## 1AC

### Plan

#### Plan: The United States Federal Judiciary should subject United States’ targeted killing operations to judicial ex post review.

### 1AC War Fighting Advantage

#### Scenario One: War Fighting

#### Domestic and international support for the US drone program is collapsing, threatening to shut it down entirely. Reform is key.

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

#### And, Drones are critical to resolve U.S. military overreach and prevent reductions in power projection capacity

Rushforth JD candidate 12 (Elinor June, J.D. candidate, University of Arizona, James E. Rogers College of Law, “THERE'S AN APP FOR THAT: IMPLICATIONS OF ARMED DRONE ATTACKS AND PERSONALITY STRIKES BY THE UNITED STATES AGAINST NON-CITIZENS, 2004-2012” Arizona Journal of International and Comparative Law 29 Ariz. J. Int'l & Comp. Law 623, Lexis)

G. Arguments Made by Proponents of the Drone Program The drone program is a fixture in the Obama administration's fight against terror n163 and the moral and legal defense the administration offers serves as an indication that these attacks will continue. n164 Further, proponents of the drone program argue their use reduces risk to U.S. service members, decreases American weariness at foreign intervention, and minimizes civilian casualties during attacks and missions. First, because asymmetric warfare has increased, the United States has sought out creative ways to fight terrorists, insurgents, and asymmetric wars more generally. n165 Despite controversy surrounding the drone program, it allows surveillance and lethal missions without putting U.S. troops in harm's way. n166 This is an almost incontrovertible positive factor when considering American public support for a new and technologically incredible program. n167 Due to the lingering Overseas Contingency Operations, Americans are eager for some good news, and this program can deliver. Drone operators are on the front lines of a new and more sophisticated type of war and the information their surveillance missions provide can prove invaluable to service members on the ground. n168 This dual benefit weighs heavily in favor of drone proliferation. Drones can be [\*649] deployed to survey and attack where it would otherwise be impractical for troops, and a single pilot, to venture. n169 However, the analysis of this benefit must be separated between the two organizations employing drones: the military and the CIA. n170 Drones are used for surveillance and killing by both organizations but usually with different purposes in mind. n171 The military has focused its drones primarily on tactical support of ground forces, n172 either by providing information about enemy tactics or eliminating combatants entrenched in defended positions. n173 The CIA uses drones to eliminate specific targets in remote areas in which conventional U.S. military action would be impossible. n174 During Operation Southern Watch, the military used drones to police no-fly zones in Iraq and they were eventually used to target Iraqi radar systems during the second Iraq War. n175 In Operation Enduring Freedom, the military has expanded its use of armed drones to provide air support to ground operations and to act as "killer scouts." n176 By providing immediate battle damage assessment, drones enable commanders to determine if further action is necessary, and provide a new perspective on the field. n177 In Operation Iraqi Freedom, the armed drone retained and expanded its roles targeting anti-aircraft vehicles, performing as a decoy revealing enemy positions, and aiding in a rescue mission. n178 Based on these successes, military leaders maintain the value of drones. n179 The CIA's use [\*650] of drones facilitates U.S. attacks in environments where it is deemed too dangerous for ground troops to have a physical presence. n180 The ability to protect American lives, keep military costs down, and damage terrorist infrastructure and leadership is central to proponents' view of this program. Second, the American public has grown tired of drawn-out conflicts and foreign intervention, and the drone program offers a more palatable form of foreign involvement. n181 President Obama claims that "it is time to focus on nation-building here at home" and, presumably, the drone program allows the government to operate without deployment of ground troops to areas in which intervention is deemed necessary, be it for humanitarian or military purposes. n182 Lethal operations, surveillance for U.S. military operations, and less costly intervention all become possible when robots are the actual tools. With a weary electorate, the Executive can maintain a presence abroad militarily, while remaining able to argue that its full focus is on protecting and growing our nation at home.

#### Overreach collapses hegemony, risks hostile challengers and nuclear war

Florig, prof International Studies, 10 (Dennis, Professor- Division of International Studies- Hankuk (Korean) University of Foreign Studies, Review of International Studies, vol 36, issue 4, October, 2010, http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=1548783)

IV. Potential Sources of Hegemonic Breakdown and Future Challenges to Hegemony Despite the belief of some in the U.S. in the divine sanction of U.S. hegemony, hegemons do not stand forever any more than the houses of absolute monarchs of earlier ages who claimed celestial legitimation. Theory of hegemonic cycles focuses on the macro-historical process of the rise and decline of hegemonic powers. However, within any one of the long cycles, there are lesser periods of hegemonic weakening and regeneration. The loss of the Vietnam War followed by the oil shock induced recessions of the 1970s and the early 1980s led some to predict the imminent breakdown of U.S. hegemony. The decisive victory in the first Iraq war and the revival of the U.S. economy in the 1990s led others to talk of a second American century. Both were premature. Similarly, the short term outcome of the war in Iraq, whether it is the stabilization of a pro-American regime, the coming to power of a government unfriendly to the U.S. or on-going civil war will almost certainly lead either to new euphoric pronouncements about the 21st century belonging to the U.S. or claims that the end of U.S. hegemony are nigh. Again, either conclusion will most likely be premature. However, the outcome on the main battlefield so far in the Terrorism Wars will indicate much about the future direction of the global system. Hegemonic states and even hegemonic systems do have life spans, however hard it is to gauge them. On the home front, the Iraq War, like the Vietnam War before it, has laid bare one of the key problems of U.S. missionary hegemony—the fervor of elites is not always matched by the willingness of the population to sacrifice. The expansive, messianic conception of the U.S. role in the world predominates in American thinking, but it is not without challenge. The image of the U.S. as a “shining city on a hill” is rarely disputed, but the need for the U.S. to engage in military conflict abroad to spread its principles does come into question when the costs become too high and the benefits are not apparent.24 After World War I the ideology of American mission was not strong enough to overcome the resistance of ordinary citizens at being conscripted to fight in distant conflicts overseas and political elites not yet accommodated to the multilateralism hegemony entails. Thus there was a period of renunciation of hegemonic ambitions. Certainly since World War II the missionary ideology has held sway among policymaking elites. However, the political unpopularity of the long Vietnam War and the second Iraq War show that the average American citizen does not share the elite’s taste for battle overseas if the sacrifice in blood and treasure becomes steep. There is a cycle of hegemonic overreach, political reaction to the costs of failed policies, and then rebuilding of the ideology of messianic intervention. American sense of exceptionalism does not disappear at any time during this process. However, in the reactive part of the cycle the “city on the hill” tends to try to turn inward, wanting more to avoid contamination from the impure world outside than to take on new challenges. But since that conception of America is not adequate to sustain U.S. hegemony, the sense of America’s world historic mission must be painstaking rebuilt through political rhetoric, spoon feeding the mass media the right pictures of the world, and infusing civil society with political messianism. Someday either the overreach may be too costly and/or the public resistance may be too great to effectively rebuild the American missionary ideology. But that day does not seem just around the corner. There is an even larger question than whether the U.S. will remain the hegemonic state within a western dominated system. How long will the West remain hegemonic in the global system?25 Since Spengler the issue of the decline of the West has been debated. It would be hard to question current western dominance of virtually every global economic, political, military, or ideological system today. In some ways the domination of the West seems even more firm than it was in the past because the West is no longer a group of fiercely competing states but a much more cohesive force. In the era of western domination, breakdown of the rule of each hegemonic state has come because of competition from powerful rival western states at the core of the system leading to system-wide war. The unique characteristic of the Cold War and particularly the post-Cold War system is that the core capitalist states are now to a large degree politically united and increasingly economically integrated. In the 21st century, two factors taking place outside the West seem more of a threat to the reproduction of the hegemony of the American state and the western system than conflict between western states: 1. resistance to western hegemony in the Muslim world and other parts of the subordinated South, and 2. the rise of newly powerful or reformed super states. Relations between the core and periphery have already undergone one massive transformation in the 20th century—decolonization. The historical significance of decolonization was overshadowed somewhat by the emergence of the Cold War and the nuclear age. Recognition of its impact was dampened somewhat by the subsequent relative lack of change of fundamental economic relations between core and periphery. But one of the historical legacies of decolonization is that ideological legitimation has become more crucial in operating the global system. The manufacture of some level of consent, particularly among the elite in the periphery has to some degree replaced brute domination. Less raw force is necessary but in return a greater burden of ideological and cultural legitimation is required. Now it is no longer enough for colonials to obey, willing participants must believe. Therefore, cultural and ideological challenges to the foundations of the liberal capitalist world view assume much greater significance. Thus the resurgence of Islamic fundamentalism, ethnic nationalism, and even social democracy in Latin America as ideologies of opposition have increasing significance in a system dependent on greater levels of willing consent. As Ayoob suggests, the sustained resistance within the Islamic world to western hegemony may have a “demonstration effect” on other southern states with similar grievances against the West.26 The other new dynamic is the re-emergence of great states that at one time or another have been brought low by the western hegemonic system. China, in recent centuries low on the international division of labor, was in some ways a classic case of a peripheral state, or today a semi-peripheral state. But its sheer size, its rapid growth, its currency reserves, its actual and potential markets, etc. make it a major power and a potential future counter hegemon. India lags behind China, but has similar aspirations. Russia has fallen from great power to semi-peripheral status since the collapse of the Soviet empire, but its energy resources and the technological skills of its people make recovery of its former greatness possible. No one knows exactly what the resurgence of Asia portends for the future. However, just as half a century ago global decolonization was a blow to western domination, so the shift in economic production to Asia will redefine global power relations throughout the 21st century. Classical theory of hegemonic cycle is useful if not articulated in too rigid a form. Hegemonic systems do not last forever; they do have a life span. The hegemonic state cannot maintain itself as the fastest growing major economy forever and thus eventually will face relative decline against some major power or powers. The hegemon faces recurrent challenges both on the periphery and from other major powers who feel constrained by the hegemon’s power or are ambitious to usurp its place. Techniques of the application of military force and ideological control may become more sophisticated over time, but so too do techniques of guerilla warfare and ideological forms of resistance such as religious fundamentalism, nationalism, and politicization of ethnic identity. World war may not be imminent, but wars on the periphery have become quite deadly, and the threat of the use of nuclear weapons or other WMD by the rising number of powers who possess them looms.

#### And, power projection solves every scenario for extinction

Brzezinski, John Hopkins American Foreign Policy professor, 2012

(Zbigniew, Strategic Vision: America and the Crisis of Global Power, google books, ldg)

