# Working 1AC

#### Obama has ramped up Bush’s secret drone war with no end in sight, administration comments are merely posturing

Mark Mazzetti and Mark Landler, 13- “Despite Administration Promises, Few Signs of Change in Drone Wars”. New York Times. http://www.nytimes.com/2013/08/03/us/politics/drone-war-rages-on-even-as-administration-talks-about-ending-it.html?pagewanted=all&\_r=0

WASHINGTON — There were more drone strikes in Pakistan last month than any month since January. Three missile strikes were carried out in Yemen in the last week alone. And after Secretary of State John Kerry told Pakistanis on Thursday that the United States was winding down the drone wars there, officials back in Washington quickly contradicted him. More than two months after President Obama signaled a sharp shift in America’s targeted-killing operations, there is little public evidence of change in a strategy that has come to define the administration’s approach to combating terrorism. Most elements of the drone program remain in place, including a base in the southern desert of Saudi Arabia that the Central Intelligence Agency continues to use to carry out drone strikes in Yemen. In late May, administration officials said that the bulk of drone operations would shift to the Pentagon from the C.I.A. But the C.I.A. continues to run America’s secret air war in Pakistan, where Mr. Kerry’s comments underscored the administration’s haphazard approach to discussing these issues publicly. During a television interview in Pakistan on Thursday, Mr. Kerry said the United States had a “timeline” to end drone strikes in that country’s western mountains, adding, “We hope it’s going to be very, very soon.” But the Obama administration is expected to carry out drone strikes in Pakistan well into the future. Hours after Mr. Kerry’s interview, the State Department issued a statement saying there was no definite timetable to end the targeted killing program in Pakistan, and a department spokeswoman, Marie Harf, said, “In no way would we ever deprive ourselves of a tool to fight a threat if it arises.” Micah Zenko, a fellow with the Council on Foreign Relations, who closely follows American drone operations, said Mr. Kerry seemed to have been out of sync with the rest of the Obama administration in talking about the drone program. “There’s nothing that indicates this administration is going to unilaterally end drone strikes in Pakistan,” Mr. Zenko said, “or Yemen for that matter.” The mixed messages of the past week reveal a deep-seated ambivalence inside the administration about just how much light ought to shine on America’s shadow wars. Even though Mr. Obama pledged a greater transparency and public accountability for drone operations, he and other officials still refuse to discuss specific strikes in public, relying instead on vague statements about “ongoing counterterrorism operations.” Some of those operations originate from a C.I.A. drone base in the southern desert of Saudi Arabia — the continued existence of which encapsulates the hurdles to changing how the United States carries out targeted-killing operations. The Saudi government allowed the C.I.A. to build the base on the condition that the Obama administration not acknowledge that it was in Saudi Arabia. The base was completed in 2011, and it was first used for the operation that killed Anwar al-Awlaki, a radical preacher based in Yemen who was an American citizen. Given longstanding sensitivities about American troops operating from Saudi Arabia, American and Middle Eastern officials say that the Saudi government is unlikely to allow the Pentagon to take over operations at the base — or for the United States to speak openly about the base. Spokesmen for the White House and the C.I.A. declined to comment. Similarly, military and intelligence officials in Pakistan initially consented to American drone strikes on the condition that Washington not discuss them publicly — a bargain that became ever harder to honor when the United States significantly expanded American drone operations in the country. There were three drone strikes in Pakistan last month, the most since January, according to the Bureau of Investigative Journalism, which monitors such strikes. At the same time, the number of strikes has declined in each of the last four years, so in that sense Mr. Kerry’s broader characterization of the program was accurate. But because the drone program remains classified, administration officials are loath to discuss it in any detail, even when it is at the center of policy discussions, as it was during Mr. Obama’s meeting in the Oval Office on Thursday with President Abdu Rabbu Mansour Hadi of Yemen. After their meeting, Mr. Obama and Mr. Hadi heaped praise on each other for cooperating on counterterrorism, though neither described the nature of that cooperation. Mr. Obama credited the setbacks of Al Qaeda in the Arabian Peninsula, or A.Q.A.P., the terrorist network’s affiliate in Yemen, not to the drone strikes, but to reforms of the Yemeni military that Mr. Hadi undertook after he took office in February 2012. And Mr. Hadi twice stressed that Yemen was acting in its own interests in working with the United States to root out Al Qaeda, since the group’s terrorist attacks had badly damaged Yemen’s economy. “Yemen’s development basically came to a halt whereby there is no tourism, and the oil companies, the oil-exploring companies, had to leave the country as a result of the presence of Al Qaeda,” Mr. Hadi said. Asked specifically about the recent increase in drone strikes in Yemen, the White House spokesman, Jay Carney, said: “I can tell you that we do cooperate with Yemen in our counterterrorism efforts. And it is an important relationship, an important connection, given what we know about A.Q.A.P. and the danger it represents to the United States and our allies.” Analysts said the administration was still grappling with the fact that drones remained the crucial instrument for going after terrorists in Yemen and Pakistan — yet speaking about them publicly could generate a backlash in those countries because of issues like civilian casualties. That fear is especially pronounced in Pakistan, where C.I.A. drones have become a toxic issue domestically and have provoked anti-American fervor. Mr. Kerry’s remarks seemed to reflect those sensitivities. “Pakistan’s leaders often say things for public consumption which they don’t mean,” said Husain Haqqani, Pakistan’s former ambassador to the United States. “It seems that this was one of those moments where Secretary Kerry got influenced by his Pakistani hosts.” Congressional pressure for a public accounting of the drone wars has largely receded, another factor allowing the Obama administration to carry out operations from behind a veil of secrecy. This year, several senators held up the nomination of John O. Brennan as C.I.A. director to get access to Justice Department legal opinions justifying drone operations. During that session, Senator Rand Paul, Republican of Kentucky, delivered a nearly 13-hour filibuster, railing against the Obama administration for killing American citizens overseas without trial. For all that, though, the White House was able to get Mr. Brennan confirmed by the Senate without having to give lawmakers all the legal memos. And, in the months since, there has been little public debate on Capitol Hill about drones, targeted killing and the new American way of war.

#### Secrecy and lack of oversight allows the CIA to conduct current targeted killings without rules or accountability

Philip Alston, Norton Pomeroy Professor of Law. New York University School of Law “ARTICLE: The CIA and Targeted Killings Beyond Borders,” Harvard National Security Journal, 2011 Harvard National Security Journal 2 Harv. Nat'l Sec. J. 283

Despite the existence of a multiplicity of techniques by which the CIA might be held to account at the domestic level, the foregoing survey demonstrates that there is no evidence to conclude that any of them has functioned effectively in relation to the expanding practices involving targeted killings. The CIA Inspector General's Office has been unable to exact accountability and proposals to expand or strengthen his role run counter to almost all official actions taken in relation to his work. The President's Intelligence Oversight Board and the President's Foreign Intelligence Advisory Board are lauded by some for their potential, but there is no indication that they scrutinize activities such as targeted killings policy or practice, and many indications that they view their role as being to support rather than monitor the intelligence community. The Privacy and Civil Liberties Oversight Board remains dormant. Congressional oversight has been seriously deficient and far from manifesting an appetite to scrutinize the CIA's targeted killings policies, a range of senior members of congress are on record as favoring a hands-off policy. And a combination of the political question doctrine, the state secrets privilege, and a reluctance to prosecute, ensure that the courts have indeed allowed the CIA to fall into a convenient legal grey hole. Finally, civil society has been largely stymied by the executive and the courts in their efforts to make effective use of freedom of information laws. All that remains is the media, and most of what they obtain through leaks come from government sources that are deliberately "spinning" the story in their own favor. Similar conclusions have been reached in closely related contexts. Thus, for example, Kitrosser's survey of official responses to the warrantless wiretapping initiated after 9/11 led her to conclude that it was a shell [\*406] game, involving "an indefinite bi-partisan, cross-administration, cross-institutional pattern of accountability-avoidance." n450 In brief, at least in relation to targeted killings, the CIA enjoys almost complete impunity and is not subject to any form of meaningful internal or external accountability. .

#### The secrecy of the drone war wraps its victims in blankets of secrecy and allows strikes to extend beyond all borders, with no meaningful oversight

DEREK GREGORY, Department of Geography, University of British Columbia, “The everywhere war” This paper was accepted for publication in May 2011 http://onlinelibrary.wiley.com/store/10.1111/j.1475-4959.2011.00426.x/asset/j.1475-4959.2011.00426.x.pdf?v=1&t=hkind5qg&s=fede42c8a2c2eefd37163c1ed92c6f5f887cf207

