it has simply changed tactics, replacing military occupations with the use of drones and covert operations**. While this has reduced the visibility of the war against terror, **it has done nothing to reduce the collateral damage from the war, as well as the blowback that damage causes. Not only has U.S. policy failed to solve the terror problem** it set out to fix, **the way in which it has been prosecuted has likely had the opposite effect. Reacting to terrorists as if they have the power to declare and prosecute war** perversely **legitimizes their behavior in the eyes of their constituencies**. **A common tactic of asymmetric warfare involves baiting a powerful actor into a disproportionate response that produces civilian casualties, providing moral cover for the terrorist’s acts. The U.S. war of high explosives** in populated areas against groups that behave this way **played precisely into these groups’ hands by creating a massive civilian death toll**, now **exploited in jihadist propaganda**, **that has caused fresh jihadist fronts to metastasize in Africa and Yemen**. U.**S. violations of international rules** prohibiting torture, arbitrary detention, extrajudicial killing and disproportionate civilian harm **have undermined U.S. claims to the moral high ground not only in the eyes of populations where it is fighting its shadow war but also in the eyes of its allies and constituents.**

**Radicalization outweighs benefits --- ending the war solves cooperation which is key to successfully combating terrorism**

**Pillar and Preble 10**

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**One** such **consequence is to incur the wrath of civilian populations over the** U.S. **use of military force and the destruction resulting from it.** **This unfortunately has been in evidence in Afghanistan**, **which had been a rare oasis of goodwill** toward the United States **within a Muslim world in which anti-American sentiment is the norm.** **That goodwill has been significantly lessened by the collateral damage from U.S. military operations**. Afghan President Hamid **Karzai’s ‘‘first demand’’** of Barack Obama **was** for the president-elect ‘‘**to put an end to civilian casualties**.’’ 14 **Similar resentment—** amid a population that was already less friendly toward the United States— **has been evident in Pakistan** in reaction to the missile strikes in the northwest. 15 **The pattern repeats that seen after** similar **strikes** in 2005 and 2006 against forces of the Union of Islamic Courts **in Somalia**, which did kill some militants but also instigated public anger against the United States and a resulting increase in the popularity and extremism of the Islamists. 16 **The tradeoff here is not between counterterrorism and popularity.** **It is between immediate tactical counterterrorist objectives** **and longer-term strategic ones.** **Anti-American sentiment impairs counterterrorism. It affects the willingness of a civilian population to cooperate with U.S. counterterrorist efforts**, **its willingness to support its own government’s efforts**, **and the inclination of individual civilians to condone, support, or even join the efforts of anti-American terrorist groups**. **That does not mean the broader and longer-term effects should always take precedence** over the immediate tactical ones, but **it does mean the former should always be considered even if they are less visible and measurable than the latter**. It means taking into account that while the strikes using drones over Pakistan have killed some militants who were targeted, the same strikes have killed far more civilians— leaving that many more friends and family members of the deceased who might be willing to support anti-U.S. causes. And **it means resisting the temptation to employ a technologically potent military capability because it is available and because alternative means for dealing with a problem are not**. There is evidence that, at times, **the United States has fallen to this temptation in its use of the drones; it has tended to see nails because the handiest tool available to it has been this very impressive hammer**. **Negative consequences extend even more broadly**, **beyond populations that feel the immediate physical damage of military operations to ones that are nevertheless angered by them**. Here, **the U**nited **S**tates **bears the burden of being the world’s sole superpower**. **Its use of military force is more likely than that of any other country to be resented as contemptible bullying by the big kid on the global block**. Here too, **the issue is not merely one of being liked or disliked**; **the potential effects on terrorism, counterterrorism, and the likelihood of future terrorist attacks on U.S. interests are substantial.** **The use of U.S. military force** within the Muslim **world has probably done more than anything else to sustain bin Laden’s bogus narrative of a United States that is out to kill and subjugate Muslims and to plunder their resources.** **Counterterrorism is a global enterprise**, **requiring the active cooperation and assistance of international actors**— **both state and nonstate**. **The most important cooperation is likely to come from the communities in which terrorist organizations attempt to recruit new followers and who are the intended audience for much of the organization’s propaganda**. **Terrorist attacks are newsworthy and therefore attract the most attention to the organization’s cause.** By the same token, **the effects of these operations often fall disproportionately on the very population that the organization is attempting to reach**. The use of terrorism, therefore, is a double-edged sword. Terrorist organizations attempt to induce a targeted society to lash out, in the hopes that these reactions will cause harm to innocent civilians, engender hostility and hatred of the country carrying out the retaliatory acts, and drive more sympathy to the terrorists. **We can prevent falling into the terrorists’ trap by carefully limiting our responses.**

**Decentralization means military power is ineffective—terrorists operations require intelligence and law enforcement efforts**

**Pillar and Preble 10** [Paul R. Pillar is an academic and 28-year veteran of the Central Intelligence Agency (CIA), serving from 1977 to 2005.[1] He is now a non-resident senior fellow at Georgetown University's Center for Security Studies,[2] as well as a nonresident senior fellow in the Brookings Institution's Center for 21st Century Security and Intelligence.[1] He was a visiting professor at Georgetown University from 2005 to 2012. and Christopher A. Preble is the vice president for defense and foreign policy studies at the Cato Institute, “Terrorizing Ourselves: Why U.S. Counterterrorism Policy Is Failing and How to Fix It. Chapter 4: Don’t You Know There’s a War On? Assessing the Military’s Role in Counterterrorism”, pages 61-82, found on ebrary

**In contemplating possible intervention and stabilization operations in any other country that starts to show Afghan-like qualities**, some questions about terrorist safe havens need to be addressed. One is whether, even if such a haven were important to terrorists, it needs to be in whatever country we happen to be contemplating. The question can be posed today about Afghanistan. **If terrorists were denied haven there, could they not go instead to, say, Somalia**? And as we think about such possibilities, where and how do we limit our military intervention? 18 **Even if convinced that a particular country is of unusual importance**, both intrinsically and with regard to terrorism— as many regard Pakistan today— **a further question is what this means in terms of military targets**. In particular, **what does it mean when terrorists live and plan and work in cities, where military force is apt to be an especially blunt and mostly unusable counterterrorist instrument**? **Terrorist activity that may eventually hurt us is more likely taking place in Karachi or Lahore than in a rural district in northwestern Pakista**n. **Related to that question**, and to the larger pattern of terrorism’s presenting few good military targets, **is the issue of how important are physical safe havens of any kind**. 19 **The cities in which terrorists do their preparations do not have to be in states that are hostile or**, like Pakistan, **unstable**. **They can be in the West. The preparations that mattered most in the 9/11 operation did not take place at training camps in Afghanistan but instead in apartments in Germany and Spain and at flight schools in the U**nited **S**tates. **We should worry more about extremists researching transportation schedules on a computer**— **and the computer could be anywhere in the world— than about ones practicing in a hand-to-hand combat pit somewhere in South Asia**. **We can bomb a training camp**, but **we cannot bomb the computer**. **A response to this last point is that terrorist organizations such as al Qaeda rely on secure physical infrastructure, such as training camps, as part of their recruitment and indoctrination process**, as well as of the general maintenance and management of the organization. **Yet that does not speak to how essential any part of a group’s existing organizational maintenance functions is to the activity that matters most to us**, **which is terrorist attacks.** More importantly, **terrorist threats—** even just Sunni, Salafi, jihadist terrorist threats— **do not emanate only from al Qaeda, or from any other established, infrastructure-laden organization.** **With increasing fractionation and decentralization of the jihadist movement**, **the threat in the coming years will more likely come from individuals, groups, and cells that are unburdened by any such physical infrastructure**. **It is a threat that emerges from alienated populations in places like Muslim communities in Europe**, **where military force is unemployable**. **Another unintended consequence of military force is to contribute to the widespread perception that a group such as al Qaeda is a bona fide belligerent rather than a band of outlaws**. **Whatever else U.S. military efforts against bin Laden and his group have accomplished, they have conformed to his portrayal of a civilizational war between the Judeo-Christian West and the Muslim world**, with the United States leading the fight for the former and bin Laden and his group doing so for the latter. **As with an insurgent force confronting superior government forces in a guerrilla war, merely being able to survive in a military conflict becomes a sort of victory for the insurgents**. In similar fashion, **the more counterterrorism is seen as a military contest, the more terrorists can win merely by not losing.**

**Formally ending the war’s key to solve terror – it doesn’t take anything off the table**

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Some might object that a shift in policy would constitute surrender, an admission of defeat, or some other formulation of American weakness—certainly political opponents would characterize it as such. Senator Saxby Chambliss wasted no time in arguing this after Obama’s NDU address, calling the limitations on targeted killing a “victory” for the “terrorists.”28 But **dropping the framework does not eliminate force as an available option** in **addressing Al Qaeda**. As one expert stated to the Senate Armed Services Committee in May 2013, “**With or without the AUMF, no one disputes** [emphasis added] that **the president has the constitutional authority** (and the international law authority) to use military force if necessary to defend the United States from an imminent attack, regardless of whether the threat emanates from al Qaeda or from some as yet unimagined terrorist organization.”29 **Dropping the framework would only return us to the pre-2001 status quo** (legally speaking), **which treated terrorism as an ongoing legal and intelligence issue**, rather than primarily a military one. **Shifting away from war as the framework also doesn’t preclude the possibility of moving back to a state of war should events require it**. A **strategic shift** along these lines **is not a commitment to never use force again; it simply removes it as the presumed appropriate response and baseline for U.S. action**. Certainly it is possible that in the future that the threat could change in such a way that war is the appropriate and necessary response—much as it was in late 2001. Strategically speaking, **dropping the war framework offers a middle ground**. On the one hand, **it removes the blank check offered to the executive to engage U.S. forces abroad whenever the president sees fit**. Currently, **the way the AUMF is interpreted** **provides** little to **no restraint on the U**nited **S**tates’ **use of force abroad**. Dropping the framework is not merely a rhetorical move on the part of the U.S. government to end the war on terror—the legal status has been invoked continually by the past two administrations to silence any opposition to decisions they make in pursuit of al Qaeda. The issue is political and legal, not simply rhetorical. Simultaneously, shifting away from a state of war does not take the use of force off the table as an option; it simply removes it as the baseline or presumed appropriate response. The likely effect on the rate of strikes conducted abroad would certainly be one of restraint, but **it would not end strikes**, nor should it. **There has always been a presumption that the executive can use force to preemptively strike** those who attempt to attack the United States. Dropping the framework would not alter that—we saw this prior to 2001. **It would**, however, **alter the presumption introduced by** the **Bush** Administration’**s first N**ational **S**ecurity **S**trategy **that preventive war—using force against those who have the capacity, but do not pose a specific, credible threat—is acceptable. Shifting policy** away from war and armed conflict to legal enforcement also **opens up** other **alternative strategies for addressing the** AQ **threat**. In particular, **efforts to address the long-term trends that enable terrorism and terrorist campaigns are foreclosed by a strategy of war because the process of fighting is at odds with their mission**. Alternative frameworks and strategies for countering terrorism such as using a metaphor of social epidemic—seeking to eliminate the spread of radicalism utilizing lessons from public health approaches—or prejudice reduction, undermining the viewpoints that enable individuals to view terrorist campaigns as attractive options, offer different ways of framing the threat in a manner that is more comprehensive and long-term.30 **Regardless of the particular approach taken and its potential effectiveness, options attempting to deal with the underlying issues that enable the threat to continue such as ideology, factors enhancing individual susceptibility to radicalism and creating at-risk individuals are de-emphasized in a war. Addressing long-term factors is not particularly important during a conflict— converting the enemy and eliminating the reasons for the dispute in the first place aren’t typical concerns during wartime**. Most importantly, **history demonstrates** that these conflicts rarely end in a state of war. As Audrey Cronin reminds us, “terrorism is like war, it never ends; however, individual terrorist campaigns and the groups that wage them always do.”31 **Military repression alone is rarely the means by which these campaigns end. In most cases there is a shift to an alternate strategy such as law enforcement, political cooption, or even amnesty or there is a larger societal trend such as the loss of popular support**. While debate exists regarding the effectiveness of the particular measures chosen, **non-military measures have seen significant success in places as diverse as Ireland, the Philippines, and Sri Lanka**.32 **There is little reason to imagine that al Qaeda is sufficiently different that we should expect a different outcome relying solely on a military strategy throughout the entirety of this conflict**. The United States has relied upon leadership targeting and military strikes for over 12 years. **Given** the **history of terrorist campaigns—as well as** the **U.S. experience— these soft measures offer the potential of being a successful means of building upon these gains and achieving victory. Ending the strategy of war could have a direct effect on these softer measures by eliminating a crucial means of support for al Qaeda’s ideology. Ending the war**—and the continuing military strikes it requires—**removes a primary means of recruitment and propaganda. While military strikes have eliminated key members, the effect these strikes offer in generating support for terrorists is well- worn territory.** Regardless of whether the actual numbers of civilian casualties are closer to United States estimates, or in the thousands as independent organizations argue, U.S. **attacks inevitably risk** these **civilian casualties and make it incrementally easier for al Qaeda to justify their choice of terrorist tactics**. In addition, **psychological studies of terrorist attackers themselves cite a positive relationship** **between** the **suffering of direct trauma**—such as the loss of a family member at the hands of the perceived enemy—**and those willing to engage in** suicide **attacks**.33 **Al Qaeda** also **benefits from the increasing expansion of U.S. intervention abroad** in the form of drone strikes, bases, and troop deployments as **it provides tangible evidence for** their **claims of** U.S. **imperialism**. And **the longer the war on terrorism continues, the harder it will be in the court of international public opinion to credibly dispute AQ’s vision of the U**nited **S**tates **as a militaristic nation** with an imperialist bent. This is not to say that al Qaeda’s reading of U.S. foreign policy over the last half century is correct—it is not—but as 9/11 recedes further into the past and the length of time without a similar scale attack on the U.S. homeland begins to measure in the decades, the vision of America pushed by al Qaeda may have increasing credibility. **The U**nited **S**tates **could remain at war with al Qaeda for an indefinite period of time winning tactical battles and preventing major attacks, but all that may be seen publicly are continuing U.S. military interventions into foreign countries killing those they deem enemies. The longer this goes** on, **the less credibility the U**nited **S**tates **will enjoy internationally**, and **that** loss of credibility **is directly at odds with** some of the longer term, “**soft” measures necessary to end the conflict successfully. Without this credibility, it will be difficult to conduct the efforts to undermine the individual, public, and political support that historically has been crucial to ending terrorist campaigns**. Conclusion