An American decline would impact the nuclear domain most profoundly by inciting a crisis of confidence in the credibility of the American nuclear umbrella. Countries like South Korea, Taiwan, Japan, Turkey, and even Israel, among others, rely on the United States’ extended nuclear deterrence for security. If they were to see the United States slowly retreat from certain regions, forced by circumstances to pull back its guarantees, or even if they were to lose confidence in standing US guarantees, because of the financial, political, military, and diplomatic consequences of an American decline, then they will have to seek security elsewhere. That “elsewhere” security could originate from only two sources: from nuclear weapons of one’s own or from the extended deterrence of another power—most likely Russia, China, or India. It is possible that countries that feel threatened by the ambition of existing nuclear weapon states, the addition of new nuclear weapon states, or the decline in the reliability of American power would develop their own nuclear capabilities. For crypto-nuclear powers like Germany and Japan, the path to nuclear weapons would be easy and fairly quick, given their extensive civilian nuclear industry, their financial success, and their technological acumen. Furthermore, the continued existence of nuclear weapons in North Korea and the potentiality of a nuclear-capable Iran could prompt American allies in the Persian Gulf or East Asia to build their own nuclear deterrents. Given North Korea’s increasingly aggressive and erratic behavior, the failure of the six-party talks, and the widely held distrust of Iran’s megalomaniacal leadership, the guarantees offered by a declining America’s nuclear umbrella might not stave off a regional nuclear arms race among smaller powers. Last but not least, even though China and India today maintain a responsible nuclear posture of minimal deterrence and “no first use,” the uncertainty of an increasingly nuclear world could force both states to reevaluate and escalate their nuclear posture. Indeed, they as well as Russia might even become inclined to extend nuclear assurances to their respective client states. Not only could this signal a renewed regional nuclear arms race between these three aspiring powers but it could also create new and antagonistic spheres of influence in Eurasia driven by competitive nuclear deterrence. The decline of the United States would thus precipitate drastic changes to the nuclear domain. An increase in proliferation among insecure American allies and/or an arms race between the emerging Asian powers are among the more likely outcomes. This ripple effect of proliferation would undermine the transparent management of the nuclear domain and increase the likelihood of interstate rivalry, miscalculation, and eventually even perhaps of international nuclear terror. In addition to the foregoing, in the course of this century the world will face a series of novel geopolitical challenges brought about by significant changes in the physical environment. The management of those changing environmental commons—the growing scarcity of fresh water, the opening of the Arctic, and global warming—will require global consensus and mutual sacrifice. American leadership alone is not enough to secure cooperation on all these issues, but a decline in American influence would reduce the likelihood of achieving cooperative agreements on environmental and resource management. America’s retirement from its role of global policeman could create greater opportunities for emerging powers to further exploit the environmental commons for their own economic gain, increasing the chances of resource-driven conflict, particularly in Asia. The latter is likely to be the case especially in regard to the increasingly scarce water resources in many countries. According to the United States Agency for International Development (USAID), by 2025 more than 2.8 billion people will be living in either water-scarce or water-stressed regions, as global demand for water will double every twenty years.9 While much of the Southern Hemisphere is threatened by potential water scarcity, interstate conflicts—the geopolitical consequences of cross-border water scarcity—are most likely to occur in Central and South Asia, the Middle East, and northeastern Africa, regions where limited water resources are shared across borders and political stability is transient. The combination of political insecurity and resource scarcity is a menacing geopolitical combination. The threat of water conflicts is likely to intensify as the economic growth and increasing demand for water in emerging powers like Turkey and India collides with instability and resource scarcity in rival countries like Iraq and Pakistan. Water scarcity will also test China’s internal stability as its burgeoning population and growing industrial complex combine to increase demand for and decrease supply of usable water. In South Asia, the never-ending political tension between India and Pakistan combined with overcrowding and Pakistan’s heightening internal crises may put the Indus Water Treaty at risk, especially because the river basin originates in the long-disputed territory of Jammu and Kashmir, an area of ever-increasing political and military volatility. The lingering dispute between India and China over the status of Northeast India, an area through which the vital Brahmaputra River flows, also remains a serious concern. As American hegemony disappears and **regional competition intensifies**, disputes over natural resources like water have the potential to develop into full-scale conflicts. The slow thawing of the Arctic will also change the face of the international competition for important resources. With the Arctic becoming increasingly accessible to human endeavor, the five Arctic littoral states—the United States, Canada, Russia, Denmark, and Norway—may rush to lay claim to its bounty of oil, gas, and metals. This run on the Arctic has the potential to cause severe shifts in the geopolitical landscape, particularly to Russia’s advantage. As Vladimir Radyuhin points out in his article entitled “The Arctic’s Strategic Value for Russia,” Russia has the most to gain from access to the Arctic while simultaneously being the target of far north containment by the other four Arctic states, all of which are members of NATO. In many respects this new great game will be determined by who moves first with the most legitimacy, since very few agreements on the Arctic exist. The first Russian supertanker sailed from Europe to Asia via the North Sea in the summer of 2010.10 Russia has an immense amount of land and resource potential in the Arctic. Its territory within the Arctic Circle is 3.1 million square kilometers—around the size of India—and the Arctic accounts for 91% of Russia’s natural gas production, 80% of its explored natural gas reserves, 90% of its offshore hydrocarbon reserves, and a large store of metals.11 Russia is also attempting to increase its claim on the territory by asserting that its continental shelf continues deeper into the Arctic, which could qualify Russia for a 150-mile extension of its Exclusive Economic Zone and add another 1.2 million square kilometers of resource-rich territory. Its first attempt at this extension was denied by the UN Commission on the Continental Shelf, but it is planning to reapply in 2013. Russia considers the Arctic a true extension of its northern border and in a 2008 strategy paper President Medvedev stated that the Arctic would become Russia’s “main strategic resource base” by 2020.12 Despite recent conciliatory summits between Europe and Russia over European security architecture, a large amount of uncertainty and distrust stains the West’s relationship with Russia. The United States itself has always maintained a strong claim on the Arctic and has continued patrolling the area since the end of the Cold War. This was reinforced during the last month of President Bush’s second term when he released a national security directive stipulating that America should “preserve the global mobility of the United States military and civilian vessels and aircraft throughout the Arctic region.” The potentiality of an American decline could embolden Russia to more forcefully assert its control of the Arctic and over Europe via energy politics; though much depends on Russia’s political orientation after the 2012 presidential elections. All five Arctic littoral states will benefit from a peaceful and cooperative agreement on the Arctic—similar to Norway’s and Russia’s 2010 agreement over the Barents Strait—and the geopolitical stability it would provide. Nevertheless, political circumstances could rapidly change in an environment where control over energy remains Russia’s single greatest priority. Global climate change is the final component of the environmental commons and the one with the greatest potential geopolitical impact. Scientists and policy makers alike have projected catastrophic consequences for mankind and the planet if the world average temperature rises by more than two degrees over the next century. Plant and animal species could grow extinct at a rapid pace, large-scale ecosystems could collapse, human migration could increase to untenable levels, and global economic development could be categorically reversed. Changes in geography, forced migration, and global economic contraction layered on top of the perennial regional security challenges could create a geopolitical reality of unmanageable complexity and conflict, especially in the densely populated and politically unstable areas of Asia such as the Northeast and South. Furthermore, any legitimate action inhibiting global climate change will require unprecedented levels of self-sacrifice and international cooperation. The United States does consider climate change a serious concern, but its lack of both long-term strategy and political commitment, evidenced in its refusal to ratify the Kyoto Protocol of 1997 and the repeated defeat of climate-change legislation in Congress, deters other countries from participating in a global agreement. The United States is the second-largest global emitter of carbon dioxide, after China, with 20% of the world’s share. The United States is the number one per capita emitter of carbon dioxide and the global leader in per capita energy demand. Therefore, US leadership is essential in not only getting other countries to cooperate, but also in actually inhibiting climate change. Others around the world, including the European Union and Brazil, have attempted their own domestic reforms on carbon emissions and energy use, and committed themselves to pursuing renewable energy. Even China has made reducing emissions a goal, a fact it refuses to let the United States ignore. But none of those nations currently has the ability to lead a global initiative. President Obama committed the United States to energy and carbon reform at the Copenhagen Summit in 2009, but the increasingly polarized domestic political environment and the truculent American economic recovery are unlikely to inspire progress on costly energy issues. China is also critically important to any discussion of the management of climate change as it produces 21% of the world’s total carbon emissions, a percentage that will only increase as China develops the western regions of its territory and as its citizens experience a growth in their standard of living. China, however, has refused to take on a leadership role in climate change, as it has also done in the maritime, space, and cyberspace domains. China uses its designation as a developing country to shield itself from the demands of global stewardship. China’s tough stance at the 2009 Copenhagen Summit underscores the potential dangers of an American decline: no other country has the capacity and the desire to accept global stewardship over the environmental commons. Only a vigorous Unites States could lead on climate change, given Russia’s dependence on carbon-based energies for economic growth, India’s relatively low emissions rate, and China’s current reluctance to assume global responsibility. The protection and good faith management of the global commons—sea, space, cyberspace, nuclear proliferation, water security, the Arctic, and the environment itself—**are imperative to** the long-term growth of the global economy and **the continuation of** basic geopolitical **stability**. But in almost every case, the potential absence of constructive and influential US leadership would fatally undermine the essential communality of the global commons.     The argument that America’s decline would generate global insecurity, endanger some vulnerable states, produce a more troubled North American neighborhood, and make cooperative management of the global commons more difficult is not an argument for US global supremacy. In fact, the strategic complexities of the world in the twenty-first century—resulting from the rise of a politically self-assertive global population and from the dispersal of global power—make such supremacy unattainable. But in this increasingly complicated geopolitical environment, an America in pursuit of a new, timely strategic vision is crucial to helping the world avoid a dangerous slide into international turmoil.

#### Legitimacy of the drone program is critical internal link to drone operations-- key to allied and public support of US leadership.

Kennedy, Foreign Policy prof-Kings College, 13 (Greg, Professor of Strategic Foreign Policy at the Defence Studies Department, King's College London, Drones: Legitimacy and Anti-Americanism, http://www.strategicstudiesinstitute.army.mil/pubs/parameters/Issues/WinterSpring\_2013/3\_Article\_Kennedy.pdf)

The current debate over the legitimacy of America’s use of drones to deliver deadly force is taking place in both public and official domains in the United States and many other countries.5 The four key features at the heart of the debate revolve around: who is controlling the weapon system; does the system of control and oversight violate international law governing the use of force; are the drone strikes proportionate acts that provide military effectiveness given the circumstances of the conflict they are being used in; and does their use violate the sovereignty of other nations and allow the United States to disregard formal national boundaries? Unless these four questions are dealt with in the near future the impact of the unresolved legitimacy issues will have a number of repercussions for American foreign and military policies: “Without a new doctrine for the use of drones that is understandable to friends and foes, the United States risks achieving near-term tactical benefits in killing terrorists while incurring potentially significant longer-term costs to its alliances, global public opinion, the war on terrorism and international stability.”6 This article will address only the first three critical questions. The question of who controls the drones during their missions is attracting a great deal of attention. The use of drones by the Central Intelligence Agency (CIA) to conduct “signature strikes” is the most problematic factor in this matter. Between 2004 and 2013, CIA drone attacks in Pakistan killed up to 3,461—up to 891 of them civilians.7 Not only is the use of drones by the CIA the issue, but subcontracting operational control of drones to other civilian agencies is also causing great concern.8 Questions remain as to whether subcontractors were controlling drones during actual strike missions, as opposed to surveillance and reconnaissance activities. Nevertheless, the intense questioning of John O. Brennan, President Obama’s nominee for director of the CIA in February 2013, over drone usage, the secrecy of their controllers and orders, and the legality of their missions confirmed the level of concern America’s elected officials have regarding the legitimacy of drone use. Furthermore, perceptions and suspicions of illegal clandestine intelligence agency operations, already a part of the public and official psyche due to experiences from Vietnam, Iran-Contra, and Iraq II and the weapons of mass destruction debacle, have been reinforced by CIA management of drone capability. Recent revelations about the use of secret Saudi Arabian facilities for staging American drone strikes into Yemen did nothing to dissipate such suspicions of the CIA’s lack of legitimacy in its use of drones.9 The fact that the secret facility was the launching site for drones used to kill American citizens Anwar al-Awlaki and his son in September 2011, both classified by the CIA as al-Qaedalinked threats to US security, only deepened such suspicions. Despite the fact that Gulf State observers and officials knew about American drones operating from the Arabian peninsula for years, the existence of the CIA base was not openly admitted in case such knowledge should “ . . . damage counter-terrorism collaboration with Saudi Arabia.”10 The fallout from CIA involvement and management of drone strikes prompted Senator Dianne Feinstein, Chairwoman of the Senate Intelligence Committee, to suggest the need for a court to oversee targeted killings. Such a body, she said, would replicate the Foreign Intelligence Surveillance Court, which oversees eavesdropping on American soil.11 Most importantly, such oversight would go a long way towards allaying fears of the drone usage lacking true political accountability and legitimacy. In addition, as with any use of force, drone strikes in overseas contingency operations can lead to increased attacks on already weak governments partnered with the United States. They can lead to retaliatory attacks on local governments and may contribute to local instability. Those actions occur as a result of desires for revenge and frustrations caused by the strikes. Feelings of hostility are often visited on the most immediate structures of authority—local government officials, government buildings, police, and the military.12 It can thus be argued that, at the strategic level, drone strikes are fuelling anti-American resentment among enemies and allies alike. Those reactions are often based on questions regarding the legality, ethicality, and operational legitimacy of those acts to deter opponents. Therefore, specifically related to the reaction of allies, the military legitimacy question arises if the use of drones endangers vital strategic relationships.13 One of the strategic relationships being affected by the drone legitimacy issue is that of the United States and the United Kingdom. Targeted killing, by drone strike or otherwise, is not the sole preserve of the United States. Those actions, however, attract more negative attention to the United States due to its prominence on the world’s stage, its declarations of support for human rights and democratic freedoms, and rule-of-law issues, all which appear violated by such strikes. This complexity and visibility make such targeted killings important for Anglo-American strategic relations because of the closeness of that relationship and the perception that Great Britain, therefore, condones such American activities. Because the intelligence used in such operations is seen by other nations as a shared Anglo-American asset, the use of such intelligence to identify and conduct such killings, in the opinion of many, makes Great Britain culpable in the illegality and immorality of those operations.14 Finally, the apparent gap between stated core policies and values and the ability to practice targeted killings appears to be a starkly hypocritical and deceitful position internationally, a condition that once again makes British policymakers uncomfortable with being tarred by such a brush.15 The divide between US policy and action is exacerbated by drone technology, which makes the once covert practice of targeted killing commonplace and undeniable. It may also cause deep-rooted distrust due to a spectrum of legitimacy issues. Such questions will, therefore, undermine the US desire to export liberal democratic principles. Indeed, it may be beneficial for Western democracies to achieve adequate rather than decisive victories, thereby setting an example of restraint for the international order.16 The United States must be willing to engage and deal with drone-legitimacy issues across the entire spectrum of tactical, operational, strategic, and political levels to ensure its strategic aims are not derailed by operational and tactical expediency.

#### Scenario 2- Counter-terrorism

#### US counter-terrorism efforts are failing. Overreliance on drones results in civilian deaths that cause blowback- terrorist groups use civilian deaths for recruitment and fundraising, their key strategies for resurgence.

Cronin, prof-GMU, 13 (Audrey Kurth, Professor of Public Policy at George Mason University and the author of How Terrorism Ends: Understanding the Decline and Demise of Terrorist Campaigns, “Why Drones Fail,” Foreign Affairs, Jul/Aug2013, Vol. 92, Issue 4)