For many, particularly in the United States, 9/11 was a moment when the world turned; for others, particularly outside the United States, it was a climactic summation of a longer history of American imperialism in general and its meddling in the Middle East in particular. Either way, it is not surprising that many commentators should have emphasised the temporality of the military violence that followed in the wake of the terrorist attacks on the World Trade Center and the Pentagon on that bright September morning: the ‘war on terror’ that became ‘the long war’. For the RETORT collective, the invasions of Afghanistan and Iraq marked ‘the elevation – into a state of permanent war – of a long and consis- tent pattern of military expansionism in the service of empire’ (RETORT 2005, 80). Keen (2006) wrote of ‘endless war’, Duffield (2007) of ‘unending war’ and Filkins (2008) of ‘the forever war’. The sense of per- manence endures, and yet Engelhardt (2010, 2–3) ruefully notes that it remains difficult for Americans to understand ‘that Washington is a war capital, that the United States is a war state, that it garrisons much of the planet, and that the norm for us is to be at war somewhere at any moment’. Bacevich (2010, 225) traces this state of affairs to what he calls the ‘Wash- ington rules’ that long pre-date 9/11. These are ‘the conviction that the obligations of leadership require the United States to maintain a global military pres-ence, configure its armed forces for power projection, and employ them to impose changes abroad’, which he argues have formed ‘the enduring leitmotif of US national security policy’ for the last 60 years and ‘propelled the United States into a condition approximating perpetual war’. Each of these temporal formulations implies spatial formations. For RETORT (2005, 103) ‘military neo- liberalism’ is ‘the true globalization of our time’. The planetary garrison that projects US military power is divided into six geographically defined unified com- batant commands – like US Central Command, CENTCOM – whose Areas of Responsibility cover every region on earth and which operate through a global network of bases. If you think this unremark- able, ask yourself Bacevich’s question: how would the United States react if China were to mirror these moves? Think, too, of the zones in which the shadow of US military violence still falls: not just Afghanistan and Iraq, but also Iran, Libya, Pakistan, Somalia, Yemen. Then think of the zones where the rhetoric of the ‘war on terror’ has been used by other states to legitimise repression: Chechnya, Libya, Palestine, the Philippines, Sri Lanka. And then think of the cities that have become displacements of the space of war, punctuation points in what Sassen (2010, 37) calls ‘a new kind of multi-sited war’: Casablanca, Lahore, London, Madrid, Moscow, Mumbai. All these lists are incomplete, but even in this truncated form they suggest the need to analyse not only ‘the forever war’ but also what we might call ‘the every- where war’. This is at once a conceptual and a material project whose scope can be indexed by three geo-graphs that trace a movement from the abstract to the concrete: Foucault’s (1975–6) prescient suggestion that war has become the pervasive matrix within which social life is constituted; the replacement of the concept of the battlefield in US military doctrine by the multi-scalar, multi-dimensional ‘battlespace’ with ‘no front or back’ and where ‘everything becomes a site of perma- nent war’ (Graham 2009, 389; 2010, 31); and the assault on the global borderlands where the United States and its allies now conduct their military opera- tions. The first two are never far from the surface of this essay, but it is the third that is my primary focus. Duffield (2001, 309) once described the borderlands as ‘an imagined geographical space where, in the eyes of metropolitan actors and agencies, the characteris- tics of brutality, excess and breakdown predominate’. There, in the ‘wild zones’ of the global South, wars are supposed to occur ‘through greed and sectarian gain, social fabric is destroyed and developmental gains reversed, non-combatants killed, humanitarian assis- tance abused and all civility abandoned’. This imagi- native geography folds in and out of the rhetorical distinction between ‘our’ wars – wars conducted by advanced militaries that are supposed to be surgical, sensitive and scrupulous – and ‘their’ wars. In reality, however, the boundaries are blurred and each bleeds into its other (Gregory 2010). Thus the US-led invasion of Afghanistan in October 2001 combined a long- distance, high-altitude war from the air with a ground war spearheaded by the warlords and militias of the Northern Alliance operating with US infantry and Special Forces; counterinsurgency in Afghanistan and Iraq has involved the co-option of ragtag militias to supplement US military operations; and in Afghani- stan the US Army pays off warlords and ultimately perhaps even the Taliban to ensure that its overland supply chain is protected from attack (Report of the Majority Staff 2010). In mapping these borderlands – which are also shadowlands, spaces that enter European and Ameri- can imaginaries in phantasmatic form, barely known but vividly imagined – we jibe against the limits of cartographic and so of geopolitical reason. From Rat- zel’s view of der Krieg als Schule des Raumes to Lacoste’s stinging denunciation – ‘la géographie, ça sert, d’abord, à faire la guerre’ – the deadly liaison between modern war and modern geography has been conducted in resolutely territorial terms. To be sure, the genealogy of territory has multiple valences, and Ratzel’s Raum is not Lacoste’s espace, but a criti- cal analysis of the everywhere war requires carto- graphic reason to be supplemented by other, more abile spatialities. This is not only a matter of tran- scending the geopolitical, connecting it to the bio- political and the geo-economic, but also of tracking space as a ‘doing’, precarious, partially open and never complete. It is in something of this spirit that Bauman (2002, 83) identifies the ‘planetary frontier- lands’ as staging grounds of today’s wars, where efforts to ‘pin the divisions and mutual enmities to the ground seldom bring results’. In the course of ‘inter- minable frontierland warfare’, so he argues, ‘trenches are seldom dug’, adversaries are ‘constantly on the move’ and have become for all intents and purposes ‘extraterritorial’. I am not sure about the last (Bauman is evidently thinking of al Qaeda, which is scarcely the summation of late modern war), but this is an arresting if impressionistic canvas and the fluidity con- veyed by Bauman’s broad brush-strokes needs to be fleshed out. After the US-led invasion of Iraq it was commonplace to distinguish the Green Zone and its satellites (the US political-military bastion in Baghdad and its penumbra of Forward Operating Bases) from the ‘red zone’ that was everywhere else. But this cat- egorical division is misleading. The colours seeped into and swirled around one another, so that occupied Iraq became not so much a patchwork of green zones and red zones as a thoroughly militarised landscape saturated in varying intensities of brown (khaki): ‘intensities’ because within this warscape military and paramilitary violence could descend at any moment without warning, and within it precarious local orders were constantly forming and re-forming. I think this is what Anderson (2011) means when he describes insurgencies oscillating ‘between extended periods of absence as a function of their dispersion’ and ‘moments of disruptive, punctual presence’, but these variable intensities entrain all sides in today’s ‘wars amongst the people’ – and most of all those caught in the middle. This is to emphasise the emergent, ‘event-ful’ quality of contemporary violence, what Gros (2010, 260) sees as ‘moments of pure laceration’ that punc- ture the everyday, as a diffuse and dispersed ‘state of violence’ replaces the usual configurations of war. Violence can erupt on a commuter train in Madrid, a house in Gaza City, a poppy field in Helmand or a street in Ciudad Juarez: such is the contrapuntal geog- raphy of the everywhere war. It is also to claim that, as cartographic reason falters and military violence is loosed from its frames, the conventional ties between war and geography have come undone: that, as Münkler (2005, 3) has it, ‘war has lost its well-defined contours’. In what follows, I propose to take Münkler at his word and consider three borderlands beyond Afghanistan and Iraq that illuminate some of the ways in which, since 9/11, late modern war is being trans- formed by the slippery spaces within which and through which it is conducted. I focus in turn on ‘Af-Pak’, ‘Amexica’ and cyberspace, partly because these concrete instances remind us that the every-where war is also always somewhere (Sparke 2007, 117), and partly because they bring into view features of a distinctly if not uniquely American way of war. Af-Pak’ ‘Af-Pak’ is the cover term coined by the Obama administration, and probably by its Special Represen- tative for Afghanistan and Pakistan Richard Hol- brooke, to describe the regional battlespace in which the United States pursues its armed conflict with the Taliban and al Qaeda. The term is widely disliked in Afghanistan and Pakistan, but its hyphen marks a pro- foundly ambiguous zone. The border was surveyed between 1894 and 1896 to delimit British colonial territories in India along the north-west frontier with Afghanistan. This so-called Durand Line bisected the cultural region of Pashtunistan, dividing villages and extended families with strong culture and kinship connections between them, and ever since the forma- tion of Pakistan in 1947, Afghanistan has insisted that the demarcation lapsed with the end of colonial rule. The established body of international law rejects the Afghan position, but Mahmud (2010) argues that the continued entanglements of law and colonial power show that in this post-colonial space law is still part of the problem rather than the solution because the border freeze-frames colonial demarcations. Not sur- prisingly, the borderlands are highly porous and many of their inhabitants routinely cross from Afghanistan into Pakistan and back without bothering about any border formalities. This includes the Taliban, whose movements are both episodic, fleeing hot pursuit from Afghanistan, and seasonal, returning from Pakistan when fighting resumes in the spring. This recent history has compounded the porosity of the region so that ‘Af-Pak’ also conjures up a shadowy, still more dispersed ‘risky geography’ that wires Afghanistan and Pakistan to ‘Londonistan’ and other European cities, and to terrorist cells and militant groups that threaten Europe and the continental United States (Amoore and de Goede 2011). Although the Taliban is predominantly Pashtun, it is not a monolith that straddles the border. The Taliban emerged in the early 1990s as an armed and predomi- nantly Pashtun response to the brutalising rule of the militias of the Northern Alliance who governed Afghanistan in the turbulent aftermath of the Soviet occupation in 1989. The Taliban sought to impose its own stringent version of Islamic law, and its advance drew thousands of veterans from the guerilla war against the Red Army and from Afghan refugee camps in Pakistan. The civil war that ensued was a bloody and protracted affair; hundreds of al-Qaeda fighters fought alongside Taliban troops, although the relations between the two were far from straightforward, and by the end of the decade Afghanistan had been virtually consumed by the violence. The insular, ultra- nationalist project of the Taliban was supported by Pakistan throughout the 1990s, and the neo-Taliban that regrouped after the US-led invasion of Afghani- stan has continued to seek an accommodation with Islamabad (Gregory 2004, 41–2). Its leadership council was driven from Kandahar and is now based in Quetta; its four regional military councils are based in Pakistan too, and it enjoys the support of Pakistan’s Directorate for Inter-Services Intelligence. These affili- ations sharply distinguish the Afghan Taliban from the Pakistan Taliban, or Tehrik-i-Taliban (TTP), which was formed in December 2007 as a loose coalition of militant Islamicist groups under Baitullah Mehsud. The Pakistan Taliban endorses the struggle against the US-led International Security Assistance Force (ISAF) in Afghanistan, but its primary target is the Pakistani state: it seeks to establish its own rule over the Feder- ally Administered Tribal Areas (FATA) on the border. The Pakistan military has conducted a series of offen- sive operations against the TTP in those areas, punc- tuated by wavering truces, but the FATA continue to have a tense and attenuated relationship to Islamabad, and in Urdu they are known as ilaqa ghair, ‘alien’, ‘foreign’, or even ‘forbidden’ lands. These ambivalences have a direct impact on strikes by Unmanned Aerial Vehicles (UAVs) in the FATA. The attacks are carried out by armed MQ-1 Predators and MQ-9 Reapers launched from bases in Afghanistan (and until early this year in Pakistan too) but remotely controlled by the CIA from the continental United States. The Predator was jointly developed for the US Air Force and the CIA, and at the CIA’s request it was armed with Hellfire missiles in early 2001. After 9/11 President George W. Bush signed an authorisation that gave the CIA wide latitude in the ‘war on terror’ through the issue of ‘kill, capture or detain’ orders against members of al Qaeda. Its immediate conse- quence was the initiation in October of the same year of the program of extraordinary rendition conducted in the shadows of the global war prison: the seizure, incarceration and torture of terrorist suspects at ‘black sites’. This was subsequently supplemented by a program directed at killing named individuals – ‘High Value Targets’ – who were on a list compiled by the CIA’s Counterterrorism Center. The first UAV strike in Pakistan took place on 18 June 2004. The initial pace was slow, in part because the number of UAVs was limited but also because the target list was restricted and ground intelligence meagre. There were eight more strikes before the assassination of Benazir Bhutto on 27 December 2007 prompted Bush to expand the target list from al Qaeda to a wider array of individuals, and thus to increase the rate of strike; by the end of 2008 there had been 46 strikes in Pakistan. As extraordinary renditions were terminated and