A war that does not end cannot be won. The United States is at the point of envisioning victory, yet the actions taken by the last two administrations provide little hope that America is currently on a path to a successful conclusion. **Continuing a strategy of indefinite conflict and perpetual stalemate works to the advantage of al Qaeda, not the U**nited **S**tates. Although many have compared the war on terror to the Cold War, we seem to resist applying its lessons.34 Deterrence precluded either side from engaging in direct conflict with the other and the Cold War never actually devolved into direct superpower conflict and outright war. Military strategy revolved around preventing war, rather than fighting and winning a protracted conflict, and the conflict only ended with a collapse from within.35 **The U**nited **S**tates **is in a** similar **paradox as the nation is faced with a situation where direct attacks are costly, potentially counterproductive, and unable to achieve the ultimate defeat of the enemy. Continuing to prosecute a war with al Qaeda serves their interests**, not ours. **The U**nited **S**tates has **reached a point in the war with al Qaeda where the winning move is simply not to play.**

**Only legislation solves --- shift to law enforcement solves terror**

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In his speech on counterterrorism last month, President Barack Obama said something both profound and overdue — **the war** underway since 2001 **should end, not just factually but** also **legally**. Outlining his views, the president said he wanted to “refine, and ultimately repeal,” the Authorization for Use of Military Force (AUMF), the main legislative vehicle governing U.S. counterterrorism operations around the world. He also pledged not to sign laws designed to expand this mandate further. But **to make that** goal **a concrete reality, the president should** have **call**ed **for legislation repealing the administration’s authority for war** — sunsetting the AUMF, which provides the legal authorization for our troops in Afghanistan, once combat operations there conclude at the end of 2014. **Future counterterrorism** operations **can rely on the plentiful authorities the executive branch already has**, including some that have been added since 9/11. And **if this president** — or any other in the future — **needs greater war powers to deal with a threat, they can return to Congress and ask for specific, limited authorities tailored to address the future challenge.** The fact is that while there are other ways the AUMF could be usefully altered, a clean repeal has significant advantages. From an operational perspective, the AUMF authorizes military force, but we’re winding down our operations in Afghanistan. Our military presence there helped decimate core al Qaeda, leaving them a shadow of their former selves. And this matters, for without the organizational support and training from core al Qaeda’s veteran operational commanders — most of whom are either dead or incarcerated — most self-radicalized terrorists are caught long before their plots are successful. Military operations should be the mechanism of last resort to deal with terrorist plots, especially outside war zones like Afghanistan. **The most successful counterterrorism operations involve timely intelligence collection and analysis, and cooperation with local officials, not open-ended military operations involving large deployments of U.S. troops. Law enforcement** or intelligence services **identified** **and disrupted multiple other plans over the years. These mechanisms do not rely upon the AUMF, so an eventual clean repeal won’t affect our ability to disrupt plots**. Conservatives who revere the Constitution should be most reluctant to hand over unending powers to the president. As James Madison said, granting “such powers [to the President] would have struck, not only at the fabric of our Constitution, but at the foundation of all well organized and well checked governments.” Madison knew that war tended to enhance executive powers and erode liberties. And that has occurred. With Congressional acquiescence, the last two presidents have interpreted the AUMF as a warrant to attack or detain anyone that they say is a leader of al Qaeda or its associated forces, without geographic limit. The secretive and loose definition of those terms has given the president vast and excessive discretion to identify, target and kill suspected terrorists, or to detain indefinitely those who are captured. **Sunsetting the law prevents that growth in executive power from becoming permanent.** **Liberals** who might trust this president’s discretion in using these authorities **have good reason to be concerned about what future presidents might do with broad and unlimited authority**. We have already seen how the **passage of time** has **stretched the AUMF well beyond its original purpose**. The list of targets already includes individuals and groups that were not directly involved in the attacks of 9/11. Even President Obama recognizes the risk. “**Unless we discipline our** thinking and our **actions**,” the President explained, “**we may be drawn into more wars we don’t need to fight**.”

**This maintains necessary flexibility**

**Daskal and Vladeck 14**

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2. The President's Unquestioned Self-Defense Authorities **Our support of law enforcement tools notwithstanding**, **we do not claim that the law enforcement approach is the only possible response to terrorism, or that the nation's hands are tied if law enforcement tools are unavailable** (given the location of the individual) **or ineffective** (given the scale or nature of the threat). To the contrary, **we recognize the possibility that groups or individuals will come to light that pose a significant, strategic, and imminent threat that the criminal law cannot adequately address**. But **if and when this situation presents itself, the Executive has the authority and the responsibility to act**. Indeed, it **is well settled that the President has the authority under Article II of the U.S. Constitution and Article 51 of the U.N. Charter to take immediate**--**and**, where **necessary, lethal--action in defense of the nation in response to an "armed attack."** n76 As the Supreme Court has explained: "**If a war be made by invasion of a foreign nation, the President is not only authorized but bound to resist force by force. He does not initiate the war, but is bound to accept the challenge without waiting for any special legislative authority**." n77 President Bush would have required no statute to shoot down the planes headed to the World Trade Center on September 11; President Obama would have required no statute to defend U.S. diplomats from attack in Benghazi. The failure to do so in either tragic episode was not the result of insufficient authority, but insufficient intelligence in advance of the attacks--a problem that is in no way solved by an expansive declaration of armed conflict. [\*137] **Take the type of situation with which the Hoover proposal seems most concerned: a terrorist organization that does not neatly fall within the AUMF but is poised to carry out a lethal attack on the U.S. homeland or U.S. persons** **at some point in the near future from a part of the world in which nonmilitary means of thwarting the attack are unavailable**. In such a situation, **the President could**--**and should--take action, consistent with the international law requirements of necessity and proportionality, without waiting for a new congressional authorization to use force.** We, too, worry about such a scenario, but **we fail to see why**, on those facts, **self-defense authorities would be inadequate**. Moreover, **to the extent that the response requires an extended engagement with the threatening organization**, **the President should-**-and, some would argue, must, under the War Powers Resolution n78 --**obtain specific statutory authorization** to address the specific threat. **Nor do we think**, as the Hoover proposal authors suggest, **that this approach merely will result in an expansive view of self-defense that itself provides an outlet for the inevitable uses of force that would be legitimized through a new authorization.** n79 Rather, **we think that self-defense--properly defined--provides a critical, and necessary, means of safeguarding the nation against those truly dangerous and imminent threats that cannot reasonably be dealt with using alternative means, without also authorizing the broad-scale use of force against all members of a threatening group or their close associates**. n80

**N/U Criticism Now**

**Interbranch conflict now – Syria and Ukraine IMF reforms prove**

**Reuters 3/26**

(Lawmakers bash Obama administration's 'delusional' Syria policy, www.reuters.com/article/2014/03/27/us-syria-usa-senate-idUSBREA2P2DE20140327)

**U.S. lawmakers lashed out at the Obama administration's handling of Syria's civil war** on Wednesday, **demanding a stronger American response to the conflict and better communication from the White House about its plans.** Senator Robert **Menendez, chairman of the Senate Foreign Relations Committee, expressed deep frustration after** Anne Patterson, **the assistant secretary of state** for Near Eastern affairs, **declined to answer a question about strategy in a public setting**. "I have a problem with a generic answer to a generic question that I can't believe is classified," Menendez, a New Jersey Democrat, said during a committee hearing. **Heated exchanges during questioning** of Patterson and Tom Countryman, another assistant secretary of state, **underscored the** often **deep divide between Congress - both Republicans and** President Barack Obama's fellow **Democrats - and the administration on foreign policy. The emotional hearing came a day after** Senate **Democrats dropped from a Ukraine aid bill reforms of the** **I**nternational **M**onetary **F**und **sought by the Obama administration,** saying they felt it was more important to move the bill quickly. **Members of the Foreign Relations panel in particular are frustrated by the administration's failure to do more in Syria**, where 140,000 people have been killed, millions have become refugees and thousands of foreign militant fighters have been trained as rebels have fought to oust President Bashar al-Assad. 'BALONEY' Senator Bob Corker, the committee's top Republican, called one answer from Patterson "major, misleading baloney." "I can't imagine you actually saying that in this setting. That would indicate to people that we have a military strategy relative to Syria, and that ... could not be further from the truth," the Tennessee senator said. Arizona Republican John **McCain, a frequent critic of Obama's foreign policy, called U.S. Syria policy "a colossal failure."** "The greatest nation in the world has sat by and watched this genocide taking place," the senator said. **The Foreign Relations Committee voted** in May **to authorize sending military aid to the Syrian opposition** and approved in September the use of U.S. military force in the conflict. **But significant lethal aid has not yet been sent and the White House, after resistance from other members of Congress, dropped plans to bomb Syria** after agreeing with Russia to destroy Assad's chemical weapons cache.