Like any other weapon, armed drones can be tactically useful. But are they helping advance the strategic goals of U.S. counterterrorism? Although terrorism is a tactic, it can succeed only on the strategic level, by leveraging a shocking event for political gain. To be effective, counterterrorism must itself respond with a coherent strategy. The problem for Washington today is that its drone program has taken on a life of its own, to the point where tactics are driving strategy rather than the other way around. The main goals of U.S. counterterrorism are threefold: the strategic defeat of al Qaeda and groups affiliated with it, the containment of local conflicts so that they do not breed new enemies, and the preservation of the security of the American people. Drones do not serve all these goals. Although they can protect the American people from attacks in the short term, they are not helping to defeat al Qaeda, and they may be creating sworn enemies out of a sea of local insurgents. It would be a mistake to embrace killer drones as the centerpiece of U.S. counterterrorism. AL QAEDA'S RESILIENCE At least since 9/11, the United States has sought the end of al Qaeda -- not just to set it back tactically, as drones have surely done, but also to defeat the group completely. Terrorist organizations can meet their demise in a variety of ways, and the killing of their leaders is certainly one of them. Abu Sayyaf, an Islamist separatist group in the Philippines, lost its political focus, split into factions, and became a petty criminal organization after the army killed its leaders in 2006 and 2007. In other cases, however, including those of the Shining Path in Peru and Action Directe in France, the humiliating arrest of a leader has been more effective. By capturing a terrorist leader, countries can avoid creating a martyr, win access to a storehouse of intelligence, and discredit a popular cause. Despite the Obama administration's recent calls for limits on drone strikes, Washington is still using them to try to defeat al Qaeda by killing off its leadership. But the terrorist groups that have been destroyed through decapitation looked nothing like al Qaeda: they were hierarchically structured, characterized by a cult of personality, and less than ten years old, and they lacked a clear succession plan. Al Qaeda, by contrast, is a resilient, 25-year-old organization with a broad network of outposts. The group was never singularly dependent on Osama bin Laden's leadership, and it has proved adept at replacing dead operatives. Drones have inflicted real damage on the organization, of course. In Pakistan, the approximately 350 strikes since 2004 have cut the number of core al Qaeda members in the tribal areas by about 75 percent, to roughly 50-100, a powerful answer to the 2001 attacks they planned and orchestrated nearby. As al Qaeda's center of gravity has shifted away from Pakistan to Yemen and North Africa, drone strikes have followed the terrorists. In September 2011, Michael Vickers, the U.S. undersecretary of defense for intelligence, estimated that there were maybe four key al Qaeda leaders remaining in Pakistan and about ten or 20 leaders overall in Pakistan, Somalia, and Yemen. Drones have also driven down the overall level of violence in the areas they have hit. The political scientists Patrick Johnston and Anoop Sarbahi recently found that drone strikes in northwestern Pakistan from 2007 to 2011 resulted in a decrease in the number and lethality of militant attacks in the tribal areas where they were conducted. Such strikes often lead militants simply to go somewhere else, but that can have value in and of itself. Indeed, the drone threat has forced al Qaeda operatives and their associates to change their behavior, keeping them preoccupied with survival and hindering their ability to move, plan operations, and carry them out. The fighters have proved remarkably adaptable: a document found left behind in February 2013 by Islamist fighters fleeing Mali detailed 22 tips for avoiding drone attacks, including using trees as cover, placing dolls and statues outside to mislead aerial intelligence, and covering vehicles with straw mats. Nonetheless, the prospect of living under the threat of instant death from above has made recruitment more difficult and kept operatives from establishing close ties to local civilians, who fear they might also be killed. But the benefits end there, and there are many reasons to believe that drone strikes are undermining Washington's goal of destroying al Qaeda. Targeted killings have not thwarted the group's ability to replace dead leaders with new ones. Nor have they undermined its propaganda efforts or recruitment. Even if al Qaeda has become less lethal and efficient, its public relations campaigns still allow it to reach potential supporters, threaten potential victims, and project strength. If al Qaeda's ability to perpetuate its message continues, then the killing of its members will not further the long-term goal of ending the group. Not only has al Qaeda's propaganda continued uninterrupted by the drone strikes; it has been significantly enhanced by them. As Sahab (The Clouds), the propaganda branch of al Qaeda, has been able to attract recruits and resources by broadcasting footage of drone strikes, portraying them as indiscriminate violence against Muslims. Al Qaeda uses the strikes that result in civilian deaths, and even those that don't, to frame Americans as immoral bullies who care less about ordinary people than al Qaeda does. And As Sahab regularly casts the leaders who are killed by drones as martyrs. It is easy enough to kill an individual terrorist with a drone strike, but the organization's Internet presence lives on. A more effective way of defeating al Qaeda would be to publicly discredit it with a political strategy aimed at dividing its followers. Al Qaeda and its various affiliates do not together make up a strong, unified organization. Different factions within the movement disagree about both long-term objectives and short-term tactics, including whether it is acceptable to carry out suicide attacks or kill other Muslims. And it is in Muslim-majority countries where jihadist violence has taken its worst toll. Around 85 percent of those killed by al Qaeda's attacks have been Muslims, a fact that breeds revulsion among its potential followers. The United States should be capitalizing on this backlash. In reality, there is no equivalence between al Qaeda's violence and U.S. drone strikes -- under the Obama administration, drones have avoided civilians about 86 percent of the time, whereas al Qaeda purposefully targets them. But the foolish secrecy of Washington's drone program lets critics allege that the strikes are deadlier and less discriminating than they really are. Whatever the truth is, the United States is losing the war of perceptions, a key part of any counterterrorism campaign. Since 2010, moreover, U.S. drone strikes have progressed well beyond decapitation, now targeting al Qaeda leaders and followers alike, as well as a range of Taliban members and Yemeni insurgents. With its so-called signature strikes, Washington often goes after people whose identity it does not know but who appear to be behaving like militants in insurgent-controlled areas. The strikes end up killing enemies of the Pakistani, Somali, and Yemeni militaries who may not threaten the United States at all. Worse, because the targets of such strikes are so loosely defined, it seems inevitable that they will kill some civilians. The June 2011 claim by John Brennan, President Barack Obama's top counterterrorism adviser at the time, that there had not been a single collateral death from drone attacks in the previous year strained credulity -- and badly undermined U.S. credibility. The drone campaign has morphed, in effect, into remote-control repression: the direct application of brute force by a state, rather than an attempt to deal a pivotal blow to a movement. Repression wiped out terrorist groups in Argentina, Brazil, Peru, and tsarist Russia, but in each case, it sharply eroded the government's legitimacy. Repression is costly, not just to the victims, and difficult for democracies to sustain over time. It works best in places where group members can be easily separated from the general population, which is not the case for most targets of U.S. drone strikes. Military repression also often results in violence spreading to neighboring countries or regions, which partially explains the expanding al Qaeda footprint in the Middle East and North Africa, not to mention the Caucasus. KEEPING LOCAL CONFLICTS LOCAL Short of defeating al Qaeda altogether, a top strategic objective of U.S. counterterrorism should be to prevent fighters in local conflicts abroad from aligning with the movement and targeting the United States and its allies. Military strategists refer to this goal as "the conservation of enemies," the attempt to keep the number of adversaries to a minimum. Violent jihadism existed long before 9/11 and will endure long after the U.S. war on terrorism finally ends. The best way for the United States to prevent future acts of international terrorism on its soil is to make sure that local insurgencies remain local, to shore up its allies' capacities, and to use short-term interventions such as drones rarely, selectively, transparently, and only against those who can realistically target the United States. The problem is that the United States can conceivably justify an attack on any individual or group with some plausible link to al Qaeda. Washington would like to disrupt any potentially powerful militant network, but it risks turning relatively harmless local jihadist groups into stronger organizations with eager new recruits. If al Qaeda is indeed becoming a vast collective of local and regional insurgents, the United States should let those directly involved in the conflicts determine the outcome, keep itself out, provide resources only to offset funds provided to radical factions, and concentrate on protecting the homeland. Following 9/11, the U.S. war on terrorism was framed in the congressional authorization to use force as a response to "those nations, organizations, or persons" responsible for the attacks. The name "al Qaeda," which does not appear in the authorization, has since become an ill-defined shorthand, loosely employed by terrorist leaders, counterterrorism officials, and Western pundits alike to describe a shifting movement. The vagueness of the U.S. terminology at the time was partly deliberate: the authorization was worded to sidestep the long-standing problem of terrorist groups' changing their names to evade U.S. sanctions. But Washington now finds itself in a permanent battle with an amorphous and geographically dispersed foe, one with an increasingly marginal connection to the original 9/11 plotters. In this endless contest, the United States risks multiplying its enemies and heightening their incentives to attack the country.

#### And, lack of transparency to the drone program collapses allied cooperation on terrorism, which is critical to intelligence sharing.

Human Rights First 13 (How to Ensure that the U.S. Drone Program does not Undermine Human Rights BLUEPRINT FOR THE NEXT ADMINISTRATION, Updated April 13, http://www.humanrightsfirst.org/wp-content/uploads/pdf/blueprints2012/HRF\_Targeted\_Killing\_blueprint.pdf)

The Obama Administration has dramatically escalated targeted killing by drones as a central feature of its counterterrorism response. Over the past two years, the administration has begun to reveal more about the targeted killing program, including in a leaked Department of Justice White paper on targeted killing1 and in public remarks by several senior officials.2 While this information is welcome, it does not fully address our concerns. Experts and other governments have continued to raise serious concerns about:  The precedent that the U.S. targeted killing policy is setting for the rest of the world, including countries that have acquired or are in the process of acquiring drones, yet have long failed to adhere to the rule of law and protect human rights;  The impact of the drone program on other U.S. counterterrorism efforts, including whether U.S. allies and other security partners have reduced intelligence-sharing and other forms of counterterrorism cooperation because of the operational and legal concerns expressed by these countries;  The impact of drone operations on other aspects of U.S. counterterrorism strategy, especially diplomatic and foreign assistance efforts designed to counter extremism, promote stability and provide economic aid;  The number of civilian casualties, including a lack of clarity on who the United States considers a civilian in these situations; and  Whether the legal framework for the program that has been publicly asserted so far by the administration comports with international legal requirements. The totality of these concerns, heightened by the lack of public information surrounding the program, require the administration to better explain the program and its legal basis, and to carefully review the policy in light of the global precedent it is setting and serious questions about the effectiveness of the program on the full range of U.S. counterterrorism efforts. While it is expected that elements of the U.S. government’s strategy for targeted killing will be classified, it is in the national interest that the government be more transparent about policy considerations governing its use as well as its legal justification, and that the program be subject to regular oversight. Furthermore, it is in U.S. national security interests to ensure that the rules of engagement are clear and that the program minimizes any unintended negative consequences. How the U.S. operates and publicly explains its targeted killing program will have far-reaching consequences. The manufacture and sale of unmanned aerial vehicles (UAVs) is an increasingly global industry and drone technology is not prohibitively complicated. Some 70 countries already possess UAVs3 —including Russia, Syria and Libya4 —and others are in the process of acquiring them. As White House counterterrorism chief John Brennan stated: the United States is "establishing precedents that other nations may follow, and not all of them will be nations that share our interests or the premium we put on protecting human life, including innocent civilians."5 By declaring that it is in an armed conflict with al Qaeda’s “associated forces” (a term it has not defined) without articulating limits to that armed conflict, the United States is inviting other countries to similarly declare armed conflicts against groups they consider to be security threats for purposes of assuming lethal targeting authority. Moreover, by announcing that all “members” of such groups are legally targetable, the United States is establishing exceedingly broad precedent for who can be targeted, even if it is not utilizing the full scope of this claimed authority.6 As an alternative to armed conflict-based targeting, U.S. officials have claimed targeted killings are justified as self-defense responding to an imminent threat, but have referred to a “flexible” or “elongated” concept of imminence,7 without adequately explaining what that means or how that complies with the requirements of international law. In a white paper leaked to NBC news in February 2013, for example, the Department of Justice adopts what it calls a “broader concept of imminence” that has no basis in law. According to the white paper, an imminent threat need be neither immediate nor specific. This is a dangerous, unprecedented and unwarranted expansion of widely-accepted understandings of international law.8 It is also not clear that the current broad targeted killing policy serves U.S. long-term strategic interests in combating international terrorism. Although it has been reported that some high-level operational leaders of al Qaeda have been killed in drone attacks, studies show that the vast majority of victims are not high-level terrorist leaders.9 National security analysts and former U.S. military officials increasingly argue that such tactical gains are outweighed by the substantial costs of the targeted killing program, including growing antiAmerican sentiment and recruiting support for al Qaeda. 10 General Stanley McChrystal has said: “What scares me about drone strikes is how they are perceived around the world. The resentment created by American use of unmanned strikes ... is much greater than the average American appreciates.”11 The broad targeted killing program has already strained U.S. relations with its allies and thereby impeded the flow of critical intelligence about terrorist operations.12

#### Allied cooperation on intelligence is critical to effective counterterrorism

McGill and Gray 12 (Anna-Katherine Staser McGill, David H. Gray, “Challenges to International Counterterrorism Intelligence Sharing,” Global Security Studies, Summer 2012, Volume 3, Issue 3, http://globalsecuritystudies.com/McGill%20Intel%20Share.pdf)

In his article “Old Allies and New Friends: Intelligence-Sharing in the War on Terror”, Derek Reveron states “the war on terror requires high levels of intelligence to identify a threat relative to the amount of force required to neutralize it” as opposed to the Cold War where the opposite was true (455). As a result, intelligence is the cornerstone of effective counterterrorism operations in the post 9/11 world. Though the United States has the most robust intelligence community in the world with immense capability, skills, and technology, its efficiency in counterterrorism issues depends on coalitions of both traditional allies and new allies. Traditional allies offer a certain degree of dependability through a tried and tested relationship based on similar values; however, newly cultivated allies in the war on terrorism offer invaluable insight into groups operating in their own back yard. The US can not act unilaterally in the global fight against terrorism. It doesn’t have the resources to monitor every potential terrorist hide-out nor does it have the time or capability to cultivate the cultural, linguistic, and CT knowledge that its new allies have readily available. The Department of Defense’s 2005 Quadrennial Review clearly states that the United States "cannot meet today's complex challenges alone. Success requires unified statecraft: the ability of the U.S. government to bring to, bear all elements of national power at home and to work in close cooperation with allies and partners abroad" (qtd in Reveron, 467). The importance of coalition building for the war on terrorism is not lost on US decision-makers as seen by efforts made in the post 9/11 climate to strengthen old relationships and build new ones; however, as seen in the following sections, the possible hindrances to effective, long term CT alliances must also be addressed in order to sustain current operations.