black sites closed, President Barack Obama widened the scope of the target list still further and dramatically stepped up the tempo; faster and more powerful Reapers were pressed into service, borrowed from Air Force operations in Afghanistan, and by the end of 2010 there had been a further 180 strikes. Baitullah Mehsud was assassinated by a Predator strike in August 2009 – after 16 unsuccessful strikes over 14 months that killed several hundred others (Mayer 2009) – but this seems to have been a rare success. The vast majority killed in the last 2 years have reportedly been ordinary foot soldiers – people ‘whose names were unknown or about whom the Agency had only fragmentary information’ (Cloud 2010), although it had no hesitation in declaring vir- tually none of them civilians – and this has led to doubts about the purpose and parameters of the cam- paign (Miller 2011). These operations raise troubling questions. Some arise from the resort to extra-judicial killing that the United States once condemned: if it is wrong to torture suspects, how can it be right to assassinate them? How secure is the evidential basis on which targeting decisions are made? Others arise from the use of UAVs and the time–space compressions pro- duced by the techno-cultural armature of this new mode of war, although I think that most of the criti- cism about video feeds reducing war to a video game is misplaced – these are profoundly immersive tech- nologies that have quite other (and more serious) con- sequences for killing – but in any case these concerns apply with equal force to the strikes carried out by the Air Force’s Predators and Reapers in Afghanistan that use the Pentagon’s Joint Integrated Prioritised Target List to ‘put warheads on foreheads’ (Gregory 2011). Still others arise from the legal apparatus that consti- tutes the extended war zone, and it is these that concern me here. Plainly the United States is not at war with Pakistan, and even though Islamabad gives the nod to the strikes – while closing its eyes to their effects – Murphy (2009, 10) claims that the authority of Islamabad to sanction US military actions in the FATA is far from clear. For its part, the Obama admin- istration represents the strikes as legitimate acts of self-defence against the Afghan Taliban who are engaged in a transnational armed conflict and seek sanctuary across the border and as effective counter- terrorism tactics against al Qaeda and its affiliates hiding in Pakistan. But these are inadequate responses for at least three reasons that all revolve around the battlespace as a grey zone. First, even though the Air Force may be involved to some degree, it is the CIA that plans and executes the strikes. The CIA was created in 1947 as a civilian agency to counterbalance the influence of the mili- tary. Since then there has been a general ‘civilianisa- tion’ of war in all sorts of ways, which includes the outsourcing of support services to contractors, and the CIA has been transformed from a civilian agency into ‘a paramilitary organisation at the vanguard of Ameri- ca’s far-flung wars’ operating from an ‘archipelago of fire-bases’ in Afghanistan and beyond (Mazzetti 2010; Shane et al. 2010). But the CIA does not operate under military control so that, as Singer (2010) observes, the clandestine air war in Pakistan is commanded not by an Air Force general but by ‘a former congressman from California’, Leon Panetta, the Director of the CIA. According to Horton (2010), this is ‘the first time in U.S. history that a state-of-the-art, cutting-edge weapons system has been placed in the hands of the CIA’. Hence Singer’s (2010) complaint that civilians are operating advanced weapons systems outside the military chain of command and ‘wrestling with complex issues of war’ for which they have neither the necessary training – this is a moot point: it may be that CIA operators follow similar procedures protocols to their Air Force counterparts, including the incorpora- tion of legal advisers into the kill-chain to endorse the ‘prosecution of the target’ (Etzioni 2010; Mckelvey 2011) – nor, according to the National Security Act, the legal authority. This is the most damaging objec- tion because it turns CIA operators into the category that Bush so confidently consigned to the global war prison after 9/11: unlawful combatants (O’Connell 2009). This is such an obvious point that Paust (2010, 45), who otherwise endorses the strikes as acts of self-defence, concludes that the CIA’s lawyers must be leftovers from the Bush administration ‘who have proven either to be remarkably ignorant of the laws of war or conveniently quiet and complicit during the Bush–Cheney program of serial and cascading crimi- nality’. These considerations radically transform the battlespace as the line between the CIA and the mili- tary is deliberately blurred. Obama’s recent decision to appoint Panetta as Secretary of Defense and have General David Petraeus take his place as Director of the CIA makes at least that much clear. So too do the braiding lines of responsibility between the CIA and Special Forces in the killing of Osama bin Laden in Abbottabad in May 2011, which for that reason (and others) was undertaken in what Axe (2011) portrays as a ‘legal grey zone’ between two US codes, Title 10 (which includes the Uniformed Code of Military Justice) and Title 50 (which authorises the CIA and its covert operations) (Stone 2003). The role of the CIA in this not-so-secret war in Pakistan thus marks the for- mation of what Engelhardt and Turse (2010) call ‘a new-style [battlespace] that the American public knows remarkably little about, and that bears little relationship to the Afghan War as we imagine it or as our leaders generally discuss it’. Second, representing each drone strike as a sepa- rate act of self-defence obscures the systematic and cumulative nature of the campaign. Although the Obama administration insists that its targeting procedures adhere to the laws of armed conflict, the covert nature of a war conducted by a clandestine agency ensures that most of its victims are wrapped in blankets of secrecy. Accountability is limited enough in the case of a declared war; in an undeclared war it all but disappears. There is little or no recognition of civilian casualties, no inquiries into incidents that violate the principles of discrimination and proportionality, and no mechanism for providing compensation. The Cam- paign for Innocent Victims in Conflict reports from the FATA that: Drone victims receive no assistance from the Pakistani or US governments, despite the existence of Pakistani compensation efforts for other conflict-victims and US com- pensation mechanisms currently operating in Iraq and Afghanistan. Victims are left to cope with losses on their own while neither the Pakistani nor the US governments acknowledge responsibility for the strikes or the civilian status of those collaterally harmed. Rogers (2010, 64) The single exception to date has been the decision by Islamabad to compensate victims of a US drone strike in North Waziristan in March 2011. The details, such as they are, are revealing. Local people had gathered at a market with Taliban mediators to settle a dispute over a chromite mine; two UAVs launched four mis- siles that killed at least 40 people. Pakistan’s Prime Minister and the Chief of Army Staff both sharply condemned the strike as a reckless attack on civilians, including elders and children, but US officials insisted that the meeting was a legitimate terrorist target not ‘a bake sale’, ‘county fair’, ‘charity car wash’ or ‘the local men’s glee club’ (sic) (Masood and Shah 2011; Rodriguez 2011). As even this case shows, the advanced technology that makes the UAV campaign possible – the combination of sensor and shooter in a single platform – does not dispel the fog of war. Far from making the battlespace transparent, this new apparatus actively exploits another grey zone, the space between civilian and combatant that is peopled by the spectral figures that haunt the landscape of insurgency. Third, the legal logic through which the battlespace is extended beyond the declared zone of combat in Afghanistan is itself infinitely extendible. If the United States is fighting a global war, if it arrogates to itself the right to kill or detain its enemies wherever it finds them, where does it end? (Blank 2010–11). Human Rights Watch posed the key questions in a letter to Obama on 7 December 2010: While the United States is a party to armed conflicts in Afghanistan and Iraq and could become a party to armed conflicts elsewhere, the notion that the entire world is automatically by extension a battleground in which the laws of war are applicable is contrary to international law. How does the administration define the ‘global battle- field’ and what is the legal basis for that definition? What, if any, limits exist on ordering targeted killings within it? Does it view the battlefield as global in a literal sense, allowing lethal force to be used, in accordance with the laws of war, against a suspected terrorist in an apartment in Paris, a shopping mall in London, or a bus station in Iowa City? Do the rules governing targeted killing vary from one place to another – for example, are different criteria used in Yemen and Pakistan?’ Human Rights Watch (2010) These bloody geographies exploit another grey zone. Legal opinions are sharply divided about the regula- tion of armed conflict between state and non-state actors that takes place beyond state borders (‘transna- tional armed conflicts’). It is those states that have most strenuously pressed for the regulation of intra- state wars and the establishment of international criminal tribunals for conflicts in Ruanda and the former Yugoslavia that have most vigorously insisted on being allowed the maximum freedom to conduct their own trans-border campaigns against non-state actors (Benvenisti 2010). Law and war have always been intertwined, and international law is often re-made through war – in fact operating at the margins of the law is one of the most powerful ways of chang- ing it – and the UAV strikes in Pakistan are evidently no exception. They seek at once to expand the battlespace and to contract the legal armature that regu- lates its constitution. I have argued elsewhere that the American way of war has changed since 9/11, though not uniquely because of it (Gregory 2010), and there are crucial continuities as well as differences between the Bush and Obama administrations: ‘The man who many considered the peace candidate in the last election was transformed into the war president’ (Carter 2011, 4). This requires a careful telling, and I do not mean to reduce the three studies I have sketched here to a single interpretative narrative. Yet there are connections between them as well as contradictions, and I have indicated some of these en route. Others have noted them too. Pakistan’s President has remarked that the war in Afghanistan has grave consequences for his country ‘just as the Mexican drug war on US borders makes a difference to American society’, and one scholar has suggested that the United States draws legal authority to conduct military operations across the border from Afghanistan (including the killing of bin Laden, codenamed ‘Geronimo’) from its history of extra-territorial opera- tions against non-state actors in Mexico in the 1870s and 1880s (including the capture of the real Geronimo) (Margolies 2011). Whatever one makes of this, one of the most persistent threads connecting all three cases is the question of legality, which runs like a red ribbon throughout the prosecution of late modern war. On one side, commentators claim that new wars in the global South are ‘non-political’, intrinsically predatory criminal enterprises, that cartels are morphing into insurgencies, and that the origins of cyber warfare lie in the dark networks of cyber crime; on the other side, the United States places a premium on the rule and role of law in its new counterinsurgency doctrine, accentuates the involvement of legal advisers in targeting decisions by the USAF and the CIA, and even as it refuses to confirm its UAV strikes in Pakistan provides arguments for their legality. The invocation of legality works to marginalise ethics and politics by making available a seemingly neutral, objective language: disagreement and debate then become purely technical issues that involve matters of opinion, certainly, but not values. The appeal to legality – and to the quasi-judicial process it invokes – thus helps to authorise a widespread and widening militarisation of our world. While I think it is both premature and excessive to see this as a transformation from governmentality to ‘militariality’ (Marzec 2009), I do believe that Foucault’s (2003) injunction – ‘Society must be defended’ – has been transformed into an unconditional imperative since 9/11 and that this involves an intensifying triangulation of the planet by legality, security and war. We might remember that biopolitics, one of the central projects of late modern war, requires a legal armature to authorise its interven- tions, and that necropolitics is not always outside the law. This triangulation has become such a commonplace and provides such an established base-line for contemporary politics that I am reminded of an inter- view with Zizek soon after 9/11 – which for him marked the last war of the twentieth century – when he predicted that the ‘new wars’ of the twenty-first century would be distinguished by a radical uncertainty: ‘it will not even be clear whether it is a war or not’ (Deich- mann et al. 2002). Neither will it be – nor is it – clear where the battlespace begins and ends. As I have tried to show, the two are closely connected. For this reason I am able to close on a less pessimistic note. As I drafted this essay, I was watching events unfold on the streets of Cairo and other Egyptian cities, just weeks after similar scenes in Tunisia. I hope that the real, lasting counterpoint to 9/11 is to be found in those places, not in Afghanistan, Pakistan or Iraq. For those events show that ‘freedom’ and ‘democracy’ cannot be limited to the boastful banners of military adventur- ism, hung from the barrels of guns or draped across warships, and that ordinary people can successfully rise up against autocratic, repressive and corrupt regimes: including those propped up for so long by the United States and its European allies. Perhaps one day someone will be able to write about ‘the nowhere war’ – and not from Europe or North America.