**Fights not trigger**

**2AC Core**

**Constraints work --- creates informal political and international costs to compliance --- that’s Chesney --- yes, he can skirt around the sides but the massive scope of the aff means he can’t ignore it**

**Still solves terror --- forces a re-framing more conducive to allied coop and that doesn’t make us look like we’re over-reacting**

**We still solve leadership**

**Chesney 13, Professor of Law**

[03/24/13, Bobby Chesney is the Charles I. Francis Professor in Law at the University of Texas School of Law, as well as a non-resident Senior Fellow of the Brookings Institution., “Does the Armed-Conflict Model Matter in Practice Anymore?”, http://www.lawfareblog.com/2013/05/does-the-armed-conflict-model-matter-in-practice-anymore/

In yesterday’s speech, President **Obama repeatedly referred to the possibility that the armed conflict with al Qaeda may end**, and **indeed that it must and should end lest we find ourselves in a perpetual state of war**. It is the same perspective previously articulated by then-DOD General Counsel Jeh Johnson in his Oxford Union address, but stated in more detail here–and with much more impact on public narratives, as seen for example in today’s New York Times editorial touting the “End of the Perpetual War.” This is an attractive vision in many ways, and one certainly hopes that the day will soon arrive when al Qaeda has been devastated to the point where it is proper for the president to declare that the armed conflict has indeed run its course. Time will tell whether and when that point arrives. In the meantime, however, **it would be good to take a closer look at what it would mean, legally speaking, to move to a “postwar” model**. Obviously **there will be a rhetorical difference from the status quo, and that alone could have a real impact on domestic politics and related considerations such as budgetary allocations**. But set all that aside. What I’d like to concentrate on is the question of what legal differences would follow with respect to detention and targeting.

**AT Circumvention—Aff Still Solves**

**Still solves terror --- even if we use the same operations ending it as an “armed conflict” restores allied coop and undermines the David v Goliath narrative**

**We still solve leadership**

**Chesney 13, Professor of Law**

[03/24/13, Bobby Chesney is the Charles I. Francis Professor in Law at the University of Texas School of Law, as well as a non-resident Senior Fellow of the Brookings Institution., “Does the Armed-Conflict Model Matter in Practice Anymore?”, http://www.lawfareblog.com/2013/05/does-the-armed-conflict-model-matter-in-practice-anymore/

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**D**

**We don’t take drones off the table**

**Drone restrictions solve host country cooperation --- makes drones more effective**

**Streeter 13** (Devin C. Streeter, Helms School Of Government, Liberty University “Boko Haram, Drone Policy, And Port Security: Issues For Congress”, [http://www.academia.edu/3523639/U.S.\_Drone\_Policy\_Tactical\_Success\_and\_Strategic\_Failure](http://www.academia.edu/3523639/U.S._Drone_Policy_Tactical_Success_and_Strategic_Failure)shaw), April 19, 2013)

**A new set of drone** operating **procedures would** help to **repair international relations** and decrease civilian casualties. Furthermore, **nations like Yemen, Somalia, and others, will not feel threatened and** will **readily accept U.S. assistance in** **counterterrorism efforts**.¶ 78¶ **Cooperation with affected nations will ensure that their sovereignty is not violated**¶ 79¶ **and the use of human intel**ligence programs **will reduce** civilian **casualties**, thus **resulting in a** sanitary, **more effective drone operation**.¶ 80¶ While the U.S. drone program has many noteworthy tactical successes, it simultaneously has suffered various strategic failures. **Collateral damage has directly strained our relations with Pakistan**, and indirectly stressed our relations with **Europe, Asia, and South America.** However, **by increasing joint cooperation and decreasing civilian casualties, the harms** inflicted on international relations **can be reconciled**. If this new system is implemented, not only will United States policy makers see the radical decrease of innocent deaths, but they will also see a decrease in terrorism and the terrorist recruiting pool.¶ 81¶ Confronting this issue and establishing a new set of standard operating procedures should be on the forefront of every elected official’s agenda, for the purpose of improving foreign policy and repairing international relations.

**2AC Drones Fail**

**Overuse increase terrorism**

**Schwartz 13** (Bernard L. Schwartz, Senior Fellow New America Foundation, Professor of Law, Georgetown University Law Center, “The Constitutional and Counterterrorism Implications of Targeted Killing Testimony Before the Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights”, April 23, 2013)

3. The true costs of current US drone policy **When we come to rely excessively on drone strikes as a counterterrorism tool, this has potential costs of its own. Drones strikes enable a "short-term fix" approach to counterterrorism, one that relies excessively on eliminating specific individuals deemed to be a threat, without much discussion of whether this strategy is likely to produce long-term security gains.** Most **counter-terrorism experts agree** that **in the long-term, terrorist organizations are rarely defeated militarily**. **Instead**, **terrorist groups fade away when they lose the support of the populations within which they work. They die out when their ideological underpinnings come undone** – when new recruits stop appearing—when the communities in which they work stop providing active or passive forms of assistance—when local leaders speak out against them and residents report their activities and identities to the authorities. **A comprehensive** counterterrorist **strategy** recognizes this, and therefore **relies heavily** on activities intended **to undermine terrorist credibility** within populations, as well as on activities designed to disrupt terrorist communications and financing. Much of the time, these are the traditional tools of intelligence and law enforcement. **Kinetic force undeniably has a role to play in counterterrorism in certain circumstances, but it is rarely a magic bullet.** In addition, **overreliance on kinetic tools at the expense of other approaches can be dangerous. Drone strikes** -- lawful or not, justifiable or not – **can have the unintended consequence of increasing both regional instability and anti-American sentiment.** **Drone strikes sow fear among the "guilty" and the innocent alike, 24 and the use of drones in Pakistan and Yemen has increasing**

**gly been met with both popular and diplomatic protests**. Indeed, **drone strikes are increasingly causing dismay and concern within the US population. As the Obama administration increases its reliance on drone strikes as the counterterrorism tool of choice, it is hard not to wonder whether we have begun to trade tactical gains for strategic losses.** **What impact will US drone strikes ultimately have on the stability of Pakistan, Yemen, or Somalia?** 25 **To what degree -- especially as we reach further and further down the terrorist food chain, killing small fish who may be motivated less by ideology than economic desperation -- are we actually creating new grievances within the local population – or even within diaspora populations here in the United States?** 26 As Defense Secretary Donald Rumsfeld asked during the Iraq war, **are we creating terrorists faster than we kill them?** 27 **At the moment, there is little evidence that US drone policy – or individual drone strikes—result from a comprehensive assessment of strategic costs and benefits**, **as opposed to** a **shortsighted determination** to strike targets of opportunity, regardless of long-term impact. **As a military acquaintance of mine memorably put it, drone strikes remain “a tactic in search of a strategy.”**

**T**

**We meet --- AUMF is ongoing justification for future wars and intervention**

**We meet introduction of future forces**

CI – Restrictions are limitations

**CAA 8**, STATE OF ARIZONA, Appellee, v. JEREMY RAY WAGNER, April 10, 2008, Filed, Appellant., 1 CA-CR 06-0167, 2008 Ariz. App. Unpub. LEXIS 613, opinion by Judge G. MURRAY SNOW

P10 **The term "restriction" is not defined by the Legislature** for the purposes of the DUI statutes. See generally A.R.S. § 28-1301 (2004) (providing the "[d]efinitions" section of the DUI statutes). **In the absence of a statutory definition of a term, we look to ordinary dictionary definitions and do not construe the word as being a term of art.** Lee v. State, 215 Ariz. 540, 544, ¶ 15, 161 P.3d 583, 587 (App. 2007) ("When a statutory term is not explicitly defined, we assume, unless otherwise stated, that the Legislature intended to accord the word its natural and obvious meaning, which may be discerned from its dictionary definition.").

P11 **The dictionary definition of "restriction" is "[a] limitation or qualification."** **Black's Law Dictionary** 1341 (8th ed. 1999). In fact, "limited" and "restricted" are considered synonyms. See Webster's II New Collegiate Dictionary 946 (2001). Under these commonly accepted definitions, **Wagner's driving privileges were "restrict[ed]" when they were "limited" by the ignition interlock requirement**. **Wagner was not only** [\*7] **statutorily required to install an ignition interlock** device on all of the vehicles he operated, A.R.S. § 28-1461(A)(1)(b), **but he was also prohibited from driving any vehicle that was not equipped with such a device,** regardless whether he owned the vehicle or was under the influence of intoxicants, A.R.S. § 28-1464(H). **These limitations constituted a restriction on Wagner's privilege to drive**, for he was unable to drive in circumstances which were otherwise available to the general driving population. Thus, the rules of statutory construction dictate that the term "restriction" includes the ignition interlock device limitation.

AND Authority is power delegated to an agent

**Kelly 3** (judge for the State of Michigan, JOSEPH ELEZOVIC, Plaintiff, and LULA ELEZOVIC, Plaintiff-Appellant/Cross-Appellee, v. FORD MOTOR COMPANY and DANIEL P. BENNETT, Defendants-Appellees/Cross-Appellants., No. 236749, COURT OF APPEALS OF MICHIGAN, 259 Mich. App. 187; 673 N.W.2d 776; 2003 Mich. App. LEXIS 2649; 93 Fair Empl. Prac. Cas. (BNA) 244; 92 Fair Empl. Prac. Cas. (BNA) 1557, lexis)

Applying agency principles, a principal is responsible for the acts of its agents done within the scope of the agent's authority, "even though acting contrary to instructions." [Dick Loehr's, Inc v Secretary of State, 180 Mich. App. 165, 168; 446 N.W.2d 624 (1989)](https://www.lexis.com/research/buttonTFLink?_m=6cbcd97524abff5644c0987b135f7517&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b259%20Mich.%20App.%20187%5d%5d%3e%3c%2fcite%3e&_butType=3&_butStat=2&_origin=TOASHLX&_butNum=115&_butInline=1&_butinfo=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b180%20Mich.%20App.%20165%2cat%20168%5d%5d%3e%3c%2fcite%3e&_fmtstr=FULL&docnum=136&_startdoc=101&wchp=dGLbVtb-zSkAk&_md5=708331d40466e4347936b73e103c82fb). This is because, in part, an agency relationship arises where the principal [\*\*\*36]  has the right to control the conduct of the agent. [St Clair Intermediate School Dist v Intermediate Ed Ass'n/Michigan Ed Ass'n, 458 Mich. 540, 558 n 18; 581 N.W.2d 707 (1998)](https://www.lexis.com/research/buttonTFLink?_m=6cbcd97524abff5644c0987b135f7517&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b259%20Mich.%20App.%20187%5d%5d%3e%3c%2fcite%3e&_butType=3&_butStat=2&_origin=TOASHLX&_butNum=116&_butInline=1&_butinfo=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b458%20Mich.%20540%2cat%20558%5d%5d%3e%3c%2fcite%3e&_fmtstr=FULL&docnum=136&_startdoc=101&wchp=dGLbVtb-zSkAk&_md5=c0a63a81a484a6ce53be229bc2290a07) (citations omitted). The employer is also liable for the torts of his employee if "'the servant purported to act or to speak on behalf of the principal and there was reliance upon apparent authority, or he was aided in accomplishing the tort by the existence of the agency relation,'" [McCann v Michigan, 398 Mich. 65, 71; 247 N.W.2d 521 (1976)](https://www.lexis.com/research/buttonTFLink?_m=6cbcd97524abff5644c0987b135f7517&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b259%20Mich.%20App.%20187%5d%5d%3e%3c%2fcite%3e&_butType=3&_butStat=2&_origin=TOASHLX&_butNum=117&_butInline=1&_butinfo=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b398%20Mich.%2065%2cat%2071%5d%5d%3e%3c%2fcite%3e&_fmtstr=FULL&docnum=136&_startdoc=101&wchp=dGLbVtb-zSkAk&_md5=5219d53b6a7119254f8041c911d87fd2), quoting [Restatement of Agency, 2d § 219(2)(d)](https://www.lexis.com/research/buttonTFLink?_m=6cbcd97524abff5644c0987b135f7517&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b259%20Mich.%20App.%20187%5d%5d%3e%3c%2fcite%3e&_butType=4&_butStat=0&_origin=TOASHLX&_butNum=118&_butInline=1&_butinfo=AGENCY%20SECOND%20219&_fmtstr=FULL&docnum=136&_startdoc=101&wchp=dGLbVtb-zSkAk&_md5=71c1bf8c001fe5ae1153be4268b8e9e9), p 481; see also [Champion v Nation Wide Security, Inc, 450 Mich. 702, 704, 712; 545 N.W.2d 596 (1996)](https://www.lexis.com/research/buttonTFLink?_m=6cbcd97524abff5644c0987b135f7517&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b259%20Mich.%20App.%20187%5d%5d%3e%3c%2fcite%3e&_butType=3&_butStat=2&_origin=TOASHLX&_butNum=119&_butInline=1&_butinfo=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b450%20Mich.%20702%2cat%20704%5d%5d%3e%3c%2fcite%3e&_fmtstr=FULL&docnum=136&_startdoc=101&wchp=dGLbVtb-zSkAk&_md5=3d1841dc7f4fb90804d8adb6349a6fae), citing [Restatement of Agency, 2d § 219(2)(d)](https://www.lexis.com/research/buttonTFLink?_m=6cbcd97524abff5644c0987b135f7517&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b259%20Mich.%20App.%20187%5d%5d%3e%3c%2fcite%3e&_butType=4&_butStat=0&_origin=TOASHLX&_butNum=120&_butInline=1&_butinfo=AGENCY%20SECOND%20219&_fmtstr=FULL&docnum=136&_startdoc=101&wchp=dGLbVtb-zSkAk&_md5=c1927abf5bf3954a85d211c044ada141), p 481 ("the master is liable for the tort of his servant if the servant 'was aided in accomplishing the tort by the existence of the agency relation'"). In [Backus v  [\*213]  Kauffman (On Rehearing), 238 Mich. App. 402, 409; 605 N.W.2d 690 (1999)](https://www.lexis.com/research/buttonTFLink?_m=6cbcd97524abff5644c0987b135f7517&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b259%20Mich.%20App.%20187%5d%5d%3e%3c%2fcite%3e&_butType=3&_butStat=2&_origin=TOASHLX&_butNum=121&_butInline=1&_butinfo=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b238%20Mich.%20App.%20402%2cat%20409%5d%5d%3e%3c%2fcite%3e&_fmtstr=FULL&docnum=136&_startdoc=101&wchp=dGLbVtb-zSkAk&_md5=d9947545fee151274d489cbc14123160), this Court stated: **The term "authority" is defined by Black's Law Dictionary to include "the power delegated by a principal to an agent."** Black's Law Dictionary (7th ed), p [\*\*\*37]  127. **"Scope of authority" is defined** in the following manner: **"The reasonable power that an agent has been delegated** or might foreseeably be delegated in carrying out the principal's business." Id. at 1348.