#### And, Al-Qaeda is planning attacks on the US.

Byman, Brookings Fellow, 13 (Daniel, professor in the Security Studies Program of Georgetown University's School of Foreign Service and the research director of the Saban Center for Middle East Policy at the Brookings Institution, “Al Qaeda Is Alive in Africa,” Jan 17, http://www.foreignpolicy.com/articles/2013/01/17/al\_qaeda\_is\_alive\_in\_africa)

It has been over a year and a half since Osama bin Laden was killed in Abbottabad, Pakistan, but now it seems like al Qaeda is everywhere: from Algeria to Somalia, from Mali to Yemen, from Pakistan to Iraq. In July 2011, arriving in Afghanistan on his first trip as U.S. defense secretary, Leon Panetta said, "We're within reach of strategically defeating al Qaeda." But on Wednesday, Jan. 16, Panetta seemed to express a good deal less optimism, making clear that the Algerian hostage crisis currently unfolding was "an al Qaeda operation." So has al Qaeda really become this web of linked groups around the world pursuing a common jihad against the West? And what is the relationship between the al Qaeda core and its affiliate organizations? These are important questions; the debate about whether the United States should join the French and step up involvement against jihadi groups in Mali centers on these complicated ties. For while al Qaeda leader Ayman al-Zawahiri and his lieutenants in the Afghanistan-Pakistan area consume much of our thinking on al Qaeda, the United States is also fighting al Qaeda affiliates like al Qaeda in Iraq (AQI), the Yemen-based al Qaeda in the Arabian Peninsula (AQAP), and al-Shabab in Somalia, which is also linked to al Qaeda. In 2012, the United States conducted more drone strikes on AQAP targets than it did against al Qaeda core targets in Pakistan. In Mali, U.S. concern is heightened by reports that some among the wide range of local jihadi groups like Ansar Dine have ties to al Qaeda in the Islamic Maghreb (AQIM). If groups in Mali and other local fighters are best thought of as part of al Qaeda, then an aggressive effort is warranted. But if these groups, however brutal -- and despite the allegiances to the mother ship they claim -- are really only fighting to advance local or regional ambitions, then the case for direct U.S. involvement is weak. The reality is that affiliation does advance al Qaeda's agenda, but the relationship is often frayed and the whole is frequently far less than the sum of its parts. Al Qaeda has always sought to be a vanguard that would lead the jihadi struggle against the United States. Abdullah Azzam, one of the most influential jihadi thinkers and a companion of bin Laden, wrote, "Every principle needs a vanguard to carry it forward" and that this vanguard is a "solid base" -- a phrase from which al Qaeda draws its very name. At the same time, al Qaeda sought to support and unify local Muslim groups as they warred against apostate governments such as the House of Saud in Saudi Arabia and Hosni Mubarak's Egypt. Convincing local groups to fight under the al Qaeda banner seems to neatly combine these goals, demonstrating that the mother organization -- now under Zawahiri -- remains in charge, while advancing the local and regional agendas that the core supports. More practically, in the past, the al Qaeda core has offered affiliates money and safe haven. In Afghanistan, and to a lesser degree in Pakistan, jihadists from affiliated groups came to train and learn and proved far more formidable when they returned to their home war zones. They also returned with a more global agenda, advancing the core's mission of shaping the jihadi movement. It also gave the core a new zone of operational access to conduct terrorist attacks in other places. Perhaps most importantly, the core al Qaeda managed to change the nature of the affiliates' attacks, so that in addition to continuing to strike at local regime forces, they also select targets more in keeping with the core's anti-Western goals. AQIM's attack this week on Western tourists and foreign oil workers in Algeria mimics the change in strategy. AQAP has taken this one step further and gone after the United States outside its region, twice launching sophisticated attacks on U.S. civil aviation.

#### And, they’ll use nuclear and biological weapons

Allison, IR Director @ Harvard, 12 (Graham, Director, Belfer Center for Science and International Affairs; Douglas Dillon Professor of Government, Harvard Kennedy School, "Living in the Era of Megaterror", Sept 7, http://belfercenter.ksg.harvard.edu/publication/22302/living\_in\_the\_era\_of\_megaterror.html)

Forty years ago this week at the Munich Olympics of 1972, Palestinian terrorists conducted one of the most dramatic terrorist attacks of the 20th century. The kidnapping and massacre of 11 Israeli athletes attracted days of around-the-clock global news coverage of Black September’s anti-Israel message. Three decades later, on 9/11, Al Qaeda killed nearly 3,000 individuals at the World Trade Center and the Pentagon, announcing a new era of megaterror. In an act that killed more people than Japan’s attack on Pearl Harbor, a band of terrorists headquartered in ungoverned Afghanistan demonstrated that individuals and small groups can kill on a scale previously the exclusive preserve of states. Today, how many people can a small group of terrorists kill in a single blow? Had Bruce Ivins, the U.S. government microbiologist responsible for the 2001 anthrax attacks, distributed his deadly agent with sprayers he could have purchased off the shelf, tens of thousands of Americans would have died. Had the 2001 “Dragonfire” report that Al Qaeda had a small nuclear weapon (from the former Soviet arsenal) in New York City proved correct, and not a false alarm, detonation of that bomb in Times Square could have incinerated a half million Americans. In this electoral season, President Obama is claiming credit, rightly, for actions he and U.S. Special Forces took in killing Osama bin Laden. Similarly, at last week’s Republican convention in Tampa, Jeb Bush praised his brother for making the United States safer after 9/11. There can be no doubt that the thousands of actions taken at federal, state and local levels have made people safer from terrorist attacks. Many are therefore attracted to the chorus of officials and experts claiming that the “strategic defeat” of Al Qaeda means the end of this chapter of history. But we should remember a deeper and more profound truth. While applauding actions that have made us safer from future terrorist attacks, we must recognize that they have not reversed an inescapable reality: The relentless advance of science and technology is making it possible for smaller and smaller groups to kill larger and larger numbers of people. If a Qaeda affiliate, or some terrorist group in Pakistan whose name readers have never heard, acquires highly enriched uranium or plutonium made by a state, they can construct an elementary nuclear bomb capable of killing hundreds of thousands of people. At biotech labs across the United States and around the world, research scientists making medicines that advance human well-being are also capable of making pathogens, like anthrax, that can produce massive casualties. What to do? Sherlock Holmes examined crime scenes using a method he called M.M.O.: motive, means and opportunity. In a society where citizens gather in unprotected movie theaters, churches, shopping centers and stadiums, opportunities for attack abound. Free societies are inherently “target rich.” Motive to commit such atrocities poses a more difficult challenge. In all societies, a percentage of the population will be homicidal. No one can examine the mounting number of cases of mass murder in schools, movie theaters and elsewhere without worrying about a society’s mental health. Additionally, actions we take abroad unquestionably impact others’ motivation to attack us. As Faisal Shahzad, the 2010 would-be “Times Square bomber,” testified at his trial: “Until the hour the U.S. ... stops the occupation of Muslim lands, and stops killing the Muslims ... we will be attacking U.S., and I plead guilty to that.” Fortunately, it is more difficult for a terrorist to acquire the “means” to cause mass casualties. Producing highly enriched uranium or plutonium requires expensive industrial-scale investments that only states will make. If all fissile material can be secured to a gold standard beyond the reach of thieves or terrorists, aspirations to become the world’s first nuclear terrorist can be thwarted. Capabilities for producing bioterrorist agents are not so easily secured or policed. While more has been done, and much more could be done to further raise the technological barrier, as knowledge advances and technological capabilities to make pathogens become more accessible, the means for bioterrorism will come within the reach of terrorists. One of the hardest truths about modern life is that the same advances in science and technology that enrich our lives also empower potential killers to achieve their deadliest ambitions. To imagine that we can escape this reality and return to a world in which we are invulnerable to future 9/11s or worse is an illusion. For as far as the eye can see, we will live in an era of megaterror.

#### And, Nuclear terrorism attacks escalate and cause extinction.

**Morgan, Hankuk University of Foreign Studies, 2009**

(Dennis, World on fire: two scenarios of the destruction of human civilization and possible extinction of the human race Futures, Volume 41, Issue 10, December, ldg)

In a remarkable website on nuclear war, Carol Moore asks the question “Is Nuclear War Inevitable??” In Section , Moore points out what most terrorists obviously already know about the nuclear tensions between powerful countries. No doubt, they’ve figured out that the best way to escalate these tensions into nuclear war is to set off a nuclear exchange. As Moore points out, all that militant terrorists would have to do is get their hands on one small nuclear bomb and explode it on either Moscow or Israel. Because of the Russian “dead hand” system, “where regional nuclear commanders would be given full powers should Moscow be destroyed,” it is likely that any attack would be blamed on the United States” Israeli leaders and Zionist supporters have, likewise, stated for years that if Israel were to suffer a nuclear attack, whether from terrorists or a nation state, it would retaliate with the suicidal “Samson option” against all major Muslim cities in the Middle East. Furthermore, the Israeli Samson option would also include attacks on Russia and even “anti-Semitic” European cities In that case, of course, Russia would retaliate, and the U.S. would then retaliate against Russia. China would probably be involved as well, as thousands, if not tens of thousands, of nuclear warheads, many of them much more powerful than those used at Hiroshima and Nagasaki, would rain upon most of the major cities in the Northern Hemisphere. Afterwards, for years to come, massive radioactive clouds would drift throughout the Earth in the nuclear fallout, bringing death or else radiation disease that would be genetically transmitted to future generations in a nuclear winter that could last as long as a 100 years, taking a savage toll upon the environment and fragile ecosphere as well. And what many people fail to realize is what a precarious, hair-trigger basis the nuclear web rests on. Any accident, mistaken communication, false signal or “lone wolf’ act of sabotage or treason could, in a matter of a few minutes, unleash the use of nuclear weapons, and once a weapon is used, then the likelihood of a rapid escalation of nuclear attacks is quite high while the likelihood of a limited nuclear war is actually less probable since each country would act under the “use them or lose them” strategy and psychology; restraint by one power would be interpreted as a weakness by the other, which could be exploited as a window of opportunity to “win” the war. In other words, once Pandora's Box is opened, it will spread quickly, as it will be the signal for permission for anyone to use them. Moore compares swift nuclear escalation to a room full of people embarrassed to cough. Once one does, however, “everyone else feels free to do so. The bottom line is that as long as large nation states use internal and external war to keep their disparate factions glued together and to satisfy elites’ needs for power and plunder, these nations will attempt to obtain, keep, and inevitably use nuclear weapons. And as long as large nations oppress groups who seek self-determination, some of those groups will look for any means to fight their oppressors” In other words, as long as war and aggression are backed up by the implicit threat of nuclear arms, it is only a matter of time before the escalation of violent conflict leads to the actual use of nuclear weapons, and once even just one is used, it is very likely that many, if not all, will be used, leading to horrific scenarios of global death and the destruction of much of human civilization while condemning a mutant human remnant, if there is such a remnant, to a life of unimaginable misery and suffering in a nuclear winter. In “Scenarios,” Moore summarizes the various ways a nuclear war could begin: Such a war could start through a reaction to terrorist attacks, or through the need to protect against overwhelming military opposition, or through the use of small battle field tactical nuclear weapons meant to destroy hardened targets. It might quickly move on to the use of strategic nuclear weapons delivered by short-range or inter-continental missiles or long-range bombers. These could deliver high altitude bursts whose electromagnetic pulse knocks out electrical circuits for hundreds of square miles. Or they could deliver nuclear bombs to destroy nuclear and/or non-nuclear military facilities, nuclear power plants, important industrial sites and cities. Or it could skip all those steps and start through the accidental or reckless use of strategic weapons

#### And, Bioterror leads to extinction

Anders Sandberg 8, is a James Martin Research Fellow at the Future of Humanity Institute at Oxford University; Jason G. Matheny, PhD candidate in Health Policy and Management at Johns Hopkins Bloomberg School of Public Health and special consultant to the Center for Biosecurity at the University of Pittsburgh Medical Center; Milan M. Ćirković, senior research associate at the Astronomical Observatory of Belgrade and assistant professor of physics at the University of Novi Sad in Serbia and Montenegro, 9/8/8, “How can we reduce the risk of human extinction?,” Bulletin of the Atomic Scientists,<http://www.thebulletin.org/web-edition/features/how-can-we-reduce-the-risk-of-human-extinction>

The risks from anthropogenic hazards appear at present larger than those from natural ones. Although great progress has been made in reducing the number of nuclear weapons in the world, humanity is still threatened by the possibility of a global thermonuclear war and a resulting nuclear winter. We may face even greater risks from emerging technologies. Advances in synthetic biology might make it possible to engineer pathogens capable of extinction-level pandemics. The knowledge, equipment, and materials needed to engineer pathogens are more accessible than those needed to build nuclear weapons. And unlike other weapons, pathogens are self-replicating, allowing a small arsenal to become exponentially destructive. Pathogens have been implicated in the extinctions of many wild species. Although most pandemics "fade out" by reducing the density of susceptible populations, pathogens with wide host ranges in multiple species can reach even isolated individuals. The intentional or unintentional release of engineered pathogens with high transmissibility, latency, and lethality might be capable of causing human extinction. While such an event seems unlikely today, the likelihood may increase as biotechnologies continue to improve at a rate rivaling Moore's Law.

#### Only judicial review provides the due process necessary to solve public confidence in targeting—key to viability of the program

Corey, Army Colonel, 12 (Colonel Ian G. Corey, “Citizens in the Crosshairs: Ready, Aim, Hold Your Fire?,” http://www.dtic.mil/cgi-bin/GetTRDoc?AD=ADA561582)

Alternatively, targeted killing decisions could be subjected to judicial review. 103 Attorney General Holder rejected ex ante judicial review out of hand, citing the Constitution’s allocation of national security operations to the executive branch and the need for timely action.104 Courts are indeed reluctant to stray into the realm of political questions, as evidenced by the district court’s dismissal of the ACLU and CCR lawsuit. On the other hand, a model for a special court that operates in secret already exists: the Foreign Intelligence Surveillance Court (FISC) that oversees requests for surveillance warrants for suspected foreign agents. While ex ante judicial review would provide the most robust form of oversight, ex post review by a court like the FISC would nonetheless serve as a significant check on executive power.105 Regardless of the type of oversight implemented, some form of independent review is necessary to demonstrate accountability and bolster confidence in the targeted killing process. Conclusion The United States has increasingly relied on targeted killing as an important tactic in its war on terror and will continue to do so for the foreseeable future.106 This is entirely reasonable given current budgetary constraints and the appeal of targeted killing, especially UAS strikes, as an alternative to the use of conventional forces. Moreover, the United States will likely again seek to employ the tactic against U.S. citizens assessed to be operational leaders of AQAM. As demonstrated above, one can make a good faith argument that doing so is entirely permissible under both international and domestic law as the Obama Administration claims, the opinions of some prominent legal scholars notwithstanding. The viability of future lethal targeting of U.S. citizens is questionable, however, if the government fails to address legitimate issues of transparency and accountability. While the administration has recently made progress on the transparency front, much more remains to be done, including the release in some form of the legal analysis contained in OLC’s 2010 opinion. Moreover, the administration must be able to articulate to the American people how it selects U.S. citizens for targeted killing and the safeguards in place to mitigate the risk of error and abuse. Finally, these targeting decisions must be subject to some form of independent review that will both satisfy due process and boost public confidence.

#### Court action is key—using the legal process to protect constitutional rights is critical to counter-terrorism credibility and US soft power.