#### Lack of accountability gives the CIA a license to eliminate anyone seen as suspect, global extrajudicial assassinations become the norm

Shaw, 11- “Predator Empire: The New Geopolitics of Drone Warfare”. Dr Ian Shaw, lecturer in Human Geography at the University of Glasgow. Understanding empire.

http://understandingempire.wordpress.com/2011/08/09/predator-empire-the-new-geopolitics-of-drone-warfare/

These shadow wars are spreading, with Yemen the latest country to become embroiled in drone bombardments. In May of 2011, drones operated by CIA and U.S. Joint Special Forces Command (JSOC) fired Hellfire missiles at Anwar al-Awlaki, the American-born cleric, but failed to kill him. The attack was part of a wider set of strikes against the group ‘al-Qaeda in the Arabian Peninsula’ (AQAP). As a result, up to 40,000 people have fled the Abyan province. U.S. military involvement in Yemen has been one of the Obama administration’s most closely guarded secrets, as unilateral intervention could undermine Saleh’s already tenuous grip on power. In Somali there is a similar pattern: drones targeting Al Shabab, another Islamist group linked to al-Qaeda. Indeed, this pattern is a hallmark of Obama’s new counterterrorism policy: The President’s 2011 ‘National Strategy for Counterterrorism’ casts al-Qaeda’s ‘allies’ and ‘affiliates’ as the main threats to U.S. safety, and since many of these groups exist in so-called ‘failed states’ around the world, the document paves the way for drone intervention in any place on earth that is ‘affiliated’ or ‘allied’ with al-Qaeda: vast and ambiguous swathes of the planet such as North Africa and the Arabian Peninsula, as well as Central, Western, and South Asia. The project of ‘nation building’ and ‘winning hearts and minds’ is clearly no longer a priority for the Predator Empire. Take Afghanistan. One U.S. military source was quoted as saying ‘Afghanistan is a staging area for drone and other aerial strikes in western Pakistan … Nothing more, nothing less’. Yet who exactly decides whether or not a ‘target’ is a militant? After all, the CIA is nominally a ‘civilian’ entity. The answer is the CIA has a team of up to ten lawyers in Northern Virginia, all consulting five-page requests to kill another human being. Although the U.S. government does not release the criteria of these documents, the targeted killings are criticized for using an overly-broad definition of who a ‘target’ is. U.S. officials argue that drone attacks are justified by ‘The Authorization for Use of Military Force Against Terrorists’, Public Law 107-40’, a Congressional law granting the President the ability to use all necessary force against persons he determines planned, authorized, committed, or aided the attacks of 9/11. The fact that Pakistan was not a part of that terror attack reveals the ease through which the U.S. military links and delinks terrorism and territory. But what really gives the U.S. military the license to kill is widespread secrecy. As the UN Special Rapporteur (on extrajudicial, summary or arbitrary executions) Phillip Alston writes, ‘Transparency is required by both [international humanitarian law] and human rights law. A lack of disclosure gives States a virtual and impermissible license to kill’. This impermissible license to kill is the sad sun rising across any nation the U.S. deems necessary. Such a large horizon stretches before a shadowy Predator Empire, no longer contained, and no longer forced to engage with a single nation state, enemy, or territory. Drones are technologies that allow the U.S. military to kill more people in more places, without the traditional ‘hassle’ of logistics, supply lines, and public debates. America’s new empire is the Predator Empire, both a weapon and a geopolitical strategy for a post-Cold War world of globalization, where the territorial integrity and sovereignty of nation states are increasingly rendered contingent by aerial intervention. In this sense, drones militarize and securitize global space in a manner previously thought impossible, with very little cost. That Predator Empire signals the end of ground war is perhaps premature. What it does augur is something altogether more frightening: extrajudicial assassinations, instantly available, anytime, anywhere.

#### This form of secrecy precludes democratic participation and productive political discourse

Gowder 2006 (Paul Gowder, J.D., Harvard Law School, 2006, “Secrecy as Mystification of Power: Meaning and Ethics in the Security State,” I/S: A JOURNAL OF LAW AND POLICY, http://pangea-icic.ifai.org.mx/National%20Security/secrecy%20as%20mystification%20of%20power.pdf)

Secrecy defeats that claim to legitimacy too once we introduce time into the equation. The nature of claims to normative validity (like all claims analogous to truth claims) is that they are contingent on future knowledge and discourse.64 This is a common-sense principle: to validate anything by argumentation, we must be willing to permit ongoing inquiry to determine if new insight proves us wrong. Thus, Habermas’s universalization principle requires an opportunity for people in the future to participate in the discourse.65¶ Secrecy creates a path-dependence which operates to prevent future participants from engaging in a future discourse. It impairs data-gathering about the effects of secret policies, thus divesting future actors of the reasons they may consider in determining whether their representatives are serving them.66 This is surely inconsistent with our notions of democracy.

#### This negates the value to life

PAUL GOWDER J.D., 2000, Harvard Law School SYMPOSIUM: FEDERAL SECRECY POLICY AFTER SEPTEMBER 11 AND THE FUTURE OF THE INFORMATION SOCIETY: Introductory Essay: Secrecy as Mystification of Power: Meaning and Ethics in the Security State Winter, 2005-2006 2 ISJLP 1

**When the State deprives someone of the power to confer meaning on an event or an act, it deprives her of the autonomous dignity to act with regard to the act as if she were the end in herself** -- to place the act within her project -- and takes away her role in integrating the event into her own identity and justifying it in relation to the events and people in her life. **This act reduces her from the status of an ends to a means for the execution of someone else's choices. The actor upon another** (and there must be an individual actor, for the State only acts through people) **in a meaning-denying transaction injures himself as well, because by that act he can no longer transcend his subjectivity through the subjectivity of the person he has acted upon. He has, as feminist theory would suggest, "objectified" the person who he has acted upon, by denying the reciprocal accountability inherent in an interaction between equals.** [**35**](http://www.lexis.com/research/retrieve?_m=ef91f29c251d4ed72763e65880313918&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLbVtz-zSkAb&_md5=1bebc42cadd931bfb62fb867753a731a#n35)

#### Allowing the executive to systematically strip away all fundamental rights in the name of national security leads to genocide

Edward S. Adams (Howard E. Buhse Professor of Finance Law, University of Minnesota Law School) and Richard A. Saliterman 2K1 (resident, Saliterman & Siefferman, P.C., Minneapolis, Minnesota) THE TRUSTEESHIP OF LEGAL RULEMAKING   
Winter, 2001 30 Hofstra L. Rev. 483

This decline in social capital is represented by a diminishing trust by citizens in governmental institutions in every area (including legal structures), in their own neighbors, and even in themselves. [**6**](https://www.lexis.com/research/retrieve?_m=10a317b249e518b45d41b54ec7be99b3&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLbVzb-zSkAA&_md5=dcab5d5d0897a4c78f358a771b00609b#n6) America is at a crossroads. It is ultimately the responsibility of the law to supply road maps and build the roads. The underlying issue is whether the discourse of democracy will flourish, or whether we will end up hurtling blindly toward some other less forgiving structure, either subtly or not. [**7**](https://www.lexis.com/research/retrieve?_m=10a317b249e518b45d41b54ec7be99b3&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLbVzb-zSkAA&_md5=dcab5d5d0897a4c78f358a771b00609b#n7) While reflecting on his undergraduate educational experience at Columbia, Max Frankel, the Pulitzer Prize-winning former Managing Editor of the New York Times and refugee from Nazi Germany, said that one might ponder how the followers of Moses and Jesus "could have abandoned their prophetic teachings and succumbed to a pathetic, murderous tribalism." [**8**](https://www.lexis.com/research/retrieve?_m=10a317b249e518b45d41b54ec7be99b3&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLbVzb-zSkAA&_md5=dcab5d5d0897a4c78f358a771b00609b#n8) The doctrines of Hitler and Stalin can be traced back through Hegel and Marx, all the way to Plato's "family of ideas that proclaimed utopian truths and certitudes whose imposition by force required the construction of "closed' societies." [9](https://www.lexis.com/research/retrieve?_m=10a317b249e518b45d41b54ec7be99b3&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLbVzb-zSkAA&_md5=dcab5d5d0897a4c78f358a771b00609b#n9) Those who led these "utopian tyrannies" believed that there was a logical meaning to [\*485] history. [10](https://www.lexis.com/research/retrieve?_m=10a317b249e518b45d41b54ec7be99b3&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLbVzb-zSkAA&_md5=dcab5d5d0897a4c78f358a771b00609b#n10) For example, it is "equally wicked" that the Nazis desired a purified "racial tribe" and that the Communists sought a single proletarian class. [11](https://www.lexis.com/research/retrieve?_m=10a317b249e518b45d41b54ec7be99b3&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLbVzb-zSkAA&_md5=dcab5d5d0897a4c78f358a771b00609b#n11) The "return to the heroic age of tribalism" is the battle cry of the despot that begins "with the suppression of reason and truth" but that "must end with the most brutal and violent destruction of all that is human." [12](https://www.lexis.com/research/retrieve?_m=10a317b249e518b45d41b54ec7be99b3&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLbVzb-zSkAA&_md5=dcab5d5d0897a4c78f358a771b00609b#n12) Similarly, the desire to use a single historical meaning will inevitably lead to a justification for sweeping social engineering through brutal repression and ethnic cleansing. [**13**](https://www.lexis.com/research/retrieve?_m=10a317b249e518b45d41b54ec7be99b3&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLbVzb-zSkAA&_md5=dcab5d5d0897a4c78f358a771b00609b#n13) Frankel, a First Amendment practitioner of the highest magnitude, mirrors Putnam's underlying premise, which is significantly grounded in First Amendment thinking. [14](https://www.lexis.com/research/retrieve?_m=10a317b249e518b45d41b54ec7be99b3&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLbVzb-zSkAA&_md5=dcab5d5d0897a4c78f358a771b00609b#n14) The Amendment, along with law itself, is the single main constituted enablement of social capital. [15](https://www.lexis.com/research/retrieve?_m=10a317b249e518b45d41b54ec7be99b3&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLbVzb-zSkAA&_md5=dcab5d5d0897a4c78f358a771b00609b#n15) If it is erroneous to use a single meaning of history through which some grand utopian vision could be constructed out of the ashes of the past, then social justice can only be achieved through ""piecemeal social engineering'" in an ""open society'" of experiment, debate and correction. [16](https://www.lexis.com/research/retrieve?_m=10a317b249e518b45d41b54ec7be99b3&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLbVzb-zSkAA&_md5=dcab5d5d0897a4c78f358a771b00609b#n16) In fact, "only in an "open society' could reason prevail and violence be curbed, because experiment required universal skepticism and the freedom to dissent." [17](https://www.lexis.com/research/retrieve?_m=10a317b249e518b45d41b54ec7be99b3&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLbVzb-zSkAA&_md5=dcab5d5d0897a4c78f358a771b00609b#n17) Therefore, freedom prevails only in a system of rational discourse. [18](https://www.lexis.com/research/retrieve?_m=10a317b249e518b45d41b54ec7be99b3&docnum=1&_fmtstr=FULL&_startdoc=1&wchp=dGLbVzb-zSkAA&_md5=dcab5d5d0897a4c78f358a771b00609b#n18)