We meet the counterinterp – the AUMF IS authority, so removing it is a net reduction in “war powers authority”

**Levey 6/12,** Arab American Institute Legal Fellow on the AUMF

(The AUMF After Al-Qaeda, www.aaiusa.org/index\_ee.php/blog/entry/the-aumf-after-al-qaeda)

In sum, **the AUMF authorizes** these measuresagainst members of al-Qaeda core and the Taliban, and they may be lawful and constitutional whether the combatant is an American citizen or not. There also is no geographic limit in the text; it appears to authorize **the use of force anywhere**, or at least anywhere outside the United States**, against a person it covers. The AUMF is** thus (at the very least) **a broad grant of authority to the President to wage war** on the people and groups that attacked us on September 11, or provided them safe harbor.

**///2ac Iran**

**This disad is dead --- recent letter demonstrates sanctions coalition is dying and congress is giving Obama space to negotiate**

**Tobin, 3/19** --- Senior Online Editor of Commentary magazine (Jonathan S., 3/19/2014, “Senate Iran Letter Ends Sanctions Fight,” <http://www.commentarymagazine.com/2014/03/19/senate-iran-letter-ends-sanctions-fight-nuclear/>))

**Supporters of tough sanctions on Iran hailed the publication of a letter from 83 members of the U.S. Senate to** President **Obama calling on him to negotiate a deal with the Islamist regime that would preclude any chance that it could gain a nuclear weapon**. The letter said that any agreement reached with Iran must deny it the right to uranium enrichment, dismantle its enrichment and nuclear military research facilities as well as its plutonium plant, and be subjected to the kind of inspections that would prevent it from evading detection of violations and receive no further sanctions relief until the other terms are satisfied. **AIPAC praised it as an “overwhelming demonstration by the U.S. Senate of its determination to prevent Iran from achieving nuclear weapons capability.”**

**But those who are dismissing the letter as the last gasp of a once formidable congressional coalition on behalf of sanctions on Iran are right**. As the Al Monitor crowed in the headline of its article on the letter, **what had happened was not so much a reaffirmation of principle but recognition that Congress had given the president “a window for Iran talks.”** The terms laid down in the letter for an Iran nuclear deal are sufficient to stop Tehran. But **the amorphous language it employs about what would happen if the agreement the administration produces with Iran falls short of that standard left considerable doubt as to whether failure would result in the passage of the crippling sanctions that the Senate tried but failed to pass earlier this year**. Combined with the weaker language of a similar Iran letter signed by 395 members of the House of Representatives, the administration will interpret these developments as a green light to pursue a deal with Iran that will fall considerably short of the standard set in the Senate letter.

**Current talks won’t reach a deal – Iranian foreign minister**

**AP 14** (The Guardian, “Iran does not expect nuclear agreement in latest round of talks”, 3/16/14, http://www.theguardian.com/world/2014/mar/16/iran-nuclear-deal-talks-mohammad-javad-zarif)

**Iran’s foreign minister said** on Sunday **that his country does not expect to cement a final deal in the coming round of nuclear talks with world powers.¶** Mohammad Javad Zarif spoke to reporters after meeting his Belorussian visiting counterpart, Vladimir Makei.¶ **“We don’t expect to reach a deal in this round of talks. Nor was a deal on the agenda** for this round of talks. We have agreed to discuss a number of issues in this round,” Zarif said.¶ Zarif said Tehran and world powers will discuss “dimensions” of Iran’s nuclear activities such as uranium enrichment and a heavy water reactor as well as sanctions in the Tuesday and Wednesday talks in Vienna.¶ “We will also discuss international cooperation in the field of peaceful nuclear technology,” he said.¶ Iran capped uranium enrichment after a deal in November for a six-month period, in return for easing sanctions by the West. That interim agreement is meant to lead to a final accord that minimises any potential Iranian nuclear weapons threat in return for a full lifting of sanctions.¶ Meanwhile, **200 Iranian lawmakers issued a statement urging Tehran’s negotiators not to withdraw from the “rights of the Iranian nation”. Iran says it has the right under the United Nations’ Non-Proliferation Treaty to enrich uranium. Many Iranian hardliners believe the Iranian team has given too many concessions to the west in return for too little.¶** The west suspects Iran’s nuclear programme has a military dimension. Tehran denies the charge, saying its nuclear programme has aimed at peaceful purposes such as power generation and medical treatment.¶ **The lawmakers said Iranian negotiators should not accept any discussion of the country’s military and missile programmes**, which Tehran says have no connection to its nuclear programme.

**2AC PC**

**Prefer our evidence**

**Dickinson, 9** – professor of political science at Middlebury College and taught previously at Harvard University where he worked under the supervision of presidential scholar Richard Neustadt (5/26/09, Matthew, Presidential Power: A NonPartisan Analysis of Presidential Politics, “Sotomayor, Obama and Presidential Power,” http://blogs.middlebury.edu/presidentialpower/2009/05/26/sotamayor-obama-and-presidential-power/, JMP)

What is of more interest to me, however, is what her selection reveals about the basis of presidential power. **Political scientists, like baseball writers evaluating hitters, have devised numerous means of measuring a president’s influence i**n **Congress. I will devote a separate post to discussing these, but in brief, they often center on the creation of legislative “box scores” designed to measure how many times a president’s preferred piece of legislation, or nominee to the executive branch or the courts, is approved by Congress. That is, how many pieces of legislation that the president supports actually pass Congress? How often do members of Congress vote with the president’s preferences? How often is a president’s policy position supported by roll call outcomes? These measures, however, are a misleading gauge of presidential power—they are a better indicator of congressional power. This is because how members of Congress vote on a nominee or legislative item is rarely influenced by anything a president does. Although journalists (and political scientists) often focus on the legislative “endgame” to gauge presidential influence—will the President swing enough votes to get his preferred legislation enacted**?—**this mistakes an outcome with actual evidence of presidential influence. Once we control for other factors**—**a member of Congress’ ideological and partisan leanings, the political leanings of her constituency, whether she’s up for reelection or not—we can usually predict how she will vote without needing to know much of anything about what the president wants.** (I am ignoring the importance of a president’s veto power for the moment.) **Despite the much publicized and celebrated instances of presidential arm-twisting during the legislative endgame, then, most legislative outcomes don’t depend on presidential lobbying**. But this is not to say that presidents lack influence. Instead, the primary means by which presidents influence what Congress does is through their ability to determine the alternatives from which Congress must choose. That is, presidential power is largely an exercise in agenda-setting—not arm-twisting. And we see this in the Sotomayer nomination. Barring a major scandal, she will almost certainly be confirmed to the Supreme Court whether Obama spends the confirmation hearings calling every Senator or instead spends the next few weeks ignoring the Senate debate in order to play Halo III on his Xbox. That is, how senators decide to vote on Sotomayor will have almost nothing to do with Obama’s lobbying from here on in (or lack thereof). His real influence has already occurred, in the decision to present Sotomayor as his nominee.

**2AC Link --- Popular**

**Plan’s bipartisan**

**Cohen 13, Fellow at Brennan Center for Justice**

[06/10/13, Andrew Cohen, “The Case for Congress Ending Its Authorization of the War on Terror”, http://www.theatlantic.com/politics/archive/2013/06/the-case-for-congress-ending-its-authorization-of-the-war-on-terror/276699/]

Do you have any Republican support for this measure, either in the Senate or in the House? And give me a sense of the reaction from your fellow Democrats to this proposal -- is the House minority leader in favor of it? What about Senate Judiciary Committee Chairman Patrick Leahy? **I am only now beginning to reach out to members on both sides of the aisle.** I believe that **a great many Democrats and some Republicans will agree that the present AUMF poorly describes the nature of the current threat against us, and should be repealed or replaced.** There is far less consensus on what should follow.

**The sunset provision solves their links**

**Kopan 13**

[06/10/13, Tal Kopan, “Schiff to intro bill ending war on terror authorization”, <http://www.politico.com/blogs/under-the-radar/2013/06/schiff-to-intro-bill-ending-war-on-terror-authorization-165779.html>]

**Schiff said he believes coordinating the end of the AUMF with the drawdown of troops in Afghanistan is the most sensible approach. “I think that approach may result in a greater bipartisan support and it gives us the time that we need to come up with a plan for the Guantanamo detainees**,” Schiff said. Schiff is introducing the bill the same week the House takes up debate on the National Defense Authorization Act, the annual bill that lays out funding and spending for the Defense Department for the upcoming fiscal year.

**2AC Won’t Fight/Inev**

**Controversy over the aff will expand but Obama won’t fight**

**Panda 3/12**, Ankit Panda is Associate Editor of The Diplomat. He was previously a Research Specialist at Princeton University where he worked on international crisis diplomacy, international security, technology policy, and geopolitics , Time to Review the AUMF, http://thediplomat.com/2014/03/time-to-review-the-aumf/

**The AUMF became a point of controversy among libertarians, non-interventionists, and civil rights groups once it became apparent that it offered a legal smokescreen to pursue extra-judicial assassinations** of American citizens affiliated with al-Qaeda, denying them the right to due process. The United States’ widely condemned practice of indefinite detention of “enemy combatants” is also a result of the AUMF. Overall, there seems to be no political consensus about what the AUMF should become. I reckon that Lumpkin’s right that the AUMF needs to be “re-looked” at. The timing is rather impeccable considering that the United States is formally ending its war in Afghanistan this year. President **Obama** himself **noted** in a speech at the National Defense University last year that **he looks forward “to engaging Congress and the** American **people in efforts to** refine, and ultimately **repeal, the AUMF**’s mandate.” Those who disagree with repealing the AUMF note that it would regress the United States’ counter-terrorism readiness to “a law-enforcement model of counterterrorism.” There is some truth in that assertion. However, the United States’ national security apparatus has matured significantly since 9/11 and the failures in intelligence and lack of inter-agency communication that allowed that attack to happen have had time to be patched up. The future of the AUMF will have important ramifications for the manner in which the United States pursues non-state national security threats in the future. **Expect this debate to expand as President Obama’s second term carries forward**.