Sidhu, J.D, 11 (Dawinder S., J.D., The George Washington University; M.A., Johns Hopkins University; B.A., University of Pennsylvania. Mr. Sidhu is an attorney whose primary intellectual focus is the relationship between individual rights and heightened national security concerns, “JUDICIAL REVIEW AS SOFT POWER: HOW THE COURTS CAN HELP US WIN THE POST-9/11 CONFLICT,” NATIONAL SECURITY LAW BRIEF Vol 1, No 1, <http://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1003&context=nslb>)

The legal principles established by the Framers and enshrined in the Constitution are a source of attraction only if we have meaningfully adhered to them in practice. Part II will posit that the Supreme Court’s robust evaluation of cases in the wartime context suggests that the nation has been faithful to the rule of law even in times of national stress. As support, this part will provide exam- ples of cases involving challenges to the American response to wars both before and after 9/11, the discussion of which will exhibit American respect for the rule of law. While the substantive results of some of these cases may be particularly pleasing to Muslims, for instance the extension of habeas protections to detainees in Guantánamo, 30 this part will make clear that it is the legal process—not substantive victories for one side or against the government—which is the true source of American legal soft power. If it is the case that the law may be an element of soft power conceptually and that the use of the legal process has refl ected this principle in practice, the conclusion argues that it would benefit American national security for others in the world to be made aware of the American constitutional framework and the judiciary’s activities related to the war. Such information would make it more likely that other nations and peoples, especially moderate Muslims, will be attracted to American interests. This Article thus reaches a conclusion that may seem counterintuitive—that the judicial branch, in the performance of its constitutional duty of judicial review, furthers American national security and foreign policy objectives even when it may happen to strike down executive or legislative arguments for expanded war powers to prosecute the current war on terror and even though the executive and legislature constitute the foreign policy branches of the federal government. In other words, a “loss” for the executive or legislature, may be considered, in truth, a reaffirmation of our constitutional system and therefore a victory for the entire nation in the neglected but necessary post-9/11 war of ideas. 31 As such, it is the central contention of this Article that the judicial branch is a repository of American soft power and thus a useful tool in the post-9/11 conflict

#### Judicial review is the only mechanism for creating transparency and reducing collateral damage – the executive alone can’t solve

Adelsberg 12 (Samuel S., \* J.D. Candidate 2013, Yale Law School, “Bouncing the Executive's Blank Check: Judicial Review and the Targeting of Citizens” Harvard Law & Policy Review 6 Harv. L. & Pol'y Rev. 437, Lexis)

[\*445] Rather, as recognized by the Founders in the Fourth Amendment, balancing the needs of security against the imperatives of liberty is a traditional role for judges to play. Two scholars of national security law recently highlighted the value of judicial inclusion in targeting decisions: "Judicial control of targeted killing could increase the accuracy of target selection, reducing the danger of mistaken or illegal destruction of lives, limbs, and property. Independent judges who double-check targeting decisions could catch errors and cause executive officials to avoid making them in the first place." n47 Judges are both knowledgeable in the law and accustomed to dealing with sensitive security considerations. These qualifications make them ideal candidates to ensure that the executive exercises constitutional restraint when targeting citizens. Reforming the decision-making process for executing American citizens to allow for judicial oversight would restore the separation of powers framework envisioned by the Founders and increase democratic legitimacy by placing these determinations on steadier constitutional ground. For those fearful of judicial encroachment on executive war-making powers, there is a strong argument that this will actually strengthen the President and empower him to take decisive action without worrying about the judicial consequences. As Justice Kennedy put it, "the exercise of [executive] powers is vindicated, not eroded, when confirmed by the Judicial Branch." n48 Now, we will turn to what this judicial involvement would look like.

### 1AC CMR Advantage

#### Advantage Two: Civil-military relations

#### Judicial review of the military is collapsing now- judicial deference over targeted killing results in an unchecked executive.

McCormack, law prof-Utah, 13 (Wayne McCormack is the E. W. Thode Professor of Law at the University of Utah S.J. Quinney College of Law, U.S. Judicial Independence: Victim in the “War on Terror”, Aug 20, https://today.law.utah.edu/projects/u-s-judicial-independence-victim-in-the-war-on-terror/)

One of the principal victims in the U.S. so-called “war on terror” has been the independence of the U.S. Judiciary. Time and again, challenges to assertedly illegal conduct on the part of government officials have been turned aside, either because of overt deference to the Government or because of special doctrines such as state secrets and standing requirements. The judiciary has virtually relinquished its valuable role in the U.S. system of judicial review. In the face of governmental claims of crisis and national security needs, the courts have refused to examine, or have examined with undue deference, the actions of government officials. The U.S. Government has taken the position that inquiry by the judiciary into a variety of actions would threaten the safety of the nation. This is pressure that amounts to intimidation. When this level of pressure is mounted to create exceptions to established rules of law, it undermines due process of law. Perhaps one or two examples of Government warnings about the consequences of a judicial decision would be within the domain of legal argument. But a long pattern of threats and intimidation to depart from established law undermines judicial independence. That has been the course of the U.S. “war on terror” for over a decade now. Here are some of the governmental actions that have been challenged and a brief statement of how the Courts responded to Government demands for deference. 1. Guantanamo. In Boumediene v. Bush,1 the Supreme Court allowed the U.S. to detain alleged “terrorists” under unstated standards to be developed by the lower courts with “deference” to Executive determinations. The intimidation exerted on the Court was reflected in Justice Scalia’s injudicious comment that the Court’s decision would “surely cause more Americans to be killed.” 2. Detention and Torture Khalid El-Masri2 claimed that he was detained in CIA “black sites” and tortured – case dismissed under the doctrine of “state secrets privilege.” (SSP) Maher Arar3 is a Canadian citizen who was detained at Kennedy Airport by U.S. authorities, shipped off to Syria for imprisonment and mistreatment, and finally released to Canadian authorities – case dismissed under “special factors” exception to tort actions for violations of law by federal officials – awarded $1 million by Canadian authorities. Jose Padilla4 was arrested deplaning at O’Hare Airport, imprisoned in the U.S. for four years without a hearing and allegedly mistreated in prison – case dismissed on grounds of “good faith” immunity. Binyam Mohamed5 was subjected to “enhanced interrogation techniques” at several CIA “black sites” before being repatriated to England, which awarded him £1 million in damages – U.S. suit dismissed under SSP. 1 553 U.S. 723 (2008). 2 El-Masri v. United States, 479 F.3d 296 (4th Cir. 2007). 3 Arar v. Ashcroft, 414 F. Supp. 2d 250 (E.D.N.Y. 2005), aff’d by 585 F.3d 559 (2009). 4 Padilla v. Yoo, 678 F.3d 748 (9th Cir. 2012). 5 Mohamed v. Jeppesen Dataplan, 614 F.3d 1070 (9th Cir. en banc 2010) damages – U.S. suit dismissed under SSP. 3. Unlawful Detentions Abdullah Al-Kidd6 arrested as a material witness, held in various jails for two weeks, and then confined to house arrest for 15 months – suit dismissed on grounds of “qualified immunity” and apparent validity of material witness warrant. Ali Al-Marri was originally charged with perjury, then detained as an enemy combatant, for a total detention of four years before the Fourth Circuit finally held that he must be released or tried.7 Javad Iqbal8 was detained on visa violations in New York following 9/11 and claimed he was subjected to mistreatment on the basis of ethnic profiling – suit dismissed on grounds that he could not prove Attorney General authorization of illegal practices and court’s unwillingness to divert attention of officials away from national security. Osama Awadallah9 was taken into custody in Los Angeles after his name and phone number were found on a gum wrapper in the car of one of the 9/11 hijackers – charged with perjury before grand jury and held as material witness – Second Circuit reversed district court ruling on abuse of the material witness statute 4. Unlawful Surveillance Amnesty International10 is one of numerous organizations that brought suit believing that its communications, especially with foreign clients or correspondents had been monitored by the National Security Agency – suit dismissed because the secrecy of the NSA spying program made it impossible to prove that any particular person or group had been monitored. The validity of the entire Foreign Surveillance Act (FISA) rests on the “special needs” exception to the Fourth Amendment, a conclusion that was rejected by one district court although accepted by others. 5. Targeted Killing Anwar Al-Awlaki (or Aulaqi)11 was reported by press accounts as having been placed on a “kill list” by President Obama – suit by his father dismissed on grounds that Anwar himself could come forward and seek access to U.S. courts – not only Anwar but his son were then killed in separate drone strikes. 6. Asset Forfeiture 6 Al-Kidd v. Ashcroft, 580 F.3d 949, 951-52 (9th Cir. 2009). 7Al-Marri v. Wright, 487 F.3d 160 (4th Cir. 2007). 8 Ashcroft v. Iqbal, 129 S. Ct. 1937 (2009) 9 United States v. Awadallah, 349 F.3d 42 (2d Cir. 2003); see also In re Grand Jury Material Witness Detention, 271 F. Supp. 2d 1266 (D. Or. 2003); In re Application of U.S. for a Material Witness Warrant, 213 F. Supp. 2d 287 (S.D. N.Y. 2002). 10 Clapper v. Amnesty Int'l USA, 133 S. Ct. 1138 (2013). 11 Al-Aulaqi v. Obama, 727 F. Supp. 2d 1 (D.D.C. 2010) Both Al Haramain Islamic Foundation12 and KindHearts for Charitable Humanitarian Development13 have been found by the Department of Treasury to be fronts for raising money for Hamas, and their assets have been blocked – despite findings of due process violations by the lower courts, the blocking of assets has been upheld on the basis that their support for terrorist activities is public knowledge. Avoiding Accountability The “head in the sand” attitude of the U.S. judiciary in the past decade is a rather dismal record that does not fit the high standard for judicial independence on which the American public has come to rely. Many authors have discussed these cases from the perspective of civil rights and liberties of the individual. What I want to highlight is how undue deference to the Executive in “time of crisis” has undermined the independent role of the judiciary. Torture, executive detentions, illegal surveillance, and now killing of U.S. citizens, have all escaped judicial review under a variety of excuses. To be clear, many of the people against whom these abuses have been levied are, or were, very dangerous if not evil individuals. Khalid Sheikh Muhamed and Anwar al-Aulaqi should not be allowed to roam free to kill innocent civilians. But hundreds of years of history show that there are ways of dealing with such people within the limits of restrained government without resort to the hubris and indignity of unreviewed executive discretion. The turning of blind eyes by many, albeit not all, federal judges is a chapter of this history that will weigh heavily against us in the future. No judge wants to feel responsible for the deaths of innocents. But moral responsibility for death is with those who contribute to the act. Meanwhile the judge has a moral responsibility for abuses by government of which the judiciary is a part. There is nothing “new” in the killing of innocents for religious or political vengeance. This violence has always been with us and will unfortunately continue despite our best efforts to curb it. Pleas for executive carte blanche power are exactly what the history of the writ of habeas corpus were developed to avoid,14 and what many statements in various declarations of human rights are all about. The way of unreviewed executive discretion is the way of tyranny.

#### And, judicial review of the military is critical to balanced civil-military relations- Congress and the Executive cannot check themselves

Gilbert, Lieutenant Colonel, 98 (Michael, Lieutenant Colonel Michael H. Gilbert, B.S., USAF Academy; MSBA, Boston University; J.D., McGeorge School of Law; LL.M., Harvard Law School. He is a member of the State Bars of Nebraska and California. “ARTICLE: The Military and the Federal Judiciary: an Unexplored Part of the Civil-Military Relations Triangle,” 8 USAFA J. Leg. Stud. 197, lexis)

The legislative, executive, and judicial branches of the federal government comprise and form a triangle surrounding the military, each branch occupying one side of the civil-military triangle. Commentators have written countless pages discussing, analyzing, and describing the civil-military relationship that the Congress and the President have with the armed forces they respectively regulate and command. Most commentators, however, have neglected to consider the crucial position and role of the federal judiciary. This article examines the relationship between the judiciary and the military in the interest of identifying the role that the judiciary, specifically the United States Supreme Court, plays in civil-military relations. Without an actual, meaningful presence of the judiciary as a leg of the civil-military triangle, the triangle is incomplete and collapses. In its current structure, the judiciary has adopted a non-role by deferring its responsibility to oversee the lawfulness of the other two branches to those branches themselves. This dereliction, which arguably is created by the malfeasance of the United States Supreme Court, has resulted in inherent inequities to the nation, in general, and to service members, in particular, as the federal courts are reluctant to protect even basic civil rights of military members. Judicial oversight is one form of civilian control over the military; abrogating this responsibility is to return power to the military hierarchy that is not meant to be theirs. [\*198] Under the United States Constitution, Congress has plenary authority over the maintenance and regulation of the armed forces, and the President is expressly made the Commander-in-Chief of the armed forces. The unwillingness of the Court to provide a check and balance on these two equal branches of the federal government creates an area virtually unchallengeable by the public. As a result, a large group of people, members of the military services, lack recourse to address wrongs perpetrated against them by their military and civilian superiors. Ironically, the very men and women dedicating their lives to protect the U.S. Constitution lack many of the basic protections the Constitution affords everyone else in this nation. The weakness in the present system is that the Supreme Court has taken a detour from the Constitution with regard to reviewing military issues under the normally recognized requirements of the Constitution. The federal judiciary, following the lead of the Supreme Court, has created de facto immunity from judicial interference by those who seek to challenge policy or procedure established by the other two branches and the military itself. When the "Thou Shalt Nots" of the Amendments to the Constitution compete with the necessities of the military, the conflict is resolved in favor of the military because it is seen as a separate society based upon the constitutionally granted authority of Congress to maintain and regulate the armed forces. 1 Essentially, the Court permits a separate world to be created for the military because of this regulation, distinguishing and separating the military from society. 2 The Court needs to reexamine their almost complete deference on military matters, which is tantamount to an exception to the Bill of Rights for matters concerning members of the military. Unless the Court begins to provide the oversight that is normally dedicated to many other areas of law fraught with complexity and national importance, judicial review of the military will continue to be relegated to a footnote in the annals of law. Combined with the downsizing and further consequent decline of interaction between the military and general society, 3 this exile from the protection of the Constitution could breed great injustices within the military. Perhaps even more importantly, the military might actually begin to believe that they are indeed second-class citizens, separate from the general [\*199] population, which could create dire problems with civil-military relations that are already the subject of concern by many observers. 4