#### Executive tyranny creates setbacks to democracy that drastically increase the risk of war.

**Ward and Gleditsh, 98** [Michael Ward, professor of political science at the Univ. of Washington, and Kristian Gleditsch, PhD candidate in political science at the Univ. of Colorado, March 1998, American Political Science Review, Vol. 92, Iss. 1, “Democratizing for peace,” p. 58]

As Figure 1 details, democratization – whether in mild or strong degrees – is accompanied by reduction, not increase, in the risk of war. Though we do not present graphs of the converse, changes toward autocracy and reversals of democratization are accompanied by increased risks of war involvement. These risks are proportionally greater than the decline or benefits of further democratization. Thus, there is strong evidence that democratization has a monadic effect: It reduces the probability that a country will be involved in a war. Although the probability of war involvement does not decrease linearly, it does decrease monotonically, so that over the entire range of democracy minus autocracy values, there is a reduction of about 50%. During the democratic transition, at every point along the way as well as at the end points, there is an attendant reduction in the probability of a polity being at war. We also find that reversals toward greater levels of autocracy (not shown) not only increase the probability of war involvement. Apparently, it is more dangerous to be at a given level of democracy if that represents an increase in the level of authoritarianism than it is to be at the same level of democracy if that represents a decrease in the authoritarian character of the regime. Stated differently, **reversals are riskier than progress**. It has been argued that institutional constraints are theoretically important in translating the effect of democracy into foreign policy (Bueno de Mesquita, Silverson, and Woller 1992; Siverson 1995). If the idea of democracy is separated into its major components then the degree of executive constraints empirically dominates the democracy and autocracy scales (Gleditsch and Ward 1997). Accordingly, we demonstrate that moving toward stronger executive constraints also yields a visible reduction in the risk of war. Table 4 presents the empirical findings from estimating the basic model using the executive constraints variables on the right-hand side of equation 1. These results are largely consonant with those found for the democracy and democracy minus autocracy scales presented in Table 3 but are much stronger in two respects. First, the overall model is more statistically distinct, with a probability of type II error at least one order of magnitude smaller (likelihood ratio X squared=21.89, p=.000). Second, and more important, the direction of change variable is not significant, but all other variables in the model are strongly significant. The current value of executive constraints is shown to put upward pressure on the log-odds of being involved in war, while the magnitude of change toward greater executive constraints dampens the probability. As in the case for the democracy minus autocracy scale, the variance is strongly significant and has the effect of substantially increasing the likelihood that a polity will be at war. These results also suggest that Mansfield and Snyder (1995a, 1995b) may not have the story completely right but have not completely missed the boat. Democratic change, particularly increased constraint on chief executives, has a compound and confounding effect. Rocky changes toward democracy in general (or autocracy for that matter) appear to heighten the likelihood of war involvement. Yet, sui generis, changes toward greater democracy via increased executive constraints appear to reduce the risk of war. The total effect of these forces is displayed graphically in figure 2, which illustrates that if a polity moves from having no constraints on the executive decision maker (i.e. a value of 1.0) to a position of parity or subordination with the legislature (a value of 7.0) the probability of being involved in an interstate war is reduced by one-third, from about 9% to about 6%. This sheds light on precisely what aspect of democratization may reduce the probability of war: shared power between the executive and legislature, each largely staffed by officials pressured by public opinion. To the extent that changes toward democracy bring with them constraints on the executive branch of government, the attendant reduction in the risk of war appears quite robust. How does the smoothness of the transition toward democracy or autocracy affect these conclusions? We find that transitions with periods of substantial changes toward and away from democracy are marked by an increased risk of war. Smooth transitions tend to be associated with a considerably lower risk. Figure 3 shows these results based on empirically estimates from Table 2, using the democracy minus autocracy scale. Democratic countries with the highest variance in authority characteristics over time have a risk of war approximately twice that of democracies without much variance. This temporal investigation of the scope and extent of regime change allows us to understand two sets of competing findings. On the one hand, as countries become more democratic, other things being equal, they become more peaceful. On the other hand, if they experience setbacks as well as progress on the “road to democracy”, then they are more likely to be involved in warfare along the way. At issue, apparently, is not the rapidity of change toward democracy, but the linearity of the process. Smooth monotonic transitions are associated with the least risk and greatest benefit. Reversals, even in the short term, have the greatest risk. Prior analyses that did not focus on the process of transition could not discover these nuances.

#### Democratic transition is inevitable, establishing a regime of civic participation is critical to preventing genocide and nuclear annihilation

Martin Shaw Professor of International Relations and Politics at the University of Sussex Democracy and peace in the global revolution Making Global Spaces, Lynne Rienner Critical Security Studies series, Boulder 2001 http://www.martinshaw.org/democracy.htm

Genocidal war and global state-building

How this global-democratic revolution relates to relations between states is also important, in theory and practice. Traditionally, revolution has been understood as a question of political sociology, relations between states as the subject of international relations. Of course people have recognised how the two affect each other: revolutions have always had repercussions for relations between states, and international relations, especially wars, are part of the conditions for revolution. 19 Today, because of structural changes that are partly products of the new democratic movements, the basic compartmentalisation underlying these analyses no longer works in the old way. Global-democratic revolution is not just about the form of government within states, but about the shape of world order. Wars, traditionally thought about as being mainly between centres of state power, are now mostly between states and peoples. And yet they are not simply ‘civil wars’, in the old sense of conflicts within a single state. What Mary Kaldor has called ‘new wars’ are about the shape of civil society as well as the state.20 They mobilise cross-border alliances of ethnic nationalists, on the one hand, and of civic nationalists with global humanitarians, on the other. In reality, most wars going on at the turn of the early twenty-first century (and some are not so new) are wars of the anti-democratic, anti-globalist counter-revolution. War is the tool of authoritarian and semi-authoritarian regimes, in quasi-imperial states like Serbia and Iraq, Indonesia, Turkey and Sudan, and indeed, Russia and China, threatened by democratic movements – and particular by secessionist demands from oppressed minorities which inevitably accompany democratisation.21 I contend that in the hands of this kind of state machine, war is almost invariably genocidal to some degree. But many question whether atrocities such as those of the Serbian regime in Kosovo amount to ‘genocide’. Clearly our understanding of genocide needs to be deepened.22 The international convention refers to the deliberate destruction of a national, racial, ethnic or religious group ‘in whole or in part’.23 There are two obvious problems in taking this international legal definition as the basis for a full understanding. The first is that it accords a special ontological status to particular kinds of group, so that their destruction is seen as particularly heinous, while that of other kinds of group is not. In any case, episodes of mass slaughter are rarely confined to particular groups of any kind. Genocidal regimes almost invariably target a variety of groups more or less simultaneously (in the case of the Nazis these included communists, the mentally handicapped, Poles and other Slavs, and Roma, as well as Jews). They link social targets to the soldiers and civilians of state enemies whom they kill in more conventional war. They kill people because of their gender (e.g. men as potential combatants, women because of the significance of sexual humiliation), age (e.g. the young because they are productive, the old because they are 'useless') and social status (e.g. educated and officials as potential leaders, peasants as supporters of resistance). The execution (literally) of centrally defined policies depends, additionally, on the instant decisions of killers on the ground. There is a 'fog' of genocide as much as of war. In short, from the point of view of many victims (a not unimportant consideration for social theory), genocidal killing is deeply arbitrary and indiscriminate. It follows that we should be careful not to give legal or sociological standing to the pseudo-rationalities of murderous practice. There is another kind of problem, signified by the argument, fudged in the legal definition, over the extent of destruction that qualifies as 'genocide'. Here the Holocaust model has widely lodged a maximalist concept of clinical extermination as a standard that, almost by definition, no other case can meet. This makes it easy for all kinds of people to deny as 'genocide' cases that they find politically inconvenient. However it is clear that episodes of mass killing are always deeply embedded in social and political relations of which they are outcomes. It makes little sense to separate large-scale killing in any absolute sense from the escalations of social emnity, political exclusion, violence and smaller-scale killing which usually precede it. In this sense we have to recognize organized slaughter as a set of processes that includes more limited killing episodes (sometimes called genocidal massacres), mass expulsions, rape, and terror of many kinds. The overall meaning of this is the attempt to assert the absolute power of the *génocidaires* over that of the target social groups. This is war, not so much with other means as with other enemies: a section or sections of civilian society. Usually it takes place in the context of more recognisable war between political centres. These problems could lead us to question the very category of genocide. If, however, we attempt to give it a rational meaning, this must include both the *intention* of destroying, through processes that involve organized mass killing, the social power of some kind of human group, together with *results* that include relatively indiscriminate terror and mass slaughter. To say, then, that new wars are genocidal is not to equate them in any simple way with the Holocaust. However what the Nazis did when they defined international Jewry and other groups as *enemies* alongside more conventional state enemies24 has become the normal model in new wars, even though the ideology, scale, means and extents of killing all differ from the major precedent. Thus the wars of Saddam Hussein have targeted Kurds, Shia and Marsh Arabs as much as Iran, Kuwait and the West. The wars of Slobodan Milosevic have been fought against Croat, Bosnian Muslim and Albanian civilians – and plural communities like Sarajevo – as much as the Croatian and Bosnian states, the Kosovo Liberation Army and NATO. The *interahamwe* and their political masters declared war on the Tutsi people as well as the Rwandan Patriotic Front. The means of war have included burning, robbery, torture, incarceration in camps and rape as well as execution and massacre. War has become increasingly genocidal in the sense I have defined. This is true although some of these states have not intended complete extermination of their enemy populations, and even those that have intended something approximating to this have not achieved it - any more, of course, than the Nazis themselves achieved the complete destruction of the Jews in the Holocaust. It is true that even the Nazis did not invent these tactics. The point is not that today’s (or even yesterday's) wars are crueller than those of earlier periods, but that the deliberate destruction of civilian populations has become more than a means of prosecuting inter-state war, as it was in the case of Allied strategic bombing in the Second World War.25 Expulsion and mass killing of civilians is often the main point of war for today's authoritarian states, as it was for the Nazis, and indeed for some colonising wars against indigenous peoples.26 Moreover, since the Holocaust we have a global standard by which to judge these policies. Genocide may have existed before it was named; the naming (however much it raises as well as solves difficult questions of understanding) means that we can now begin to recognise and deal with the challenge to our humanity that slaughter presents. The fact that genocide is defined by an international convention emphasises that globality is about common values, not merely in an abstract sense, but in the practical sense of norms, laws and institutions. Looked at sociologically, the international regulation and punishment of war and genocide amount to an instance in the processes of state formation on a global scale. One of Marx’s most interesting ideas was that all previous revolutions had always 'perfected this [state] machine instead of smashing it.'27 He thought that the proletarian revolution would be the exception, but historical experience has hardly been kind to this idea. It seems that the tendency of revolutions to encourage the growth of the state may be a general law. I want to examine its significance for the global-democratic revolution. Several new state forms have resulted from recent struggles between democratic movements and genocidal repression. One is the expansion of international law and legal institutions, especially the tribunals for former Yugoslavia and Rwanda and the proposed new International Criminal Court. A second is ‘humanitarian intervention’, which