**2ac Obama --- Link Turn**

**The plan saves the agenda**

**Epps, 12/20** --- teaches courses in constitutional law and creative writing for law students at the University of Baltimore (12/20/2013, Garrett, “How Obama Can Save His Legacy by Reining In the Security State; The president can restore some flagging faith in the American project and shore up his own political fortunes,” <http://www.theatlantic.com/politics/archive/2013/12/how-obama-can-save-his-legacy-by-reining-in-the-security-state/282568/>))

People like to say that there are no second chances in American politics. In reality, though, few systems are more forgiving than ours. An American politician must be determined and persistent—a Richard Nixon or an Anthony Weiner—to kick away every chance for rehabilitation that the American people offer.

This is something for President Obama to ponder as he comes to the end of an unexpectedly difficult year. Despite a smashing reelection and a victory in the government shutdown, **Obama’s poll numbers have moved significantly lower, with the greatest loss in the percentage of respondents who consider him trustworthy**.

At this year’s end, however, **Obama has a powerful opportunity to change how he operates, and how he is viewed**. All it will take is what so few politicians have—the ability to listen to the universe when it says, “You were wrong.”

Consider the events of the last two weeks. Judge Richard Leon of the District Court for the District of Columbia, a Republican appointee, held that the National Security Agency’s massive metadata-collection program “likely” violates the Fourth Amendment. (To my students: In the procedural posture of this case, “likely violates” is a lawyer’s code word for “@#$%ing-A right it violates!”) A few days later, the president’s advisory board recommended significant reforms to the extent and structure of the same programs. The tech sector, civil libertarians, a Republican judge, America’s foreign allies, and, I suspect, the vast majority of the American people, now agree that government surveillance has overreached.

The White House has said nothing about Leon's decision. (A Justice Department spokesman said, “We believe the program is constitutional as previous judges have found,” though it's not clear what judges he's referring to.) After the advisory report, the White House would say only that the president “will work with his national security team to study the Review Group’s report, and to determine which recommendations we should implement.”

In the months since Edward Snowden’s revelations began emerging, Obama has insisted that, as he said in June, that "Congress is continually briefed on how [NSA surveillance is] conducted. There are a whole range of safeguards involved. And federal judges are overseeing the entire program throughout." Top intelligence officials and Senators like Senator Dianne Feinstein and Representative Mike Rogers repeat the soothing mantra daily. It’s all legal. The courts know all about it. Don’t worry your pretty little heads about it. Let us take care of you.

The administration’s stance has by now become a kind of fetal crouch, distasteful even to witness. I’m not sure that anyone anywhere outside Washington believes a word of this—or ever has. Even the members of Congress know that we know they’re lying, and know that we know they haven’t been doing their jobs. Obama can may still have a chance to get ahead of the moment by changing his own approach.

**Obama**, a former constitutional-law professor, **was elected as a civil libertarian who would tame the post-9/11 security state. In the first year, he tried gamely to close Guantanamo.** Over the past year, **he took a tentative stand in favor of an eventual repeal the 2001 Authorization for the Use of Military Force, putting an end at some point to our state of endless war against nameless enemies**. But **he seems also to have learned that** more surveillance, more secrecy, and **broader unreviewable power are the ways to please official Washington**. His administration has embraced over-classification of information, wholesale attacks on press freedom, and use of the criminal law to intimidate whistleblowers. He sounds more and more like Leonid Brezhnev defending the invasion of Afghanistan. And now this gifted communicator has now lost the initiative to the likes of Larry Klayman.

To paraphrase Talleyrand, this unseemly spectacle is worse than a crime—it is a mistake. **This is Obama’s second term. He is in a position to switch from soothing nonsense to serious discussion of security, freedom, and danger.** It is not enough to say that these questions involved unseen tradeoffs that cannot be discussed; a free people can be trusted to make public choices.

**Many Americans apparently believe that Obama is a Hitler-style tyrant**. Viewed objectively, **this administration has been remarkably timid overall**—hesitant to try strong economic or social medicine. But the idea of tyranny is powerful, I think, because of the hangover of 9/11 and the Bush years. American conservatives, against their better judgment, embraced detention camps, secret prisons, torture, classified courts, mass eavesdropping, suspension of habeas corpus, and the Patriot Act when their leader was in control. They lost faith in Bush, and then they lost control of government. Progressives criticized Bush, but held their fire when Obama did not renounce the security s

tate.

Now everyone feels afraid, and well we might. I think Obama is a man of humane instincts, and one who does respect the law. But **if his legacy is a secret, lawless complex of aggressive spies and secretive jailers, who is to say that they will not be misused by a successor?** Whether headed by friend or foe, government is, to steal a phrase from Robinson Jeffers, a clever servant but an insufferable master. When we are told that we may not know what it is doing to us in our name, we are right to fear.

This is no legacy for a man of Obama’s values. **He is uniquely qualified to lead a national debate about security and privacy—and by so doing, he would show that the people are still part of the process of government in this country**, even in dangerous times.

**He still has time to turn the debate around—and perhaps salvage what remains of his second term in the process.**

**2ac Losing Now \*\*\***

**Obama losing now --- IMF and other agenda items**

**Weisman, 3/25** (Jonathan, 3/25/2014, “Senate Democrats Drop I.M.F. Reforms From Ukraine Aid,” <http://www.nytimes.com/2014/03/26/world/europe/senate-democrats-drop-imf-reforms-from-ukraine-aid-package.html?_r=0)>)

WASHINGTON — Senate **Democrats, bowing to united House Republican opposition, dropped reforms of** **I**nternational **M**onetary **F**und **governance from a Ukraine aid package** on Tuesday, **handing** President **Obama an embarrassing defeat as he huddled in Europe with allies who have already ratified the changes**.

The monetary fund language would have enlarged the Ukraine loan package while finally ratifying changes dating to 2010 that only the United States has opposed. Mr. **Obama himself negotiated those changes, and European allies conferring with him on Ukraine have been pressing for American action.**

But the need for speed on loans and direct assistance to Ukraine overcame the White House’s willingness for a fight. Senator Harry Reid of Nevada, the majority leader, said he was taking his lead from Secretary of State John Kerry, who had signaled that the administration would push for the monetary fund language separately.

Mr. Reid said the package should pass the Senate by Thursday.

“Obviously, politics don’t stop at the water’s edge on this issue,” said Senator Robert Menendez, Democrat of New Jersey and chairman of the Foreign Relations Committee, denouncing the Republican stance.

The governance changes would raise the borrowing limit of countries like Ukraine at the multilateral lending institution, while giving more authority to emerging economic heavyweights like China, Brazil — and Russia. The Obama administration painted them as vital to a Ukraine aid package, but Republicans were never convinced.

Some conservatives oppose the changes as a lessening of American authority at the fund, although Washington would retain veto power. But Republican leaders saw them more as a bargaining chip and were pressing to swap the changes for an agreement from the administration to delay final Internal Revenue Service regulations on political groups that conceal the name of their donors by incorporating as tax-exempt “social welfare” organizations.

**The White House position was undercut this week by two New York Democrats**, Representatives Eliot L. Engel, **the ranking member of the House Foreign Affairs Committee, and** Nita M. Lowey, **the ranking member of the House Appropriations Committee, both of whom said the Senate should drop the matter and pass the other parts of the package**.

“I would hope that we would find a common ground, pass it, so that we can help our friends,” Speaker John A. Boehner said of the Ukraine aid and Russia sanctions measure.

The Senate legislation would guarantee $1 billion in loans to the fledgling government in Kiev and offer an additional $100 million in direct aid.

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Ukraine Crisis in Maps

It would codify sanctions against Ukrainians and Russians already affected by sanctions ordered by Mr. Obama, but at the same time, it would expand the list of targets who would be denied United States visas and subject to civil or criminal penalties.

Similar legislation is expected to pass the House this week.

“I feel strongly about I.M.F. reform, and we need to get that done,” Mr. Reid said. “But this bill is important.”

**The decision was another setback for** Mr. **Obama**; the administration also tried and failed in December to attach the monetary fund language to a trillion-dollar spending measure.

In addition to the fund issue, **the president’s nominee to lead the Justice Department’s Civil Rights Division was defeated by bipartisan opposition. His choice for surgeon general is stalled in the face of objections from the** **N**ational **R**ifle **A**ssociation. **His top domestic initiatives — such as raising the minimum wage and reviving expired unemployment benefits — appear unlikely to get through Congress.**

**Republicans are eager to exploit those Democratic divisions.**

“I can only quote Nita Lowey, the ranking Democrat on the House Appropriations Committee, and also the ranking member of the Foreign Affairs Committee, who said it was more important to do this quickly than to deal with the I.M.F., which is a much more controversial issue,” said Senator Mitch McConnell of Kentucky, the Republican leader. “I agree with these two important House Democrats.”

**AT: Israel Strikes**

**No Israel strikes**

**Keck 13** (Zachary Keck, Associate Editor of the Diplomat, ex-Center for a New American Security, ex-Congressional defense advisor, The National Interest, “Five Reasons Israel Won't Attack Iran”, 11/28/13, http://nationalinterest.org/commentary/five-reasons-israel-wont-attack-iran-9469)

Although the interim deal does further reduce Israel’s propensity to attack, the truth is that **the likelihood of an Israeli strike on Iran’s nuclear facilities has always been greatly exaggerated. There are at least five reasons why Israel isn’t likely to attack Iran.** 1. You Snooze, You Lose **First, if Israel was going to strike Iran’s nuclear facilities, it would have done so a long time ago.** Since getting caught off-guard at the beginning of the Yom Kippur War in 1973, **Israel has generally acted proactively to thwart security threats. On no issue has this been truer than with nuclear-weapon programs.** For example, **Israel bombed Saddam Hussein’s program when it consisted of just a single nuclear reactor.** According to ABC News, Israel struck Syria’s lone nuclear reactor just months after discovering it. The IAEA had been completely in the dark about the reactor, and took years to confirm the building was in fact housing one. **Contrast this with Israel’s policy toward Iran’s nuclear program. The uranium-enrichment facility in Natanz and the heavy-water reactor at Arak first became public knowledge in 2002. For more than a decade now, Tel Aviv has watched as the program has expanded into two fully operational nuclear facilities, a budding nuclear-research reactor, and countless other well-protected and -dispersed sites.** Furthermore, **America’s extreme reluctance to initiate strikes on Iran was made clear to Israel at least as far back as 2008. It would be completely at odds with how Israel operates for it to standby until the last minute when faced with what it views as an existential threat.** 2. **Bombing Iran Makes an Iranian Bomb More Likely** Much like a U.S. strike, only with much less tactical impact, **an Israeli air strike against Iran’s nuclear facilities would only increase the likelihood that Iran would build the bomb**.