#### Latin America models CMR---absent a strong signal of independence versus the military hardline control is inevitable

Weeks, prof- political science, 06 (By Gregory Weeks, Assistant Professor of Political Science, University of North Carolina at Charlotte, FIGHTING TERRORISM WHILE PROMOTING DEMOCRACY: COMPETING PRIORITIES IN U.S. DEFENSE POLICY TOWARD LATIN AMERICA,<http://clas-pages.uncc.edu/gregory-weeks/files/2012/04/WeeksG_2006JTWSarticle.pdf>)

There is a growing literature on judicial reform in Latin America, which emphasizes the need for greater access, efficiency, transparency, and independence.38 For democratic civil-military relations, the most important factor is judicial independence. The judicial branch is the main civilian source of accountability for members of the armed forces who have committed crimes against civilians. At the same time, it provides due process to the accused, thus ensuring that they receive a fair trial and maintaining the military's faith in the system. To serve in that role, judges must be independent from outside pressure. It is also necessary for those same soldiers to view the courts as fair and impartial. When the process becomes routinized, then the institution can be considered fully effective. Measuring the effectiveness of the courts is perhaps the most straightforward. In a study of judicial reform in Latin America, William Prillaman argues that independence can be measured by tracking the willingness of courts to rule against the government.39 However, for cases involving members of the military, independence also means ruling against the military leadership. Have soldiers been tried, convicted, and imprisoned for crimes they have committed? Even further, were judges successful in that regard even in the face of military resistance? Especially in the context of countries emerging from authoritarian rule (and even more so when the dictatorship was highly repressive) judges can be harassed, threatened, or even killed, or the civilian government may accept military demands to be left alone, fearing the political (or perhaps even personal) consequences. With some exceptions, judicial systems in Latin American countries have not been successful in addressing crimes committed by the armed forces (or the police). Even in some countries—such as Guatemala-where judges have periodically been able to overcome military pressure, court cases have been accompanied by violence or the threat of it. The worst records have been in Central America and the Andean region, whereas in the southern cone notable advances have been made. Especially in Colombia, but also in Ecuador and Peru, intimidation means that many cases are never investigated and judges are reluctant to hear them. Amnesties blocked civilian courts to a significant degree in Brazil, Chile, and Uruguay. In both Argentina and (surprisingly) Chile, the process of routinization is further advanced than elsewhere, so that when officers are called to testify there is less civil-military conflict than in the past, but this remains exceptional in the region. At the 2004 defense meetings in Ecuador, the Mexican Defense Minister spoke of the Mexican military's more "pro-active" stance in the fighting terrorism, which will certainly raise questions about jurisdiction if officers are implicated in abuses. Apart from interaction on the basis of extradition requests (most prominently in the case of Colombia) the judiciary is not a central issue for U.S. defense policy and it is not raised in the 2000 or 2002 National Security Strategy except for the goal of teaching respect for human rights in U.S. military training programs. Nonetheless, the United States Agency for International Development does provide funding for training and judicial development in general.'"' There are two important ways in which U.S. defense policy affects the judiciary, First, support for the regimes that commit serious abuses almost certainly contributes to a general sense of impunity. This was, of course, particularly true when dictatorships were the norm in the region Second, the militarization of areas deemed havens for terrorism (especially drug traffickers) has increased the number of human rights abuses and, in several countries, has increased pressure on judges not to prosecute (especially in Colombia). Another dilemma for civilian governments in Latin America is the scope of military justice in Latin America. In many countries, civilians can be brought before military courts for a broad range of offenses and officers can often find protection from prosecution by civilian courts. Reform has been slow and uneven."' The Staff Judge Advocate's Office of the United States Southern Command has created programs for military justice, such as in Colombia and Venezuela in 1998."^ The main goal for Colombia was to institutionalize the protection of human rights in military courts, whereas the Venezuelan military wished to reform its system of courts martial. Renewed emphasis on antiterrorism and internal security, however, raises the risk that military judges will try more civilians, who will not enjoy the same rights and privileges as they would in civilian courts. Given the debate over terrorist suspects being held in the United States, Latin American armed forces can easily claim that military courts are more appropriate in the context of the war against terrorism. They can also claim that, given national security concerns, the military should not be held accountable to any courts other than its own. The same arguments were often made during the Cold War. Finally, just as with the legislative branch, the emphasis on military intelligence gathering as an element of anti-terrorist policy reinforces the military's perceived need for secrecy and a minimum of civilian oversight. Even before the attacks on the United States, analysts were noting the "heightened tension between demands for secrecy and the desire for enhanced civil liberties.'"43 A return to Cold War-era notions of national security and secrecy represents an obstacle to the development of an effective judicial branch. In particular, the call for regional sharing of intelligence raises legitimate questions about precisely which judicial bodies would have authority to act in defense of civil liberties. Although leaders—both civilian and military—of numerous Latin American countries have indicated approval of the general idea (and southern cone countries have even broached the issue of a regional military) no specifics have yet been forthcoming. The primary historical parallel would be Operation Condor, the multinational (Argentina, Bolivia, Brazil, Chile, Paraguay, and Uruguay) intelligence system created in 1975 as a way to consolidate anti-communist dictatorships and eliminate political enemies. Although transitions to civilian rule have long taken place, judiciaries remain ill-equipped to confront what would become complex issues of jurisdiction, human rights, and the role military courts. CONCLUSION For civil-military relations to become more democratic in Latin America, it is obviously vital for civilian defense institutions to become stronger. When both civilians and officers view those institutions as legitimate, then the civil-military relationship will become increasingly predictable and differences can be mediated without overt conflict. Defense institutions provide a structure through which civilians and officers can accept each other's expertise and gradually learn that enmity is not always inevitable. This is an especially difficult process in Latin America, where civil-military discord has historically been the norm. The military's historic skepticism of civilian policy makers has, in most countries, solidified the notion that civilians are incapable of handling national defense, while civilians view the armed forces with a suspicion born of military intervention and dictatorship. Therefore, the task of "civilianizing" those institutions is formidable. Beginning in the 1990s, the United States developed a defense policy toward Latin America that, for the first time, emphasized the need for greater civilian expertise and oversight in the region, especially in terms of building more democratic civil-military institutions, which had been sorely lacking in the region. The terrorist attacks of 11 September 2001, however, reoriented U.S. defense policy toward encouraging Latin American militaries to become more involved in intelligence gathering, border patrol and domestic law enforcement, roles that civilians had painstakingly been trying to wrest away from military control. These competing policy goals thus send mixed messages about the real priorities of the U.S. government. Although U.S. policy makers remain focused primarily on the Andean region, it is clear that they view terrorism as a threat in every Latin American country. Furthermore, the main proposed tactic for combating terrorism is increased use of the armed forces in each country, whether it is border patrol, intelligence gathering, fighting guerrillas, or taking over a variety of national police duties. By militarizing policy and emphasizing a largely military response, anti-terrorist initiatives have the strong potential for undermining the stated policy goal of democratizing civil-military institutions in the region. These institutions, which already suffer from a lack of historical effectiveness, have only begun to assert themselves, and these efforts will suffer as a result of a renewed military emphasis on perceived threats to national security.

#### Civilian control is critical to nuclear cooperation agreements that check prolif---goes global

Sanchez 11/16/11 (Alex, Research Fellow @ Council on Hemispheric Affairs “The Unlikely Success: Latin America and Nuclear Weapons” <http://wasanchez.blogspot.com/2011/11/unlikely-success-latin-america-and.html>)

Nuclear Cooperation Even though Latin American states haven’t had a nuclear weapons program in decades, nuclear cooperation does exist. The best example is the creation of the ABACC (Agencia Brasileno-Argentina de Contabilidad y Control de Materiales Nucleares - Brazilian-Argentine Agency for Accounting and Control of Nuclear Materials), which is responsible for overseeing a cooperation agreement initiated in 1991, in which Buenos Aires and Brasilia agreed to commit to using nuclear energy for solely peaceful purposes. In that year, Argentina, Brazil, the ABACC, and the International Atomic Energy Agency (IAEA) signed the Quadripartite Agreement, specifying procedures for IAEA and ABACC for the monitoring and verification of Argentine and Brazilian nuclear installations. (8) Nevertheless, it is worth stating that neither country has signed the additional protocol by the IEAE which gives the international watchdog the right to access information and visit nuclear sites. (9) A 2009 commentary by the Carnegie Endowment for International Peace, a think tank headquartered in Washington DC, puts the nuclear relations between Brasilia and Buenos Aires into perspective: “Argentina and Brazil are seen as having been successful in turning their nuclear competition into cooperation through mutual confidence. This approach is often considered as a model for other regions where potential nuclear proliferation risks may be perceived. However, it is not yet certain that both countries will become competent partners by taking advantage of their joint strengths. Certain obstacles could endanger this process. Bureaucratic resistance, as well as possible asymmetries of interests and views -especially those related to the possibility of sharing proprietary technology - could upset the internal balance of the agreement and, therefore, its long-term sustainability.” (10) Indeed, while the current levels of nuclear cooperation between Brazil and Argentina are positive, it is important to understand that they are not fault-proof and there is the possibility that cooperation could take a turn for the worst. For example, should inter-state disputes arise, or if military governments appear again, then a worst case scenario could be that nuclear weapons programs could be revisited. In addition Venezuela has had plans for creating its own nuclear energy program with support from Iran. Some analysts have gone as far as arguing that Iranian mining companies currently operating in Venezuela may be trying to find uranium to use in Iran’s nuclear projects. (11) In interviews between the author of this essay and several Latin America military officials, (12) the consensus was that regional governments did not have a problem with Caracas looking to produce nuclear energy, but greater transparency is necessary to maintain inter-state confidence.

#### Latin American prolif risks nuclear war

Cote 9 (Owen, joined the MIT Security Studies Program in 1997 as Associate Director. Prior to that he was Assistant Director of the International Security Program at Harvard's Center for Science and International Affairs, where he remains co-editor of the Center's journal, International Security. He received his Ph.D. from MIT, where he specialized in U.S. defense policy and international security affairs, “The ABC's of Nuclear Disarmament in Latin America” <http://ocw.mit.edu/courses/political-science/17-951-nuclear-weapons-in-international-politics-past-present-and-future-spring-2009/projects/MIT17_951S09_abcs.pdf>)

Nuclear Weapons in Latin America are more destabilizing than stabilizing Security concerns in Latin America do not only include nuclear weapons. On December 9, 1974 la Declaración de Ayacucho was made in order to increase security perception. Argentina, Bolivia, Chile, Colombia, Ecuador, Panama, Peru and Venezuela set the goal to "create conditions which permit effective limitation of armaments and put an end to their acquisition for offensive military purposes, in order to dedicate all possible resources to economic development (Ayacucho Declaration, 1974 1)." This treaty prohibited weapons and equipment, including biological, chemical and nuclear weapons, aircraft carriers, ballistic missiles, cruisers and nuclear submarines. This agreement discussed "the concepts of intraregional balance and trust within the countries of the region (Portales 25)."2 There are several resources that indicate that Latin American political scientists were worried about the effect nuclear weapons would have on the region. Several theorists believed that the introduction of even the hint of a weapons program would make the entire region paranoid and further increase a state's incentive to produce a bomb. Other theorists view the development of nuclear weapons in the region as a risk in that it draws attention from the rest of the world onto Latin America. This unwanted attention could lead to disastrous affects for the region if any country was perceived as a threat to any of the greater superpowers. Security perception motivates a country's weapons development. Carlos Portales discusses how the introduction of a new weapon to the Latin American region has a "contagious" effect; first one country has it and then the rest of them struggle to obtain it. If any country is perceived to be looking or developing a new weapon, all countries will follow in order to keep the balance of power within the region. The introduction of a new weapon limits any arms control treaties until all countries possess the new weapon (Mercado Jarrín; Portales 27). In his article "Consequences of a Nuclear Conflict for the Climate in South America," Licio da Silva describes the consequences to South America if there were to be a nuclear attack on North America. He calls this the "Optimistic Hipothesis [sic]" for South America and calculates population death by smoke in the atmosphere. His "Pessimistic Hipothesis [sic]" involves attacks on South American cities and the destruction that could be cause, he even takes into account the possibility of the Amazon going up in flames. His article is quite alarming and one can see that he is truly terrified at the possibilities. As a conclusion, he calls for countries to be prepared for the worse and for the region to try and avoid international conflict by not obtaining nuclear weapons. da Silva states that if no South American country possesses a nuclear weapon, then no nuclear weapon state should perceive South America as a threat. If a Latin American state were to have a nuclear weapon, then that country could be perceived as a threat and thus could be targeted in an international conflict if it is seen as taking sides: "When a country becomes the owner of a nuclear arsenal, it also becomes a potential target (da Silva 56)." Therefore, da Silva calls for Latin American countries to remain disarmed so as not to put the region in peril. His directly names Argentina and Brazil for their involvement in nuclear weapons programs and accuses them of putting the entire region at risk: This shows the temerity of Argentine and Brazilian military who are in favour of the possession of nuclear weapons in their respective countries; we believe that the price we would have to pay for the dubious pride of belonging to the small group of nations in possession of nuclear technology for military purposes is too high. da Silva 56 Here we see a sincere fear of the security risks that one country can pose on an entire region. For da Silva, the destabilizing effect that nuclear weapons would have on South America alarm him enough to single out the two countries and negatively describe their search for nuclear weapons as "dubious pride." He continues on to ask for "the commitment not to install any nuclear arms in their [South American's] territory (da Silva 56)." The use of the word "their" refers to a collective identity shared by those in South America. Military improvements of individual countries should not be as important as the well being of the entire region. South Americans countries are lumped together and thus, must take into account the entire region before pursuing precarious programs. An arms race in the region would affect all countries in Latin America since such an arms race "contributes to increase both international tensions and the danger of armed conflicts, in addition to diverting resources indispensable to the economic and social progress of the peoples of the world. (Brazil and the Non-Proliferation of Nuclear Weapons 19)." One country's search for nuclear weapons or even nuclear power, increases all the other countries' likelihood to obsess, overreact or become hostile during the situation. Regions that are economically dependent on each other, such as South America, would have a very hard time surviving if there existed no trust between the nations Although some attribute South America's disarmament to be a factor of the emergence of democratic and civilian governments, the initial talks about nuclear weapons and their negative effects on the region were discussed by the military dictatorships of XXX in Argentina and XXX in Brazil. Even in Latin American military dictatorships the perception of an increasing imbalance of power would lead a country's leader to find a way to keep the status quo. This could come from fear of losing the race (specifically the nuclear arms race in this situation) and having it result in a hegemon among the South American countries, which has never really happened. Throughout South American history, the balance of power in the region has been relatively stable, with no one country overpowering the others. Anything that challenging that would be very disruptive to the region's sense of security.