covers a broad range of military and other action by coalitions of states and international organisations, invoking United Nations authority. Its ends range from the provision of humanitarian supplies to threatened communities to the imposition of political settlements in zones of conflict. A third is the idea of the ‘international community’ of states, an ideological representation in which states are seen as combining for common world interests and in defence of common principles. These are all developments of a *global layer of state power*.28 Like the rest of this layer, they are constituted internationally, i.e. through relations between national stateentities. Global law and legal institutions take the form of international law; global intervention of international intervention; global community of international community. It is apparent, moreover (from the pre-eminent role of Western states) that all three depend on processes of state development in the West itself. Indeed, while the extension of the global layer is supported by many smaller non-Western states, major centres like Russia, China and India are at best reluctant partners. With the collapse of the Soviet bloc, there is however no serious counter-weight to the West, and most developments of global institutions depend on Western resources and political will. The West – in the political sense which includes Japan as well as north America, western Europe and Australasia29 – comprises of course a small and declining proportion of the world’s population. But its economies account for most wealth and its states for most worldwide state expenditure, military and civilian. Its internationalised structures, from NATO and other military alliances to the IMF, OECD, WTO and Group of 7, and its regional organisation, especially the European Union, give it a worldwide structure of power, to which other state centres can only give grudging assent. Its political model, parliamentary democracy, has finally become convincingly institutionalised across almost all member-states of Western institutions, and the West now promotes rather than opposes its adoption elsewhere. The worldwide democratic revolution has arrived, however, uninvited by Western statesmen and often a cause of some embarrassment to them. The first post-Cold War generation, George Bush, John Major and François Mitterand, wielded the rhetoric of the ‘New World Order’ but had few real plans for global reform. When they identified Iraq’s seizure of Kuwait as a military challenge, it was largely for oldfashioned strategic reasons. Their aims were international, to restore Kuwait’s sovereignty, not global, to institute democracy or protect human rights. ‘I don’t recall asking the Kurds to mount this particular insurrection’ proclaimed Major petulantly as the trails of refugees poured across the mountainsides, demanding protection and spoiling the victory celebrations.30 But before long, these same leaders were eating their words and forging the intervention in Kurdistan – the chief precedent for today’s global power-projection.31 Major proclaimed ‘safe havens’ as his very own contribution.32 The second generation of Western leaders is not much better. In opposition, Bill Clinton took a strong stand against 'ethnic cleansing' in Bosnia; but he too saw domestic prosperity as the key to success – ‘It’s the economy, stupid’, as one of his advisers famously opined. Handed the poisoned chalice of Somalia, the new administration drew negative conclusions from the humiliation of American soldiers there. Many wrote off international intervention worldwide at that point. They were wrong. Before long, similar exposures of Western weakness in Bosnia worked the opposite way, pulling the US towards Dayton and a permanent NATO role in the Balkans. As we all know, 1999 saw dramatic further examples of a united West prepared to use military power, both to protect threatened civilian populations *and* to create new political realities, in Kosovo and Timor – although in both cases only after terrible suffering was inflicted. However the ambivalence over the general scope and means of Western policy remains, and can be regarded as structural. On the one hand, the West’s de facto world dominance and unrivalled physical and authoritative resources mean that the forces of global-democratic change inevitably seek its support and protection. The weaker the local democratic movement, the more it must depend on worldwide support. Western civil-society organisations may be more reliable allies, but they too depend on the frameworks and finance offered by state institutions, national and international.33 On the other hand, the West’s commitments to global-democratic change are uncertain. In the United States, especially, there is deep-seated opposition to the extension of global institutions, manifested in the scandalous failure to meet its UN dues and the alliance with China to limit the powers of the International Criminal Court. In Europe, while support for international bodies is stronger, there is an inward-looking focus on developing the Union itself. Everywhere, support for global political change is mediated by national electoral politics, which can always work both ways.34 Two other structural problems, partly inherited from the Cold War, reinforce the ambivalent character of Western power in world politics. First, although dominant, the West has serious difficulties in projecting even non-military power directly into the territories of the principal non-Western states. Containing smaller powers like Iraq, Serbia and North Korea, and even managing situations like Somalia and Sierra Leone, have created enormous costs and intractable problems. There is no real question of the West’s trying to police Russia or China in the same way. Whatever happens in Kosovo or Timor, there will be little ‘humanitarian intervention’ in Chechnya or Tibet. This should not prevent the West from using its political and economic levers in these situations. But the West has no alternative but partial coexistence with the main authoritarian states. This inevitably seems to encourage compromises with arbitrary and corrupt rule. Western leaders slip all too easily into complicity with even the worst local regimes, as Dayton showed. Patterns of collaboration are often inherited from Cold War alliances or compounded by commercial interests. Hence the British state supports Timorese independence *and* licences arms sales to Indonesia, supports democratic change in China *and* cosies up to Jiang Zemin – all at the same time. The ‘ethical dimension’ to foreign policy is just that – one dimension alongside others, which include the strategic, the commercial, etc. Michael Mann has explained this theoretically as the ‘polymorphous crystallisation’ of state power: different crystallisations dominate different state institutions, so that often 'the left hand has not known what the right hand is doing'.35 Second, the West’s institutions, forces and *modus operandi* are still largely inherited from the Cold War. When the West finally abandoned its search for compromise with Milosevic, it fell back on a strategy of aerial bombardment inherited from the Second World War via Vietnam and Iraq. The so-called ‘revolution in military affairs’ has certainly made bombing less indiscriminate than it was, but even NATO admitted this was a blunt instrument that killed some innocents even as it saved others. Above all, of course, it saved Western soldiers’ lives while risking Serb and Albanian civilians. Here Cold-War capability coincided with the electoral imperative to keep body bags off our screens. If we look at these contradictions in historical perspective, we are in the midst of a great world transformation. State power is not being undermined in any simple general sense, as those who are over-impressed with the advances of world markets and information technology suggest. State power is transforming – becoming globalised rather than weakened.36 A post-imperial, democratic, internationalised Western state can largely mobilise the growing global layer of state. The axis between these two forms the core of a global structure of state power.37 This global-Western state confronts secondary powers with quasi-imperial, semiauthoritarian structures. While powerful in historical terms, the main non-Western states lag greatly behind the West in resources and authority. These states face a democratic momentum sufficiently strong for all but the most repressive regimes to trim. China’s rulers claimed on their fiftieth anniversary that they represent ‘democracy’, and Pakistan’s military regime makes the same boast. More significantly, Boris Yeltsin’s near-monarchical rule could not buck elections; even Milosevic has had to master the art of electoral manipulation. Democracy has even been incorporated into the grammar of genocide: homogenous electorates are a prime aim of ‘ethnic cleansing’.38 This is the backhanded compliment that the ugliest form of political practice pays to an ideal that is sweeping much before it. I suspect that in a few decades’ time we will look back on today’s world and find today’s remaining authoritarianisms as anachronistic as we already find the totalitarianisms of Hitler, Stalin and Mao. Not only could democratic institutions become general; the infrastructure of a global state, resulting from today’s layer of global institutions and the Western state, may be greatly enhanced.39 The big question is whether we can get from here to there without many more of the wars which have multiplied in recent years – indeed without wars between big nuclear centres of state power. So far the trends towards global order, while striking, have definite limits. The demands of world commerce and communication, as well as democratic movements, partly push in this direction40, but there are powerful opposing interests. We may face decades of conflict between society and states, and if we are even more unfortunate, between state centres too. Contrary to the simpler versions of democratic peace theory41, the spread of democracy within national borders does not automatically bring peace. Democratising processes can actually be very dangerous to those involved – as we have seen in Timor and elsewhere. Only stable national democratic entities within a consolidated global framework are likely to secure a peaceful world.