At home, Supreme Leader Ali **Khamenei could use the attack to justify rescinding his fatwa against possessing a nuclear-weapons program, while using the greater domestic support for the regime and the nuclear program to mobilize greater resources for the country’s nuclear efforts.** **Israel’s attack would also give the Iranian regime a legitimate (in much of the world’s eyes) reason to withdraw from the** Nuclear Non-Proliferation Treaty (**NPT) and kick out international inspectors.** If Tehran’s membership didn’t even prevent it from being attacked, how could it justify staying in the regime? Finally, **support for international sanctions will crumble in the aftermath of an Israeli attack, giving Iran more resources with which to rebuild its nuclear facilities.** 3. Helps Iran, Hurts Israel Relatedly, **an Israeli strike on Iran’s nuclear program would be a net gain for Iran and a huge loss for Tel Aviv. Iran could use the strike to regain its popularity with the Arab street and increase the pressure against Arab rulers. A**s noted above, **it would also lead to** international sanctions collapsing, and **an outpouring of sympathy for Iran in many countries around the world.** Meanwhile, **a strike on Iran’s nuclear facilities would leave Israel in a far worse-off position. Were Iran to respond by attacking U.S. regional assets, this could greatly hurt Israel’s ties with the United States at both the elite and mass levels.** Indeed, **a war-weary American public is adamantly opposed to its own leaders dragging it into another conflict in the Middle East. Americans would be even more hostile to an ally taking actions that they fully understood would put the U.S. in danger.** Furthermore, **the quiet but growing cooperation Israel is enjoying with Sunni Arab nations against Iran would evaporate overnight.** Even though many of the political elites in these countries would secretly support Israel’s action, **their explosive domestic situations would force them to distance themselves from Tel Aviv for an extended period of time. Israel’s reputation would also take a further blow in Europe and Asia, neither of which would soon forgive Tel Aviv.** 4. Israel’s Veto Players **Although Netanyahu may be ready to attack Iran’s nuclear facilities, he operates within a democracy with a strong elite structure, particularly in the field of national security. It seems unlikely that he would have enough elite support for him to seriously consider such a daring and risky operation.** For one thing, **Israel has strong institutional checks on using military force.** As then vice prime minister and current defense minister Moshe Yaalon explained last year: “**In the State of Israel, any process of a military operation, and any military move, undergoes the approval of the security cabinet and in certain cases, the full cabinet… the decision is not made by two people, nor three, nor eight.” It’s far from clear Netanyahu, a fairly divisive figure in Israeli politics, could gain this support.** In fact, Menachem Begin struggled to gain sufficient support for the 1981 attack on Iraq even though Baghdad presented a more clear and present danger to Israel than Iran does today. **What is clearer is that Netanyahu lacks the support of much of Israel’s highly respected national security establishment. Many former top intelligence and military officials have spoken out publicly against Netanyahu’s hardline Iran policy, with at least one of them questioning whether Iran is actually seeking a nuclear weapon.** Another former chief of staff of the Israeli Defense Forces told The Independent that, “It is quite clear that much if not all of the IDF [Israeli Defence Forces] leadership do not support military action at this point…. In the past the advice of the head of the IDF and the head of Mossad had led to military action being stopped.” 5. A Deal is Better Than No Deal Finally, **Israel won’t attack Iran because it is ultimately in its interests for the US and Iran to reach an agreement, even if it is a less than an ideal one.** To begin with, an agreement is the only way to prevent Iran from acquiring nuclear weapons short of an invasion and occupation of the country. Moreover, Israel would benefit both directly and indirectly from a U.S.-Iranian nuclear deal and especially larger rapprochement. **Israel would gain a number of direct benefits from a larger warming of U.S.-Iranian relations, which a nuclear deal could help facilitate.** Iran currently pays no costs while benefiting significantly from its anti-Israeli tirades and actions. A rapprochement with the U.S. would force Iranian leaders to constrain their anti-Israeli rhetoric and actions, or risk losing their new partner. While Israel and Iran might not enjoy the same relationship they did under the Shah or the first decade of the Islamic Republic, a U.S.-allied Iran would be much less of a burden for Israel. History is quite clear on this point: U.S. Middle Eastern allies—notable Egypt under Sadat—have been much less hostile to the Jewish state than countries that have been U.S. adversaries. **Tel Aviv would also benefit indirectly from a U.S.-Iran nuclear deal and possible rapprochement**. That’s because either of these agreements would spark panic in Sunni Arab capitals. For the foreseeable future, then, Israel would enjoy some breathing room, which would obtain as these governments would be preoccupied with Iran for the foreseeable future. Indeed, just the possibility of an interim nuclear deal between the U.S. and Iran has created rumors of Saudi Arabia seeking tighter cooperation with Israel. For these reasons, the interim nuclear deal has made it less likely that Israel will attack Iran. That being said, **the possibility of an Israeli attack on Iran was already remote long before Iran and the P5+1 held their talks** in Geneva last month.

**///Tea**

**Obama’s new NSA reform should trigger the link**

**Hattem, 3/27** (Julian, 3/27/2014, “Obama backs ending NSA collection,” <http://thehill.com/blogs/hillicon-valley/technology/201909-obama-offers-bill-to-end-nsa-collection>))

Obama had called for a new path forward to the program by this Friday, when the existing court authority for the phone program was set to expire.

Reports had emerged about details of the White House proposal in recent days. Based on those reports, **lawmakers and critics of the NSA’s snooping have been cautiously supportive of the president’s plan**.

Speaking to reporters this week, Sens. **Rand Paul** (R-Ky.), Ron **Wyden** (D-Ore.) **and** Mark **Udall** (D-Colo.), **who have been among the most vocal critics of the agency, said that the proposal showed the White House had come around to their way of thinking**.

**“For years and years the executive branch denied that this was a problem**. And the three of us, and millions of Americas, said not so fast,” Wyden said on Tuesday, after reports of the plan emerged.

**The White House’s new attitude**, he added, **shows “they now agree with us and the American people.”**

Senate Intelligence Committee Chairwoman Dianne Feinstein (D-Calif.), who has been reluctant to make drastic changes to the spy agency, called the president’s plan “a worthy effort.”

Speaker John **Boehner** (R-Ohio) **has also supported the president’s plan to end the bulk records collection**.

**Tea Party influence is limited --- key conservative group backing those candidates has decided to play it safe in the midterms by only backing a few key candidates**

**Kraushaar, 3/18** (Josh, 3/18/2014, **“The Tea Party's Over; Outside conservative groups are experiencing the limits of their influence,”** <http://www.nationaljournal.com/against-the-grain/the-tea-party-s-over-20140318>))

**FreedomWorks issued an unusual round of endorsements this week. The conservative group, which won publicity for backing intraparty challenges to** Senate Minority Leader Mitch **McConnell and** Rep. Mike **Simpson, decided to play it safe this time**. **It endorsed three senators and nine congressmen, none of whom face any serious competition—Republican or Democratic**. It stayed out of the contested Oklahoma primary for Sen. Tom Coburn's seat, but endorsed Republican James Inhofe, who doesn't face any GOP opposition. In South Carolina, FreedomWorks is backing Sen. Tim Scott, who's a lock for reelection, but it isn't doing anything against vulnerable Sen. Lindsey Graham, who's also on the ballot this year.

**All told, it's a sign that the group has stopped sticking its neck out for long-shot conservative insurgents and is content to put some easy victories on the board.**

It's a far cry from the early ambitions of the aggressively antiestablishment group, which entered the cycle boldly challenging sitting senators, including the chamber's most powerful Republican. Now **they're content to focus on their support for members of Congress who are as close to reelection locks as they come**. Indeed, **FreedomWorks' latest slam-dunk endorsements are emblematic of scaled-back efforts from leading outside conservative groups.**

Of the 10 "RINOs" in the House flagged for defeat by the Club for Growth last year, only one faces a primary opponent. With two of their leading Senate challengers' campaigns fizzling, the Senate Conservatives Fund has now decided to back conservatives in House primaries. And after raising only $766,000 in 2013—less than one-third of their 2011 fundraising—FreedomWorks is now backing Republicans who are so safe that they don't need any outside help. Conservative groups are even disagreeing on which races to target.

**2014 is shaping up as the year the Republican establishment is finding its footing. Of the 12 Republican senators on the ballot, six face primary competition, but only one looks seriously threatened**:

Sen. Thad Cochran of Mississippi. More significantly, only two House Republicans are facing credible competition from tea-party conservatives: Simpson and Rep. Bill Shuster of Pennsylvania—fewer than the number of conservative House Republicans facing competition from the establishment wing (Reps. Justin Amash, Walter Jones, and Kerry Bentivolio). With filing deadlines already passed in 23 states, it's hard to see that dynamic changing.

**Even the Club for Growth, one of the first outside groups to target Republican members of Congress, has been notably disciplined this year.** Last February, the Club encouraged candidates to run against 10 squishy House Republicans, launching a PrimaryMyCongressman.com site featuring the so-called RINOs. Only one qualified challenger emerged. Their PAC is targeting just one Republican senator (Cochran, facing state Sen. Chris McDaniel) and one Republican congressman (Simpson). Meanwhile, they've joined forces with the party establishment in backing Senate candidates Rep. Tom Cotton of Arkansas and Dan Sullivan of Alaska. The endorsement of Sullivan is significant, since they backed Joe Miller's losing general-election campaign against Sen. Lisa Murkowski in 2010. Miller's running again, but this time they're opposing him in the primary.

Given the mood of the Republican electorate, it's striking to see the disconnect between the number of conservative Senate primary challenges and the low number of conservatives running against House incumbents. **With 211 Republicans running for reelection, only two are credibly being challenged from the right—less than 1 percent.** That suggests the hunger for throwing out Republican senators is as much a product of outside intervention as a reflection of genuine grassroots opposition.

"There are a lot of Ted Cruz imitators that believe all you need to do is make the race national and raise a bunch of money online and get national groups to endorse you and everything will take care of itself," said one conservative strategist, lamenting the quality of prospective challengers. Many national groups, likewise, seem to be overestimating their own ability to reshape a race with a mere endorsement.

**No econ impact**

**Zakaria** Editor Newsweek **‘9**

(Fareed-, Dec. 12, Newsweek, “The Secrets of Stability”, http://www.newsweek.com/id/226425/page/1; Jacob)

One year ago, the world seemed as if it might be coming apart. The global financial system, which had fueled a great expansion of capitalism and trade across the world, was crumbling. All the certainties of the age of globalization—about the virtues of free markets, trade, and technology—were being called into question. Faith in the American model had collapsed. The financial industry had crumbled. Once-roaring emerging markets like China, India, and Brazil were sinking. Worldwide trade was shrinking to a degree not seen since the 1930s.

Pundits whose bearishness had been vindicated predicted we were doomed to a long, painful bust, with cascading failures in sector after sector, country after country. In a widely cited essay that appeared in The Atlantic this May, Simon Johnson, former chief economist of the International Monetary Fund, wrote: "The conventional wisdom among the elite is still that the current slump 'cannot be as bad as the Great Depression.' This view is wrong. What we face now could, in fact, be worse than the Great Depression."

Others predicted that these economic shocks would lead to political instability and violence in the worst-hit countries. At his confirmation hearing in February, the new U.S. director of national intelligence, Adm. Dennis Blair, cautioned the Senate that "the financial crisis and global recession are likely to produce a wave of economic crises in emerging-market nations over the next year." Hillary Clinton endorsed this grim view. And she was hardly alone. Foreign Policy ran a cover story predicting serious unrest in several emerging markets.

Of one thing everyone was sure: nothing would ever be the same again. Not the financial industry, not capitalism, not globalization.

One year later, how much has the world really changed? Well, Wall Street is home to two fewer investment banks (three, if you count Merrill Lynch). Some regional banks have gone bust. There was some turmoil in Moldova and (entirely unrelated to the financial crisis) in Iran. Severe problems remain, like high unemployment in the West, and we face new problems caused by responses to the crisis—soaring debt and fears of inflation. But overall, things look nothing like they did in the 1930s. The predictions of economic and political collapse have not materialized at all.

A key measure of fear and fragility is the ability of poor and unstable countries to borrow money on the debt markets. So consider this: the sovereign bonds of tottering Pakistan have returned 168 percent so far this year. All this doesn't add up to a recovery yet, but it does reflect a return to some level of normalcy. And that rebound has been so rapid that even the shrewdest observers remain puzzled. "The question I have at the back of my head is 'Is that it?' " says Charles Kaye, the co-head of Warburg Pincus. "We had this huge crisis, and now we're back to business as usual?"