#### No turns---prolif is destabilizing, risks accidents

Busch, Professor of Government-Christopher Newport, 04 (Nathan, “No End in Sight: The Continuing Menace of Nuclear Proliferation” p 281-314)

Summing Up: Will the Further Spread of Nuclear Weapons Be Better or Worse? This study has revealed numerous reasons to be skeptical that the spread of nuclear weapons would increase international stability by helping prevent conventional and nuclear wars. Because there is reason to suspect that emerging NWSs will not handle their nuclear weapons and fissile materials any better than current NWSs have, we should conclude that the further spread of nuclear weapons will tend to undermine international stability in a number of ways. First, because emerging NWSs will probably rely on inadequate command-and-control systems, the risks of accidental and unauthorized use will tend to be fairly high. Second, because emerging NWSs will tend to adopt systems that allow for rapid response, the risks of inadvertent war will also be high, especially during crisis situations. Third, because emerging NWSs will tend to adopt MPC&A systems that are vulnerable to overt attacks and insider thefts, the further spread of nuclear weapons could lead to rapid, destabilizing proliferation and increased opportunities for nuclear terrorism. Finally, there is reason to question whether nuclear weapons will in fact increase stability. Although nuclear weapons can cause states to be cautious about undertaking actions that can be interpreted as aggressive and can prevent states from attacking one another, this may not always be the case. While the presence of nuclear weapons did appear to help constrain U.S. and Soviet actions during the Cold War, this has generally not held true in South Asia. Many analysts conclude that Pakistan invaded Indian-controlled Kargil in 1999, at least in part, because it was confident that its nuclear weapons would deter a large-scale Indian retaliation. The Kargil war was thus in part caused by the presence of nuclear weapons in South Asia. Thus, the optimist argument that nuclear weapons will help prevent conventional war has not always held true. Moreover, this weakness in the optimist argument should also cause us to question the second part of their argument, that nuclear weapons help prevent nuclear war as well. Conventional wars between nuclear powers can run serious risks of escalating to nuclear war."5 Based on a careful examination of nuclear programs in the United States, Russia, China, India, and Pakistan, as well as preliminary studies of the programs in Iraq, North Korea, and Iran, this book concludes that the optimists' arguments about the actions that emerging NWSs will probably take are overly optimistic. While it is impossible to prove that further nuclear proliferation will necessarily precipitate nuclear disasters, the potential consequences are too severe to advocate nuclear weapons proliferation in hopes that the stability predicted by the optimists will indeed occur.

#### Courts try terrorism cases and don’t leak classified information – empirics.

Vladeck et al 08 (Steven, A CRITIQUE OF “NATIONAL SECURITY COURTS”, A REPORT BY THE CONSTITUTION PROJECT’S LIBERTY AND SECURITY COMMITTEE & COALITION TO DEFEND CHECKS AND BALANCES, June 23,

http://www.constitutionproject.org/pdf/Critique\_of\_the\_National\_Security\_Courts.pdf)

Advocates of national security courts that would try terrorism suspects claim that traditional Article III courts are unequipped to handle these cases. This claim has not been substantiated, and is made in the face of a significant — and growing — body of evidence to the contrary. A recent report released by Human Rights First persuasively demonstrates that our existing federal courts are competent to try these cases. The report examines more than 120 international terrorism cases brought in the federal courts over the past fifteen years. It finds that established federal courts were able to try these cases without sacrificing either national security or the defendants’ rights to a fair trial.3 The report documents how federal courts have successfully dealt with classified evidence under the Classified Information Procedures Act (CIPA) without creating any security breaches. It further concludes that courts have been able to enforce the government’s Brady obligations to share exculpatory evidence with the accused, deal with Miranda warning issues, and provide means for the government to establish a chain of custody for physical evidence, all without jeopardizing national security.

#### Deference to the executive encourages whistleblowers, the media, and other countries to backlash – causes volatile restrictions of policy and worse intel leaks

Marguilies ‘10 Peter, Professor of Law, Roger Williams University, “Judging Myopia in Hindsight: Bivens Actions, National Security Decisions, and the Rule of Law” IOWA LAW REVIEW Vol. 96:195

The categorical-deference approach also fails to acknowledge that those stymied by the lack of formal redress can substitute for litigation other paths that pose greater danger. For example, consider the perspective of the official who leaks a document, not to advance a personal agenda, but to focus public attention on government policy.170 Whistleblowers of this kind, like Daniel Ellsberg, who leaked the Pentagon Papers to the New York Times, 171 are advancing a constitutional vision of their own in which senior officials have strayed from the limits of the original understanding.172 If the courts and Congress do not work to restore the balance, the whistleblower engages in self-help. Because leakers are risk-seekers who believe the status quo is unacceptable, they lack courts’ interest in safeguarding sensitive information. Policy shaped by blowback from leaks is far more volatile than policy reacting to judicial precedent.173 Similarly, the media has a constitutional role to play that includes investigative reporting. The media will step up its efforts if other institutions like courts take a more deferential stance.174 When government hides information, the media’s sense of its own role leads to greater distrust of government and a willingness to both uncover and publish more information. On some occasions, the First Amendment will oblige us to tolerate journalists’ disclosure of operational details of covert programs.175 Journalists will understandably view government’s claims that information is sensitive with greater skepticism when government has methodically locked down information in other settings. Similarly, shutting off damage suits regarding terrorism issues leaves other kinds of litigation, including litigation the government has initiated. Journalists and activists will seek to scrutinize and mobilize around these cases, even if the avenue of civil suits is closed. Indeed, activism may be distorted in these other venues when they are the only game in town. For example, journalists may be more inclined to credit even outlandish claims made by some lawyers on behalf of detainees when the government has a track record of concealing information.176 While some might argue that courts should not speculate about future conduct of third parties, a court that makes empirical predictions about the effect of liability should not selectively ignore major unintended consequences of its holding. There are parallel developments in international law. Some countries have prosecuted criminal cases against American agents who allegedly were complicit in extraordinary renditions. In Italy, a number of American government employees and personnel were convicted in absentia because of legal action generated by popular pressure.177 U.S. public-interest organizations, like the Center for Constitutional Rights, have encouraged these assertions of universal jurisdiction. These prosecutions occurred because of officials’ sense that they were above the law. Judicial remedies available in the United States can check these officials, thereby reducing the incidence and impact of universal-jurisdiction proceedings in the future.

#### Plan is key – denial of overflight now

Foust 5/1/12 (Josh, a fellow at the American Security Project, Joshua's research focuses on the role of market-oriented development strategies in post-conflict environments, and on the development of metrics in understanding national security policy, “How Strong Is al Qaeda Today, Really?” <http://www.theatlantic.com/international/archive/2012/05/how-strong-is-al-qaeda-today-really/256609/>)

The many successes in the fight against al-Qaeda have also come with substantial costs. In Pakistan and Yemen, an obsession with kinetic activities -- killing the bad guys -- has worsened political chaos and entrenched anti-Americanism. Some other countries now deny the U.S. permission to fly drones over their territory because they fear the political backlash that Obama's favorite weapon could bring. We don't know yet if these political consequences can be overcome, though it's a safe bet that continuing the same terror policies won't lessen them.

## 2AC

### T – Decrease

#### 1. We meet – judicial ex post review decreases authority which is the central question of the resolution

Al-Aulaqi Motion to Dismiss Memo 2013 (PLAINTIFFS’ OPPOSITION TO DEFENDANTS’ MOTION TO DISMISS, files February 5, 2013)

Despite Defendants’ attempt to distinguish the habeas cases, Defs. Br. 12, claims alleging unlawful deprivation of life under the Fifth Amendment’s Due Process Clause are as textually committed to the courts as claims brought under the Suspension Clause. Both are fundamental judicial checks on executive authority. Cf. Boumediene v. Bush, 476 F.3d 981, 993 (D.C. Cir. 1997) (rejecting distinction between the Suspension Clause and Bill of Rights amendments because both are “restrictions on governmental power”), rev’d on other grounds by Boumediene, 553 U.S. 723.

#### We meet – plan mandates a decrease in the use of drone strikes done without due process

#### C/I – Authority is what the president may do not what the president can do

Ellen Taylor 96, 21 Del. J. Corp. L. 870 (1996), Hein Online

The term authority is commonly thought of in the context of the law of agency, and the Restatement (Second) of Agency defines both power and authority.'89 Power refers to an agent's ability or capacity to produce a change in a legal relation (whether or not the principal approves of the change), and authority refers to the power given (permission granted) to the agent by the principal to affect the legal relations of the principal; the distinction is between what the agent can do and what the agent may do.

#### We meet substantially – your evidence indicates we must be a change in the substance of war powers authority – we are – that’s Au-Aulaqi

#### Prefer our interpretation –

#### A. aff ground – neg interpretation mandates banning use, not authority – means affs are dead in the water against any agent counterplan

#### B. over-limits – core cases revolve around regulation of behavior, not use – their interp eliminates topic lit across the areas

#### Reasonability – competing interpretation crowds out substance by incentivizes T debates – good is good enough, we’re in the lit and the topic is already limited

### Security

#### The role of the ballot is to simulate a debate about the enactment of the plan versus the status quo or a competitive policy option; discussing the implications of applying the law to drones is key to predictability and a norms that restrict violence

Leahy 10 (Mary-Kate Leahy, Colonel, US military, “KEEPING UP WITH THE DRONES: IS JUST WAR THEORY OBSOLETE?,” http://www.dtic.mil/dtic/tr/fulltext/u2/a526187.pdf)

Failure to examine whether the laws of war remain relevant or should be modified is dangerous. If we delay or indefinitely defer this discussion the risks associated with this procrastination will continue to accumulate. Without broad agreement on the fundamental issue of who is a legal combatant, ordinary civilians who develop this technology and elected leaders who approve its employment potentially become targets at home and abroad. As the operators of weapon systems become more distant from the physical battlefield, the killing process is “sanitized”; UAS operators‟ exemption from physical danger creates a scenario in which “virtueless” war becomes the norm. In such an environment, the warrior ethos is potentially forever altered – and not for the good. Another risk we face if employment of this technology proceeds unchecked and its moral implications unexamined, is the arrival of the day when a “human in the loop” in UAS employment becomes unnecessary. If that day arrives, the principle of proportionality is irrelevant – because human assessment of the cost versus benefit decision regarding a military strike will have been eliminated. These are just a few of the eventualities which await us if we fail to adequately address how UAS changes the conduct of modern warfare. The seriousness of these issues makes this an issue of strategic importance for the United States, as well as both our friends and our adversaries around the globe.

Alt is unachievable and violence is inevitable – belief that it is unrealistic justifies preemptive, international aggression – credible norms are key

Joyner 8 (Daniel, is an Associate Professor, University of Alabama School of Law, “JUS AD BELLUM IN THE AGE OF WMD PROLIFERATION,” http://docs.law.gwu.edu/stdg/gwilr/PDFs/40-1/40-1-Joyner.pdf)

This, then, is the heart of the crisis: a significant number of states¶ now believe that their vital national security interests require them¶ to act in a manner that is in breach of the laws governing international uses of force laid down in the U.N. Charter. This is not a¶ temporary policy shift, nor are actions taken in pursuance of¶ counterproliferation policies isolated or extraordinary events. Policies of counterproliferation-oriented preemptive use of force are a¶ part of a systematic rethinking within a significant number of states¶ about the security environment in which states find themselves,¶ and the policy options those states feel they must maintain in order¶ to defend themselves against modern threats, and to pursue their¶ essential interests internationally.32 This is a revision of thought¶ that is likely to persist and mature within these states, and it is likely¶ that, as WMD proliferation inevitably spreads and becomes more¶ intimately a part of the security concerns of a growing number of¶ states, those states too will arrive at the conclusion that traditional non-proliferation efforts based in multilateralism and diplomacy,¶ and utilizing strategies such as deterrence and containment, are¶ not wholly sufficient to deal with these realities. They will likely¶ conclude, as others have done, that policies of preemptive use of¶ force against states and non-state actors that threaten them with¶ WMD, and who will not sufficiently respond to or be managed by¶ these classic strategies, are a necessary addition to the policy¶ options at their disposal.¶ Therefore, at the heart of the current crisis in international use¶ of force law is a continuing, and likely increasing gap between the¶ provisions of existing law and the perceptions of a significant number of important states of the realities of the international political¶ issue area that law is meant to regulate—a classic gap between law¶ and reality caused by the law simply lagging behind the dynamics¶ of technological and geo-political change.33 Such a situation, in¶ which the law is seen by its subjects to be out of touch with the “on¶ the ground” realities of the decisions and actions it is intended to¶ govern, in any area of the law, is simply unsustainable, and as in¶ any other area of law the result of this gap is decreasing confidence¶ in the law and its institutions of maintenance, a decreasing perception of the validity of the law, increasing antagonism toward the¶ law, and resultant non-compliance with the reason-offending¶ rules.34 This indeed was one of the fundamental reasons underlying the decision by Western powers to invade Iraq in 2003, and is¶ the reason that fears abound regarding future acts of force outside¶ of the U.N. Charter use of force system by counterproliferationoriented states, in places like Iran and North Korea.