#### Thus the plan: The USFG should establish a statutory restriction that no funds may be used for targeted killings using remote piloted aircraft, unless they are conducted by a member of the Armed Forces under the authority provided pursuant to Title 10 of the United States Code.

## Solvency

#### The plan moves all drone strikes under title 10, solves accountability and sets an example

Betty McCollum, 2013- Congressional Record. June 14, 2013. Betty Louise McCollum is the U.S. Representative for Minnesota's 4th congressional district, serving since 2001. http://www.gpo.gov/fdsys/pkg/CREC-2013-06-14/pdf/CREC-2013-06-14-pt1-PgE861-2.pdf#page=1

Ms. MCCOLLUM. Mr. Speaker, yesterday in the House Appropriations Committee I offered an amendment to the fiscal year 2014 defense appropriations bill regarding lethal drone strikes. The amendment stated: **None of the funds made available by this Act may be used for weapons strikes or lethal action using unmanned aerial vehicles unless conducted by a member of the Armed Forces under the authority provided pursuant to Title 10, United States Code**. The amendment was defeated in committee on a voice vote and my request for a recorded vote was denied by the committee. It is my intention to offer this same amendment on the floor of the House in the coming weeks when the defense appropriations bill is debated by the full House. My statement (as prepared for delivery in committee) is as follows: Full Appropriations Committee Statement on the McCollum Amendment: Mr. Chairman, within the classified portion of this bill hundreds of millions of dollars, perhaps billions, are appropriated for a targeted killing program operated by the Central Intelligence Agency. The CIA operates a fleet of weaponized drones armed with laser guided Hellfire missiles. They conduct lethal air strikes against targets in Pakistan, Yemen and Somalia. The program’s targets are identified terrorists or they are unidentified individuals targeted and killed based on a pattern of behavior. My amendment places sole responsibility for conducting lethal military action using weaponized drones in the hands of the Department of Defense conducted by members of the Armed Forces under the authority of Title 10 of the U.S. Code. The CIA’s use of drones to conduct surveillance and intelligence gathering in support of Defense Department lethal action continues under my amendment. Some of our colleagues do not believe that the Pentagon is not up to the task of carrying out this responsibility. I disagree with that. The Joint Special Operations Command **(JSOC)** is conducting drone strikes now. **The Air Force and the Army possess and operate weaponized drones. They operate within a clear chain of command and legal accountability**. Lethal military operations using sophisticated weapons systems should be in the hands of the Secretary of Defense and military commanders who are accountable to Congress. CIA strikes have been effective. Terrorists have been killed. But they are not secret. **The whole world knows these are CIA strikes operating on behalf of the American people, without transparency, accountability or oversight**. In fact, CIA Director John Brennan may actually agree with this amendment. During his Senate confirmation hearing he stated, ‘‘The CIA should not be doing traditional military activities and operations.’’ There are costs associated with these targeted killings. Hundreds of innocent civilians have been killed. There are legal questions, human rights concerns, foreign policy implications and ultimately moral issues. You could dismiss all of these concerns because the program is killing terrorists. But in the near future, **as armed drone technology proliferates, if we dismiss these concerns** I can guarantee you that **China, Iran, Russia and other nations will also dismiss these concerns when they are capable of conducting targeted killings. Why, because we are setting the example**. If we want other countries to use these technologies responsibly, then we must use them responsibly. What’s at stake is our country’s moral authority. The Obama Administration is not leading on this issue of ensuring transparency, accountability and oversight. The president claims these CIA strikes are within ‘‘clear guidelines, oversight and accountability’’ that his administration determined all by itself—without input or even the consideration of Congress. And Congress has done less. In fact Congress has done nothing except write a black check that allows a paramilitary force of CIA officers and civilian contractors to kill suspected terrorists and anyone else unlucky enough to be in the vicinity—including women and children—using one of the most sophisticated weapons platforms in our military arsenal. For this Congress and this committee to passively allow the CIA to fire laser guided missiles at human targets in countries in which we are not at war without demanding oversight or accountability is a complete abdication of our sworn obligation to the Constitution and our citizens. **This is not intelligence gathering, these are military operations that should be conducted by our Armed Forces and with direct oversight by Congress**. Our country is at war with AI-Qaeda and its terrorist affiliates. I trust the members of our Armed Forces to do their job, defeat the enemy, and protect our nation. The drone strike program is a military program and **Congress should demand that it be conducted within the same legal framework as any other military operation during a time of war.** McCollum statement at the close of debate on the amendment: It is no surprise the White House opposes this amendment. **The executive branch wants to maintain its CIA drone program and its target list without congressional oversight, without transparency or accountability**. It is absolutely appropriate and responsible for this committee to make the Department of Defense solely responsible for military operations using armed drone program. **Doing so does not diminish our military capacity, it in fact it strengthens the program with regard to international law and accountability to Congress and the American people**. Right now the CIA is running an assassination program and the world is watching. **Soon China, Russia and Iran will have the same capability and will use the CIA’s standard of killing anyone profiled as an enemy**. It is time Congress demands transparency, accountability, and oversight to a program that has killed thousands of people—including innocent civilians.

#### Public scrutiny is key to maintain accountability

IHRCRC, 12- “Living Under Drones: Death, Injury, and Trauma to Civilians From US Drone Practices in Pakistan”. International Human Rights and Conflict Resolution Clinic, Stanford Law School. http://livingunderdrones.org/wp-content/uploads/2012/09/Stanford\_NYU\_LIVING\_UNDER\_DRONES.pdf

**International law requires states to ensure basic transparency and accountability** for wrongs. States must investigate war crimes allegations, and prosecute where appropriate. 681 **The obligation to be transparent is particularly relevant when there are civilian victims**; indeed, some have argued that parties to an armed conflict are obligated to record civilian casualties. 682 IHRL further “places a particular emphasis on the obligation of states to investigate, prosecute and punish any alleged violation of the norms banning extrajudicial executions.” 683 A proper investigation requires transparency: as the European Court of Human Rights explained, **“[t]here must be a sufficient element of public scrutiny of the investigation or its results to secure accountability in practice** as well as in theory, maintain public confidence in the authorities’ adherence to the rule of law and prevent any appearance of collusion in or tolerance of unlawful acts.” 684 By failing to account adequately for their activities in any public forum and even refusing to acknowledge publicly the existence of targeted killing operations for years or to explain sufficiently their legal basis, the US has failed to meet its international legal obligations to ensure transparency and accountability. In addition, while Article 51 of the U.N. Charter, which the US has implicitly invoked to justify strikes, requires that “measures taken by Members in the exercise of [their] right to self defense . . . be immediately reported to the Security Council,” 685 the US has yet to make such a report. Recent public disclosures and **the occasional willingness by public officials to discuss the program publicly is welcome progress, but more is still required. Partial and selective leaks to journalists and vague invocations of legal doctrine in talks in public for a are poor substitutes for proper transparency and oversight**. Officials boast of the rigor of internal oversight mechanisms and decision-making processes, 686 but, as former U.N. Special Rapporteur on extrajudicial, summary or arbitrary executions Professor Philip Alston concluded: **Assertions by Obama administration officials**, as well as by scholars, **that these operations comply with international standards are undermined by the total absence of any forms of credible transparency or verifiable accountability**. The CIA’s internal control mechanisms, including the Inspector General, have had no discernible impact; executive control mechanisms have either not been activated at all or have ignored the issue; **congressional oversight has given a ‘free pass’ to the CIA; judicial review has been effectively precluded**; and external oversight has been reduced to media coverage which is all too often dependent on information leaked by the CIA itself. 687

#### Drone policy is shrouded in secrecy – debate about targeted killing is impossible because of the lack of transparency – instead of assessing the information selectively leaked by the government, debate must center on the production of knowledge behind drone secrecy.

Toth, ’13 [Kate Toth, London School of Economics, Dissertation; “REMOTE-CONTROLLED WAR: IMPLICATIONS OF THE DISTANCING OF STATE-SPONSORED VIOLENCE ON AMERICAN DEMOCRACY”; Apr 27, 2013; <http://www.academia.edu/3125323/REMOTE-CONTROLLED_WAR_IMPLICATIONS_OF_THE_DISTANCING_OF_STATE-SPONSORED_VIOLENCE_ON_AMERICAN_DEMOCRACY>]

With regard to drones, **what the public knows has been released through leaks to the press that were likely approved by the President** (Engelhardt, 2012). **Though the government now claims the right to assassinate Americans along with foreigners** through the drone program, **“informed public debate and judicial oversight” are** impossible **because “its drone program is** so secret [the government] can't even admit to its existence”(Freed Wessler, 2012). That is, **except via leaks that allow Obama to craft a politically advantageous narrative (Friedersdorf, 2012a). Meanwhile, the use of drones has exploded domestically, and again, “citizens lack a basic right to know who is operating the drones circling their houses, what information is being collected and how it will be used**” (ABC News, 2012). The Bush administration politicized science (Beck, 1992) by notoriously editing reports on climate change and pressuring scientists (Coglianese, 2009). This is instructive for the current debate as it exhibits that one cannot simply assess the information released, but examine this knowledge within a political context, harking back to Foucault’s (1997) production of knowledge. Writing about the covert drone strikes, Friedersdorf (2012b) in The Atlantic asked, **“in what sense would we be living in a representative democracy if neither the bulk of Congress nor the people” are told about the strikes**? One of the lingering questions raised from this debate is, how different is it if we were told the bare minimum of facts via leaks, so still preventing effective debate, versus being told nothing at all? When President Obama took office, in the memo outlining his “Transparency and Open Government” initiative, it was written that transparency will “ensure the public trust and establish a system of transparency, public participation, and collaboration” and that this transparency will “strengthen our democracy” (White House, 2009). This is what Obama believes transparency has the power to achieve, and it falls in line with the access to information that Diamond and Morlino (2004) highlight as key to accountability in democracy. President Obama’s track record is, perhaps, an example of not striking the right balance between what, and how much, to release. However, **given that many of the steps he has taken, both in terms of transparency of existing programs and secrecy regarding proliferation of new programs** such as drones, it does not seem likely that this is unintentional. Transparency relies on a strong civil society to use the information effectively, or press for it to be released (Etzioni, 2010); perhaps this lack of accountability is also indicative of the weakness of current American civil society and media.