This revival did not happen because markets managed to stabilize themselves on their own. Rather, governments, having learned the lessons of the Great Depression, were determined not to repeat the same mistakes once this crisis hit. By massively expanding state support for the economy—through central banks and national treasuries—they buffered the worst of the damage. (Whether they made new mistakes in the process remains to be seen.) The extensive social safety nets that have been established across the industrialized world also cushioned the pain felt by many. Times are still tough, but things are nowhere near as bad as in the 1930s, when governments played a tiny role in national economies.

It's true that the massive state interventions of the past year may be fueling some new bubbles: the cheap cash and government guarantees provided to banks, companies, and consumers have fueled some irrational exuberance in stock and bond markets. Yet these rallies also demonstrate the return of confidence, and confidence is a very powerful economic force. When John Maynard Keynes described his own prescriptions for economic growth, he believed government action could provide only a temporary fix until the real motor of the economy started cranking again—the animal spirits of investors, consumers, and companies seeking risk and profit.

Beyond all this, though, I believe there's a fundamental reason why we have not faced global collapse in the last year. It is the same reason that we weathered the stock-market crash of 1987, the recession of 1992, the Asian crisis of 1997, the Russian default of 1998, and the tech-bubble collapse of 2000. The current global economic system is inherently more resilient than we think. The world today is characterized by three major forces for stability, each reinforcing the other and each historical in nature.

The first is the spread of great-power peace. Since the end of the Cold War, the world's major powers have not competed with each other in geomilitary terms. There have been some political tensions, but measured by historical standards the globe today is stunningly free of friction between the mightiest nations. This lack of conflict is extremely rare in history. You would have to go back at least 175 years, if not 400, to find any prolonged period like the one we are living in. The number of people who have died as a result of wars, civil conflicts, and terrorism over the last 30 years has declined sharply (despite what you might think on the basis of overhyped fears about terrorism). And no wonder—three decades ago, the Soviet Union was still funding militias, governments, and guerrillas in dozens of countries around the world. And the United States was backing the other side in every one of those places. That clash of superpower proxies caused enormous bloodshed and instability: recall that 3 million people died in Indochina alone during the 1970s. Nothing like that is happening today.

Peace is like oxygen, Harvard's Joseph Nye has written. When you don't have it, it's all you can think about, but when you do, you don't appreciate your good fortune. Peace allows for the possibility of a stable economic life and trade. The peace that flowed from the end of the Cold War had a much larger effect because it was accompanied by the discrediting of socialism. The world was left with a sole superpower but also a single workable economic model—capitalism—albeit with many variants from Sweden to Hong Kong.

This consensus enabled the expansion of the global economy; in fact, it created for the first time a single world economy in which almost all countries across the globe were participants. That means everyone is invested in the same system. Today, while the nations of Eastern Europe might face an economic crisis, no one is suggesting that they abandon free-market capitalism and return to communism. In fact, around the world you see the opposite: even in the midst of this downturn, there have been few successful electoral appeals for a turn to socialism or a rejection of the current framework of political economy. Center-right parties have instead prospered in recent elections throughout the West.

The second force for stability is the victory—after a decades-long struggle—over the cancer of inflation. Thirty-five years ago, much of the world was plagued by high inflation, with deep social and political consequences. Severe inflation can be far more disruptive than a recession, because while recessions rob you of better jobs and wages that you might have had in the future, inflation robs you of what you have now by destroying your savings. In many countries in the 1970s, hyperinflation led to the destruction of the middle class, which was the background condition for many of the political dramas of the era—coups in Latin America, the suspension of democracy in India, the overthrow of the shah in Iran. But then in 1979, the tide began to turn when Paul Volcker took over the U.S. Federal Reserve and waged war against inflation. Over two decades, central banks managed to decisively beat down the beast. At this point, only one country in the world suffers from -hyperinflation: Zimbabwe. Low inflation allows people, businesses, and governments to plan for the future, a key precondition for stability.

Political and economic stability have each reinforced the other. And the third force that has underpinned the resilience of the global system is technological connectivity. Globalization has always existed in a sense in the modern world, but until recently its contours were mostly limited to trade: countries made goods and sold them abroad. Today the information revolution has created a much more deeply connected global system.

Managers in Arkansas can work with suppliers in Beijing on a real-time basis. The production of almost every complex manufactured product now involves input from a dozen countries in a tight global supply chain. And the consequences of connectivity go well beyond economics. Women in rural India have learned through satellite television about the independence of women in more modern countries. Citizens in Iran have used cell phones and the Internet to connect to their well-wishers beyond their borders. Globalization today is fundamentally about knowledge being dispersed across our world.

This diffusion of knowledge may actually be the most important reason for the stability of the current system. The majority of the world's nations have learned some basic lessons about political well-being and wealth creation. They have taken advantage of the opportunities provided by peace, low inflation, and technology to plug in to the global system. And they have seen the indisputable results. Despite all the turmoil of the past year, it's important to remember that more people have been lifted out of poverty over the last two decades than in the preceding 10. Clear-thinking citizens around the world are determined not to lose these gains by falling for some ideological chimera, or searching for a worker's utopia. They are even cautious about the appeals of hypernationalism and war. Most have been there, done that. And they know the price.

**///Civil Disobedience**

**Absent institutional concerns the alt is useless**

**Wight – Professor of IR @ University of Sydney – 6**

(Colin, Agents, Structures and International Relations: Politics as Ontology, pgs. 48-50

One important aspect of this relational ontology is that these **relations constitute our identity** as social actors. According to this relational model of societies, one is what one is, by virtue of the relations within which one is embedded. A worker is only a worker by virtue of his/her relationship to his/her employer and vice versa. ‘Our social being is constituted by relations and our social acts presuppose them.’ **At any particular moment in time an individual may be implicated in all manner of relations, each exerting its own peculiar causal effects. This ‘lattice-work’** of relations constitutes the structure of particular societies and **endures** **despite changes in the individuals occupying them**. Thus, the relations, the structures, are ontologically distinct from the individuals who enter into them. At a minimum, the social sciences are concerned with two distinct, although mutually interdependent, strata. There is an ontological difference between people and structures: ‘people are not relations, societies are not conscious agents’. Any attempt to explain one in terms of the other should be rejected. If there is an ontological difference between society and people, however, we need to elaborate on the relationship between them. Bhaskar argues that we need a system of mediating concepts, encompassing both aspects of the duality of praxis into which active subjects must fit in order to reproduce it: that is, a system of concepts designating **the ‘point of contact’ between human agency and social structures. This is known as a ‘positioned practice’ system. In many respects, the idea of ‘positioned practice’ is very similar to Pierre Bourdieu’s notion of habitus. Bourdieu is primarily concerned with what individuals do in their daily lives. He is keen to refute the idea that social activity can be understood** **solely in terms of individual decision-making**, or as determined by surpa-individual objective structures. Bourdieu’s notion of the *habitus* can be viewed as a bridge-building exercise across the explanatory gap between two extremes. Importantly, the notion of a habitus can only be understood in relation to the concept of a ‘social field’. According to Bourdieu, a social field is ‘a network, or a configuration, of objective relations between positions objectively defined’. **A social field**, then, refers to a structured system of social positions occupied by individuals and/or institutions – the nature of which **defines the situation for their occupants**. This is a social field whose form is constituted in terms of the relations which define it as a field of a certain type. A *habitus* (positioned practices) is a mediating link between individuals’ subjective worlds and the socio-cultural world into which they are born and which they share with others. The power of the habitus derives from the thoughtlessness of **habit** and habituation, rather than consciously learned rules. The habitus is imprinted and encoded in a socializing process that commences during early childhood. It **is inculcated more by experience than by explicit teaching. Socially competent performances are produced as a matter of routine, without explicit reference to a body of codified knowledge,** and without the actors necessarily knowing what they are doing (in the sense of being able adequately to explain what they are doing). As such, the *habitus* can be seen as the site of ‘internalization of reality and the externalization of internality.’ Thus social practices are produced in, and by, the encounter between: (1) the *habitus* and its dispositions; (2) the constraints and demands of the socio-cultural field to which the habitus is appropriate or within; and (3) the dispositions of the individual agents located within both the socio-cultural field and the *habitus*. When placed within Bhaskar’s stratified complex social ontology the model we have is as depicted in Figure 1. The explanation of practices will require all three levels. **Society**, as field of relations, **exists** prior to, and is **independent of, individual and collective understandings at any particular moment in time**; that is, social action requires the conditions for action. Likewise, **given that behavior is seemingly recurrent, patterned, ordered, institutionalised, and displays a degree of stability over time, there must be sets of relations and rules that govern it.** Contrary to individualist theory, these relations, rules and roles are not dependent upon either knowledge of them by particular individuals, or the existence of actions by particular individuals; that is, **their explanation cannot be reduced to consciousness** or to the attributes **of individuals**. These emergent social forms must possess emergent powers. This leads on to arguments for the reality of society based on a causal criterion. **Society**, as opposed to the individuals that constitute it, **is**, as Foucault has put it, ‘**a complex and independent reality that has its own laws** and mechanisms of reaction, its regulations as well as its possibility of disturbance. This new reality is society…It becomes necessary to reflect upon it, upon its specific characteristics, its constants and its variables’.

**They’re no different from John Yoo — star this card**

**Passavant 10**

[11/26/10, Paul A. Passavant is the author of No Escape: Freedom of Speech and the Paradox of Rights (New York University Press, 2002), and Empire's New Clothes: Reading Hardt and Negri Routledge, 2004). He is also the author of numerous articles in law and political theory, “Yoo's Law, Sovereignty, and Whatever”, Volume 17, Issue 4, pages 549–571, December 2010]

**For some on the left, it has become conventional to celebrate**, if not cultivate, **pluralism**, **whether this means multiple forms of being or multiple interpretive possibilities** with regard to texts. **It has also become conventional to be critical of “sovereignty” and of “law.”** **Multiplicity is thought to be a threat to sovereignt**y, and **this threat is thought to be democratizing or a force that resists oppression**. The Italian philosopher Giorgio **Agamben** exemplifies these tendencies within contemporary political and legal theory. In some of his earlier and less well-known work, he **aspires toward a “coming community” that he calls “whatever being.”** Whatever being embraces the infinite communicative possibilities of language as pure means beyond a preoccupation with true or false propositions. In his best-known work, **Agamben links sovereignty to the production of rightless subjects and the Nazi death camps. He urges us to rethink the very ontological basis of politics** in the West, **creating a human being beyond sovereignty or law**, in order to avoid perilous outcomes. **One key to surpassing the logic of sovereignty**, according to Agamben, **is whatever being's positive relation to the singularities of life** and the multiplicities of communication. **Whatever being is** also **being outside of law**. **If “law” persists in this “coming community,” it would be a “law” that has become deactivated and deposed** from its prior purposes. “**Law” will have become an object for play** – something to be toyed with the way that children might come upon a disused object and play with it by putting it to uses disconnected from whatever purpose this object might once have had. **Why does the fact of playful communicative possibilities lead to either more democracy or a less brutal world**? **The most conservative** United States Supreme Court **justices have recently embraced the fact that texts are open to multiple interpretations.** For example, Samuel **Alito** has **suggested** that **the meaning of public monuments is open to multiple interpretations** that may shift over time to avoid a potential First Amendment establishment clause problem over a monument of the Ten Commandments in a public park.1 Yet, as the late Justice Blackmun has written regarding state endorsement of religion, “government cannot be premised on the belief that all persons are created equal when it asserts that God prefers some.”2 **Recognizing the possibility of multiple interpretations**, as this instance shows, **does not lead necessarily to outcomes friendly to democracy**. In this essay, I investigate how **playing with the multiplicity of communicative possibilities can, contrary to Agamben's expectations, actually facilitate aspirations for unitary sovereign power**. My argument unfolds in the context of the legal arguments put forward by Bush administration lawyer John Yoo, particularly those enabling torturous interrogations. **Those, like Agamben, who favor interpretive pluralism** in itself **rarely**, if ever, **have right-wing supporters of unchecked presidentialism in mind**. Reading the scholarship and legal memoranda of **John Yoo**, formerly in the Bush administration's Office of Legal Counsel (OLC) and presently a University of California, Berkeley law professor, however, **approaches an experience of pure mediality or of law that has become deposed or disconnected from its purposes**. **Yoo is well known as the author of the key legal memoranda asserting the president's discretionary power to make war, to engage in warrantless surveillance, and**, most infamously, **justifying torturous methods** of interrogation. Some scholars refer to Lewis Carroll's Alice in Wonderland to describe the experience of reading Yoo's legal memos.3 Is John Yoo an exemplar of the whatever being and pure mediality that Agamben describes and to which he contends p