#### **Public discourse is key to uncloak real threats and create functional utilitarian calculus**

Gowder, 05- “Secrecy as Mystification of Power: Meaning and Ethics in the Security State” Paul Gowder, J.D. from Harvard Law School. The Ohio State University. A Journal of Law and Policy for the Information Society. Winter, 2005-2006. LN.

We have gone full circle, and return to utilitarianism. If we are convinced that secrecy has significant ethical problems, what are we to do about it? How are we to conduct a discourse in the public sphere about secrecy? The utilitarian mode of present discourse is not likely to be conducive to rational or meaningful public decision making about secrecy. For the same reasons that **secrecy is inconsistent with discourse ethics, it is inconsistent with a consequentialist mode of analysis: secrecy cloaks the effects of secrecy. If we do not know what risks are being concealed** or what groups are going on the no-fly list, **we can not judge the harms from the risks or the discrimination.** We are forced to focus our deontological gaze on the act of imposing secrecy itself, not cloaked consequences. **We must reach beyond narrow self-interest and expediency and address the public on a (deontological) ethical plane**. When we change the relationship between citizens and their government from one of mutual accountability to one of command and surveillance, we deny the essential humanity of each person faced with the faceless facticity that hides the choices of the humans behind the State. **We must open our eyes to the wrong we do when we strip our interactions of communication, understanding and shared projects. To the extent that secrecy denies the human capacity to stand as a sovereign subject, giving meaning to our choices and our experiences, we should see it as a moral transgression.**

#### Status quo policymaking reflects the logic of disposability- Vague apocalyptic threats are constructed as a ruse to distract from real issues of social deliberation

Giroux 2009 (Henry Giroux, Waterbury Chair of Secondary Education at Pennsylvania State University, “Zombie Politics and Other Late Modern Monstrosities in the Age of Disposability,” 17 November 2009, Truthout, http://www.truthout.org/111709Giroux)

At present, Americans are fascinated by a particular kind of monstrosity, by vampires and zombies condemned to live an eternity by feeding off the souls of the living. The preoccupation with such parasitic relations speaks uncannily to the threat most Americans perceive from the shameless blood lust of contemporary captains of industry, which Matt Taibbi, a writer for Rolling Stone, has aptly described as "a great vampire squid wrapped around the face of humanity, relentlessly jamming its blood funnel into anything that smells like money." [[3](http://www.truthout.org/111709Giroux#3)] Media culture, as the enormous popularity of the Twilight franchise and HBO's True Blood reveal, is nonetheless enchanted by this seductive force of such omnipotent beings. More frightening, however, than the danger posed by these creatures is the coming revolution enacted by the hordes of the unthinking, caught in the spell of voodoo economics and compelled to acts of obscene violence and mayhem. They are the living dead, whose contagion threatens the very life force of the nation. Only a decade or so ago, citizens feared the wrath of robots - terminators and cyborgs - who wanted to destroy us - the legacy of a highly rationalized, technocratic culture that eludes human regulation, even comprehension. That moment has passed as we are now in the 2.0 phase of that same society where instrumental rationality and technocracy still threaten the planet as never before. But now, those who are not part of a technocratic elite are helpless and adrift, caught in the grips of a society that denies them any alternative condemned to roam the earth with a blind unthinking rage. Zombies are invading almost every aspect of our daily lives. Not only are the flesh-chomping, blood-lusting, pale-faced creatures with mouths full of black goo appearing in movie theaters, television series, and everywhere in screen culture as shock advertisements, but these flesh-eating zombies have become an apt metaphor for the current state of American politics. Not only do zombies portend a new aesthetic in which hyper-violence is embodied in the form of a carnival of snarling creatures engorging elements of human anatomy, but they also portend the arrival of a revolting politics that has a ravenous appetite for spreading destruction and promoting human suffering and hardship.[[4](http://www.truthout.org/111709Giroux#4)] This is a politics in which cadres of the unthinking and living dead promote civic catastrophes and harbor apocalyptic visions, focusing more on death than life. Death-dealing zombie politicians and their acolytes support modes of corporate and militarized governance through which entire populations now become either redundant, disposable or criminalized. This is especially true for poor minority youth who, as flawed consumers and unwanted workers, are offered the narrow choice of joining the military, going to prison or being exiled into various dead zones in which they become socially embedded and invisible.[[5](http://www.truthout.org/111709Giroux#5)] Zombie values find expression in an aesthetic that is aired daily in the mainstream media, a visual landscape filled with the spectacle of destruction and decay, wrought by human parasites in the form of abandoned houses, cars, guttered cities, trashed businesses. There are no zombie free spaces in this politics, as a country paralyzed by fear has become the site of a series of planned, precision attacks on constitutional rights, dissent and justice itself. Torture, kidnappings, secret prisons, preventive detention, illegal domestic spying and the dissolution of habeas corpus have become the protocol of a newly fashioned dystopian mode of governance. Zombie politics reveals much about the gory social and political undercurrent of American society. This is a politics where the undead, or more aptly, the living dead, rule and rail against any institution, set of values, and social relations that embrace the common good or exhibit compassion for the suffering of others. Zombie politics supports megacorporations that cannibalize the economy, feeding off taxpayer dollars while undercutting much-needed spending for social services. The vampires of Wall Street reach above and beyond the trajectories of traditional politics, exercising an influence that has no national or civic allegiance, displaying an arrogance that is as unchecked as its power is unregulated. As Maureen Dowd has pointed out, one particularly glaring example of such arrogance can be found in Lloyd Blankfein's response to a reporter's question when he asked the chief of Goldman Sachs if "it is possible to make too much money."[[6](http://www.truthout.org/111709Giroux#6)] Blankfein responded by insisting, without irony, that he, and I presume his fellow Wall Street vampires, were "doing God's work."[[7](http://www.truthout.org/111709Giroux#7)] A response truly worthy of one of the high priests of voodoo economics who feels no remorse and offers no apology for promoting a global financial crisis while justifying a bloated and money-obsessed culture of greed and exploitation that has caused enormous pain, suffering and hardship for millions of people. Unfortunately, victim to their own voodoo economics, the undead along with their once barely breathing financial institutions keep coming back, even when it appears that the zombie banks and investment houses have failed one last time, with no hope of once again wreaking their destruction upon society.

#### Law is violence – criticism without legal changes fails – even if we aren’t the federal government understanding the juridical essence of violence is a prepreq to effective critique

Jacques Derrida**,** in Deconstruction and the Possibility of Justice, Drucilla Cornell, ed, 92, p. 40-2.

To discuss the conservative violence of law, Benjamin sticks to relatively modern problems, as modern as the problem of the general strike was a moment ago. Now it is a question of compulsory military service, the modern police or the abolition of the death penalty. If, during and after World War I, an impassioned critique of violence was developed, it took aim this time at the law-conserving form of violence. Militarism, a modern concept that supposes the exploitation of compulsory military service, is the forced use of force, the compelling (twang) to use force or violence (Gewalt) in the service of the state and its legal ends. Here military **violence is legal and conserves the law, and thus it is more difficult to criticize than the pacifists and activists believe; Benjamin does not hide his low esteem for these declaimers. The ineffectiveness and inconsistency of anti‑military pacifists results from their failure to recognize the legal and unassailable character of this violence that conserves the law**. Here we are dealing with a double bind or a contradiction that can be schematized as follows. On the one hand, it appears easier to criticize the violence that founds since it cannot be justified by any preexisting legality and so appears savage. But on the other hand, and this reversal is the whole point of this reflection, it is more difficult, more illegitimate to criticize this same violence since one cannot summon it to appear before the institution of any preexisting law: it does not recognize existing law in the moment that it founds another. Between the two limits of this contradiction, there is the question of this ungraspable revolutionary instant that belongs to no historical, temporal continuum but in which the foundation of a new law nevertheless plays, if we may say so, on something from an anterior law that it extends, radicalizes, deforms, metaphorizes or metonymizes, this figure here taking the name of war or general strike. But this figure is also a contamination. It effaces or blurs the distinction, pure and simple, between foundation and conservation. It inscribes iterability in originarity, in unicity and singularity, and it is what I will call deconstruction at work, in full negotiation: in the "things themselves"and in Benjamin's text. **As long as they do not give themselves the theoretical or philosophical means to think this co‑implication of violence and law, the usual critiques remain naive and ineffectual.** Benjamin does not hide his disdain for the declamations of pacifist activism and for the proclamations of "quite childish anarchism" that would like to exempt the individual from all constraints. **The reference to the categorical imperative** ("Act in such a way that at all times you use humanity both in your person and in the person of all others as an end, and never merely as a means," p. 285), however uncontestable it may be**, allows no critique of violence**. Law (droit) in its very violence claims to recognize and defend said humanity as end, in the person of each individual. And so **a purely moral critique of violence is as unjustified as it is impotent**. For the same reason, we cannot provide a critique of violence in the name of liberty, of what Benjamin here calls "gestaltlose Freiheit," "formless freedom," that is, in short, purely formal, as empty form, following a Marxist‑Hegelian vein that is far from absent throughout this meditation. **These attacks against violence lack pertinence and effectiveness because they remain alien to the juridical essence of violence**, to the Rechtsordnung, the order of law (droit). An effective critique must lay the blame on the body of droit itself, in its head and in its members, in the laws and the particular usages that law adopts under protection of its power (Macht). This order is such that there exists one unique fate or history (nur ein einziges Schicksal, "only one fate," p. 285). That is one of the key concepts of the text, but also one of the most obscure, whether it's a question of fate itself or of its absolute uniqueness. That which exists, which has consistency (das Bestehende) and that which at the same time threatens what exists (das Drohende) belong inviolably (unverbriichlich) to the same order and this order is inviolable because it is unique. It can only be violated in itself. The notion of threat is important here but also difficult, for the threat doesn't come from outside. Law is both threatening and threatened by itself: This threat is neither intimidation nor dissuasion, as pacifists, anarchists or activists believe. The law turns out to be threatening in the way fate is threatening. To reach the "deepest meaning" of the indeterminacy (Unbestimmtheit, "uncertainty," p. 28S) of the legal threat (der Rechtsdrohung), it will later be necessary to meditate upon the essence of fate at the origin of this threat.