olitics should aspire? In this paper, I describe how **Yoo gestures toward pure mediality**, as **he indicates the experience of language itself as pure communicability or as pure means in his legal work when he emphasizes the openness of law to being exposed to new, different, flexible, or plural interpretive possibilities**. I argue, however, that Yoo is not well described as whatever being. His work repeats too consistently in the direction of absolute presidential decisionism to be open to whatever. Instead, **Yoo's work may capture** a broader development within our society that Agamben describes as **the emergence of whatever being**. Without saying that there has been no resistance to the Bush administration's warrantless wiretapping and policies of torturous interrogations, the contrast between the response to the Nixon administration and the Bush administration is striking. Richard Nixon resigned one step ahead of impeachment in the midst of mass protests against his presidency. The articles of impeachment, for instance, addressed how Nixon engaged in warrantless wiretapping, and refused to execute laws passed by Congress faithfully while repeatedly engaging in conduct that violated the constitutional rights of citizens. Congress also passed major acts of legislation to prevent a president such as Nixon from ever again abusing power the way he had. These laws include the War Powers Act of 1973, the Budget Impoundment and Control Act of 1974, and the Foreign Intelligence Surveillance Act (FISA) of 1978. In contrast, almost no one seems to have noticed that the Bush administration claimed power to make war at the president's sole discretion. Additionally, upon learning that the Bush administration engaged in criminal acts of surveillance, Congress amended FISA in the summer of 2008 to expand the government's power to spy on Americans, while immunizing from legal accountability non-state actors who collaborated with the then-criminal acts of government officials who followed Bush's illegal orders. Congress tried to make it impossible for those detained to question, legally, their detention or to bring the torturous treatment they endured to a court's attention, while allowing the intelligence agencies to continue to engage in torturous acts by passing the Military Commissions Act of 2006 (MCA). This complicity on the part of Congress cannot be explained on partisan grounds as many Democrats voted in favor of the MCA, and upon becoming the majority party in Congress, they have not rescinded it. Indeed, it was a Democratic-controlled Congress that brushed the Bush administration's illegal surveillance under the rug in 2008.4 Moreover, upon taking power in 2006, the Democratic leadership immediately stated that they would not pursue impeachment. Former Reagan administration Department of Justice lawyer Bruce Fein has decried the lack of outrage at the Bush administration's illegalities by suggesting that the nation has become a collection of constitutional “illiterates.”5 **Perhaps law is being deposed as Agamben suggests**. Both **Agamben's and Fein's observations** may also **indicate a failure of** what Michel Foucault would call **disciplinary power** – the power to constitute subjects capable of exercising power, here **the powers of liberal democracy** – **a failure that Gilles Deleuze has identified with the emergence of societies of control, and a subjective and ontological diversity that Michael Hardt and Antonio Negri call the “multitude.”**6 **They** also **indicate practices of textual “interpretation” where interpretative acts extricate legal texts from the narratives that once oriented their purposes and animated these texts for a republican and anti-monarchical polity.** Robert Cover argues, however, that **law is part of a narrative practice constitutive of subjects and a way of life**.7 **Insofar as interpretive practices become extricated from the possibility of narrative**, then, **we may indeed doubt the continuing existence of “law,” as Agamben posits. Psychoanalytic theory also identifies a loss of a structuring meaning in contemporary society and describes this as the decline of symbolic efficiency**.8 In sum, there appears to be a phenomenon emerging in contemporary society that a variety of different theoretical and political perspectives are struggling to grasp and evaluate. **While Agamben welcomes the failures of disciplinary powers as enabling the emergence of whatever being** and the “coming community,” **it is a cause for concern** among those seeking to keep the faith with republicanism, with liberal democracy, or with a Constitution representing these aspirations. In this light, we can be more specific than Agamben about the kind of threat that whatever being poses to the state or to sovereignty. Contrary to Agamben's contentions, **I find that whatever being is no threat at all to the kind of unitary sovereignty** that Agamben uses to theorize the state in his book Homo Sacer. Why would it be? **Whatever being would be equally at ease with the legal justifications on behalf of a “unitary” sovereignty as it would anything else. If we**, however, **give the achievements of the people their due and consider the question of sovereignty from the perspective of popular sovereignty, of the assemblies and assemblages of power through which liberal democratic states seek to extend themselves and to govern at a distance**, then **whatever being is very much a danger to this type of power. Whatever being can be understood as facilitating a process of deposing this law and this state.** **A relation of whatever to the installation of a state of unchecked presidential powers and torture can be the death knell of popular sovereignty dedicated to the purpose of opposing tyranny**. **Whatever being is not the enemy of any state or form of “sovereignty.” It is the enemy of popular sovereignty.** **Whatever ruins democracy**. **If we want more than unchecked presidential power and torture, then we will have to dedicate ourselves to certain purposes, like resisting tyranny and recalling that this was the purpose of the U.S. Constitution.**

**Restrictions are effective --- majoritarian politics fail**

**Cole 11** - Professor, Georgetown University Law Center (Winter, David, “WHERE LIBERTY LIES: CIVIL SOCIETY AND INDIVIDUAL RIGHTS AFTER 9/11,” 57 Wayne L. Rev. 1203, Lexis)

D. The Role of Politic

s **The force of ordinary electoral politics also cannot account for the shift in U.S. counterterrorism policy. None of the Bush administration's** initial **initiatives sparked majoritarian opposition**. To the contrary, [\*1244] President **Bush**, who had very low approval ratings shortly before 9/11, **shot up in popularity when he declared the "war on terror,"** and was reelected in 2004, in large measure on his promise to deliver security. n235 **Apart from opposition to the war in Iraq, there was little widespread popular pressure on President Bush to rein in his security initiatives**. Despite this evidence, Eric Posner and Adrian Vermeule have argued that in the modern era, political checks are all there are when it comes to restraining executive power. n236 They maintain that Congress, the courts, and the law itself cannot effectively constrain the executive, especially in emergencies, but that this need not concern us because the executive is adequately limited by political forces. **At first blush, the past decade might appear to vindicate Posner and Vermeule's views**, as political forces, broadly speaking, seem to have been at least as effective at checking the President as were Congress or the judiciary. n237 But **there is in fact little evidence that electoral politics or majoritarian sentiment played much, if any, role in persuading President Bush to ratchet back his security initiatives.** While **formal judicial and legislative checks cannot tell the whole story, the alternative account is not "politics**" as Posner and Vermeule define and describe it, **but a much more complex interplay of civil society, law, politics, and culture:** what I have called "civil society constitutionalism." [\*1245] In my view, **Posner and Vermeule** simultaneously **underestimate the constraining force of law and overestimate the influence of political limits** on executive overreaching. Sounding like Critical Legal Studies adherents, **they sweepingly claim that law is so indeterminate and manipulable as to constitute only a "façade of lawfulness."** n242 But in assessing law's effect, they look almost exclusively to formal indicia--statutes and court decisions. n243 **That approach disregards the role that law plays without coming to a head in a judicial decision** or legislative act. As the post-9/11 period illustrates, **when law is reinforced and defended by civil society institutions, it can have a disciplining function long before cases reach final judgment,** and even when no case is ever filed, a reality to which anyone who has worked in the executive branch will attest. n244 **Executive officials generally cannot know in advance whether their actions will attract the attention of civil society watchdogs, or lead to court review.** **They** often **cannot know whether such oversight**--whether by a court, a legislative committee, or a nongovernmental organization--**will be strict or deferential. As long as there is some risk of such oversight, the resultant uncertainty itself is likely to have a disciplining effect on the choices they make**. There are, in short, plenty of reasons why executive lawyers generally take legal limits seriously. They take an oath and are acculturated to do so. They know that claims of illegality can undermine their objectives. And they cannot predict when a legal claim will be advanced against them. Similarly, in focusing exclusively on statutes and their enforcement by courts, Posner and Vermeule disregard the considerable checking function that Congress's legal oversight role plays through means short of formal statutes, such as by holding hearings, launching investigations, requesting information about doubtful executive practices, or restricting federal expenditures. The effectiveness of these checks, moreover, will often turn on the strength of civil society. If there are significant watchdogs in the nongovernmental sector and/or the media focused on executive actions, ready to bring allegedly illegal conduct to public attention, the law will have substantial deterrent effect, with or without actual court decisions. While they are overly skeptical about law, Posner and Vermeule are unrealistically romantic about the constraining force of majoritarian politics. The political checks they identify consist solely of the fact that Presidents must worry about election returns, and must cultivate [\*1246] credibility and trust among the electorate. n245 There are several reasons to doubt that these political realities are sufficient to guard against executive overreaching. First, and most fundamentally, **while the democratic process is well designed to protect the majority's rights** and interests, **it is poorly designed to protect the rights of minorities, and not designed at all to protect the rights of foreign nationals**, who have no say in the political process. n246 **In times of crisis, the executive nearly always selectively sacrifices the rights of foreign nationals**, often defending its actions by claiming that "they" do not deserve the same rights that "we" do. n247 To say the law is superfluous because we have elections is to relegate foreign nationals, and minorities generally, to largely unchecked abuse. Second, **the ability of the political process to police the executive is hampered by secrecy. Much of what the executive does, especially in times of crisis, is secret, and even when some aspects of executive action are public, its justifications often rest on grounds that are** assertedly **secret**. n248 Courts and Congress have at least some ability to pierce that veil and to insist on accountability. Absent legal rights, such as those created by the Freedom of Information Act, the general public has virtually no ability to do so. n249 Third, **the electoral process is a blunt-edged sword**. Presidential **elections occur only once every four years, and congressional elections every two** years. **Congressional elections** will often **involve an unpredictable mix of local and national matters, and there is little reason to believe they will concentrate on executive overreaching**. **Presidential elections** also inevitably **encompass a broad range of issues, most of which will have nothing to do with security** and liberty. **Elections are** therefore **unlikely to be effective at addressing specific abuses of power**. Voters' **concerns about abstract institutional issues s**uch as executive power may **clash with their interests on the substantive merits of particular issues, such as whether to use military force in support of Libyan rebels**. There is no guarantee that citizens will separate these issues in their minds, and no reason to believe that if they do so, they will favor abstract institutional concerns over specific policy preferences at the ballot box. [\*1247] Fourth, **the political process is notoriously focused on the short term**, while **constitutional rights and separation of powers generally serve long-term value**s. n250 **It was precisely because ordinary politics tend to be shortsighted that the framers adopted a constitutional democracy**. The Constitution identifies those values that society understands as important to preserve for the long term, but knows it will be tempted to sacrifice in the short term. n251 **If ordinary politics were sufficient to protect such values, we would not need a constitution in the first place**. Thus, there is little evidence in fact that majoritarian politics played a significant checking role in the aftermath of 9/11, or that such politics would generally be a sufficient checking force in times of crisis. And more generally, **there is little reason to believe that political checks will be sufficient to restrain presidential abuse**. The story is infinitely more complicated. As I have sought to illustrate here, in the aftermath of 9/11, the interplay of law, politics, and culture, framed and prompted by civil society organizations, was critical to rendering effective constitutional and international legal checks.