#### The alt is vague and a voter – allows the negative to shift in the block and prevents the 2AC from generating offense – kills clash

#### Utilitarian frameworks and consequences first – terrorists are ideological and won’t negotiate

Whitman 7 (Jeffery, Prof of Philosophy, Religion, and Classical Studies Susquehanna University, “Just War Theory and the War on Terrorism A Utilitarian Perspective,” http://www.mesharpe.com/PIN/05Whitman.pdf)

Nonetheless, there was something different about the 9/11 attacks that is troubling, and that difference is the nihilistic nature of the attackers. Most, but not all, terrorist activity has a political or religious goal of some sort as its aim—the liberation of a minority group, the establishment of a new state, the removal of a perceived oppressor. Al-Qaeda professes a political goal, but its actions belie its claims. It claims to be fighting for the cause of Palestinian freedom and for oppressed Muslims everywhere, but it has appropriated the Islamic religion and the concept of jihad in order to recruit suicide bombers with the promise of martyrdom and entry into Paradise. In so doing, the political goal, if it ever existed, has become subservient to eschatological concerns. Political failure has become an irrelevant distraction that is trumped by the reward of eternal life. As Michael Ignatieff notes concerning al-Qaeda, their goals are less political than apocalyptic, securing immortality for themselves while calling down a mighty malediction on the Great Satan. Goals that are political can be engaged politically. Apocalyptic goals, on the other hand, are impossible to negotiate with. They can only be fought by force of arms. (2004, 125–126) This version of Islamic fundamentalist terrorism, represented by such groups as Hamas, Hezbollah, and al-Qaeda, seems particularly intractable. These groups, especially insofar as they employ suicide-bomber tactics, have become death cults (Ignatieff 2004, 126–127). There can be no negotiated settlement, so the only solution seems to be a violent one aimed at the utter destruction of the terrorists. And yet, a purely violent and largely military response runs significant risks, both morally and pragmatically, for the counterterrorist forces. The risks are especially poignant for a liberal democracy like the United States, for the use of purely military means, particularly the brutal military means that may seem necessary to defeat terrorism, may run contrary to the very principles a liberal democracy represents (Ignatieff 2004, 133–136).6 Thus the terrorist threat represented by al-Qaeda–like groups presents a difficult and somewhat unique challenge for the United States. Nonetheless, I remain convinced that a utilitarian conceptualization of just war theory can help us to successfully navigate between the Scylla of losing the fight against terrorism and the Charybdis of abandoning the principles that define our liberal democracy.

#### One speech act doesn’t cause securitization – it’s an ongoing process

**Ghughunishvili 10**

Securitization of Migration in the United States after 9/11: Constructing Muslims and Arabs as Enemies Submitted to Central European University Department of International Relations European Studies In partial fulfillment of the requirements for the degree of Master of Arts Supervisor: Professor Paul Roe <http://www.etd.ceu.hu/2010/ghughunishvili_irina.pdf>

As provided by the Copenhagen School securitization theory is comprised by speech act, acceptance of the audience and facilitating conditions or other non-securitizing actors contribute to a successful securitization. The causality or a one-way relationship between the speech act, the audience and securitizing actor, where politicians use the speech act first to justify exceptional measures, has been criticized by scholars, such as Balzacq. According to him, the one-directional relationship between the three factors, or some of them, is not the best approach. To fully grasp the dynamics, it will be more beneficial to “rather than looking for a one-directional relationship between some or all of the three factors highlighted, it could be profitable to focus on the degree of congruence between them. 26 Among other aspects of the Copenhagen School’s theoretical framework, which he criticizes, the thesis will rely on the criticism of the lack of context and the rejection of a ‘one-way causal’ relationship between the audience and the actor. The process of threat construction, according to him, can be clearer if external context, which stands independently from use of language, can be considered. 27 Balzacq opts for more context-oriented approach when it comes down to securitization through the speech act, where a single speech does not create the discourse, but it is created through a long process, where context is vital. 28 He indicates: In reality, the speech act itself, i.e. literally a single security articulation at a particular point in time, will at best only very rarely explain the entire social process that follows from it. In most cases a security scholar will rather be confronted with a process of articulations creating sequentially a threat text which turns sequentially into a securitization. 29 This type of approach seems more plausible in an empirical study, as it is more likely that a single speech will not be able to securitize an issue, but it is a lengthy process, where a the audience speaks the same language as the securitizing actors and can relate to their speeches.

#### The aff is ethically justified if our harms are true, if specificity and empirics justify our harms you have to endorse our advocacy---the 1AC was 9 minutes of justification

Dipert 6 (Randall, PhD, Professor of Philosophy, University at Buffalo, Buffalo, “Preventive War and the Epistemological Dimension of the Morality of War,” https://www.law.upenn.edu/live/files/1291-dipert-preventive-war)

We have seen a number of reasons why some preventive wars are morally justified. Nevertheless, this justification hinges on what I have called an epistemic threshold. This threshold is the minimum amount of ‘objective certainty’ about the enemy’s intentions, bellicosity, and present and future military resources necessary to justify preemptive or preventive war. It is not merely a subjective certainty in feeling strongly about the extent of evidence for these factors. To be morally justified, one must have, and appreciate, extensive evidence for these factors and the other usual criteria for Just War except Just Cause; one must lack substantial evidence that goes against one of these factors, after a reasonable effort to acquire such evidence. A ‘second order’ objective certainty is also necessary: one must be justified in believing that one’s past record of judging intentions, resources and so on, from the information sources one is now using (e.g., satellite imagery), has usually been correct. It may be instructive here to reflect on the 2003 Iraq War.27 The fact that Iraq turned out not to have weapons of mass destruction, and did not even have quickly constructable facilities to produce them, shows that the Bush administration did not have knowledge of the weapons or facilities. It does not, however, alone entail that it was not objectively certain to the extent required by the epistemic threshold criterion for preventive war. In fact I believe that it was highly rational to believe, and in Grotius’ words was ‘morally certain’, that Iraq had chemical weapons despite what would prove to be its falsehood. (This is a consequence of permitting defeasible or nonabsolutely-certain justification or warrant for knowledge that is now almost universally accepted by epistemologists.) This is debatable, to be sure. However, I am not totally convinced that having chemical weapons of the kind Iraq was reasonably believed to possess alone posed a sufficient threat to justify preventive war. The case for morally justifying preventive war with regard to biological or nuclear weapons almost certainly did not meet the epistemic threshold. This is not to suggest that there were not other morally sufficient reasons, or that there might be some accumulative effect of arguments that are separately, in various respects, weak. Grotius, for one, diminishes the importance of intent, and allows one to change intents in midwar, while retaining its morally justified character. Especially in the recent 2003 Iraq War, there was a constant refrain about the need to acquire international moral approval of the coalition efforts.28 Intuitively, some international assent, especially by sympathetic nations if not the Security Council of the UN, is desirable. Yet it is very difficult to see how this fits into the moral theory of the permissibility of war. However, this reasoning, contrary to our intuitions, seems to leave no place at all for ‘internationalism’ in the moral justification of war (at least as regards its moral permissibility). I would propose that considering the epistemological dimension of morally justified war does give a proper place to our internationalistic inclinations. As is now all too well known, political discussions of the conditions of just war are prone to being blinded by already firm geopolitical worldviews, as well as by past political rhetoric that tend to chain politicians to certain views for the sake of ‘consistency’. The facts of the case, such as intelligence on WMDs, are likewise prone to a certain institutional conformist tendencies\*/and this tendency was well known long before the supposed influences of neoconservatives on the US, and apparently also on foreign intelligence services. For example, when critical policy decisions rest on intelligence, the legendary Sherman Kent,29 proposes that we critically examine existing intelligence, and apply in my terminology ‘second order’ principles, explicitly attaching the probability that various truths are mistaken, based on past incidents of the type of information from such sources. International approval, plays a role in the moral justification of war primarily in this epistemological dimension. I do not think approval of the oddly chosen UN Security Council30 is necessary for a morally justified war, even if it is desirable and should often be sought (for various prudential reasons). The moral criteria must be independent of the Security Council, since they have to reason by some principles and presumably these are the pure moral principles\*/they cannot appeal to a still higher authority. But now suppose that these pure moral principles that the Security Council should use, applied to a single nation’s situation, permits it to go to war. However, the Security Council does not agree to this (perhaps because of a veto) or even prohibits the nation’s action. Rather, the underlying principle is something like this: a failure to persuade numerous like-minded nations of both the relevant facts (e.g., the existence of WMDs), when these nations preferably have some independent intelligence capability, or failure to persuade them of the relevant moral principle embodied in a policy (e.g., that if a nation is as chronically belligerent as Iraq, and has such a WMD capacity, then it can be attacked in advance of its attack), is strong evidence against one’s having met the epistemological threshold for anticipatory war. In the recent situation, the opposition of Russia and France, especially Germany and Mexico, and the unenthusiastic acquiescence of China gave prima facie evidence against having met this threshold; the support of the UK, Italy, Spain, and Poland were, however, probably sufficient to meet my condition. In any case, it is in this epistemological dimension of the philosophy of war, and not anywhere else, that international or international-organization approval plays a role in moral justification.31 It might appear difficult to say much about what precisely this epistemic threshold is. It need not be ‘warrant’ as it is used by epistemologists when discussing conditions for knowledge. 32 Roughly, I think that the evidence at hand both for bellicosity and for the enemy’s possession of military resources constituting, or soon to constitute, a threat (and of their probable offensive nature) must be overwhelming and ‘all but certain’. I do not think that ‘manifest preparations’ for an attack (in Walzer’s terms) are necessary, whatever this means.33 Additionally, our second-order assessment of this evidence must be such that we have good reason to believe that it constitutes good evidence: this source has not mislead us in the past, etc. A second-order assessment is our reasonable estimate of the probability of evidence for our first-order assessment of harm, bellicosity, etc., being correct. The military resources must be such that they are likely, if used in a first-strike, to endanger our nation itself or to pose a severe threat of incapacitating our own military resources. It seems to me\*/although I have not studied this matter at all thoroughly\*/that chemical and biological weapons are indeed terrifying, but are unlikely to be serious in this precise sense. Their dispersal problems as well as the existence of countermeasures tend to lessen their military danger. Nuclear weapons, including dirty bombs, are almost certainly in the ‘severe threat’ category. Several factors raise and lower this threshold. One is the seriousness of the threat. Another is the amount of time until these military resources pose this threat. Still another is a kind of proportionality: minimizing civilian and even military deaths. The epistemic threshold never gets so low that, for example, one may launch a preventive war based on evidence of a nation’s bellicosity or resources that is ‘somewhat likely’.

#### Distinctions between terrorists and combatant or civilian are vital to understanding violence—abandoning them justifies more terror and collapses into relativist nihilism

Elshtain 3 **–** professor of social and political ethics, Chicago (Jean, Thinking About September 11, http://www.aft.org/pubs-reports/american\_educator/summer2003/sept11.html, AG)

In a situation in which noncombatants are deliberately targeted and the murder of the maximum number of noncombatants is the explicit aim, using terms like "fighter" or "soldier" or "noble warrior" is not only beside the point but pernicious. Such language collapses the distance between those who plant bombs in cafés or fly civilian aircraft into office buildings and those who fight other combatants, taking the risks attendant upon military forms of fighting. There is a nihilistic edge to terrorism: It aims to destroy, most often in the service of wild and utopian goals that make no sense at all in the usual political ways. The distinction between terrorism, domestic criminality, and what we might call "normal" or "legitimate" war is vital to observe. It helps us to assess what is happening when force is used. This distinction, marked in historic, moral, and political discourses about war and in the norms of international law, seems lost on those who call the attacks of September 11 acts of "mass murder" rather than terrorism and an act of war under international law. It is thus both strange and disheartening to read the words of those distinction-obliterators for whom, crudely, a dead body is a dead body and never mind how it got that way. Many of these same individuals would, of course, protest vehemently, and correctly, were commentators, critics, and political actors to fail to distinguish between the great world religion that is Islam and the terrorists who perpetrated the events of September 11. One cannot have it both ways, however, by insisting on the distinctions one likes and heaping scorn on those who put pressure on one’s own ideological and political commitments. If we could not distinguish between a death resulting from a car accident and an intentional murder, our criminal justice system would fall apart. And if we cannot distinguish the killing of combatants from the intended targeting of peaceable civilians and the deliberate and indiscriminate sowing of terror among civilians, we live in a world of moral nihilism. In such a world, everything reduces to the same shade of gray and we cannot make distinctions that help us take our political and moral bearings. The victims of September 11 deserve more from us.

#### Legal restraints work---exception theory is self-serving and wrong

William E. Scheuerman 6, Professor of Political Science at Indiana University, Carl Schmitt and the Road to Abu Ghraib, Constellations, Volume 13, Issue 1

Yet this argument relies on Schmitt’s controversial model of politics, as outlined eloquently but unconvincingly in his famous Concept of the Political. To be sure, there are intense conflicts in which it is naïve to expect an easy resolution by legal or juridical means. But the argument suffers from a troubling circularity: Schmitt occasionally wants to define “political” conflicts as those irresolvable by legal or juridical devices in order then to argue against legal or juridical solutions to them. The claim also suffers from a certain vagueness and lack of conceptual precision. At times, it seems to be directed against trying to resolve conflicts in the courts or juridical system narrowly understood; at other times it is directed against any legal regulation of intense conflict. The former argument is surely stronger than the latter. After all, legal devices have undoubtedly played a positive role in taming or at least minimizing the potential dangers of harsh political antagonisms. In the Cold War, for example, international law contributed to the peaceful resolution of conflicts which otherwise might have exploded into horrific violence, even if attempts to bring such conflicts before an international court or tribunal probably would have failed.22¶ Second, Schmitt dwells on the legal inconsistencies that result from modifying the traditional state-centered system of international law by expanding protections to non-state fighters. His view is that irregular combatants logically enjoyed no protections in the state-centered Westphalian model. By broadening protections to include them, international law helps undermine the traditional state system and its accompanying legal framework. Why is this troubling? The most obvious answer is that Schmitt believes that the traditional state system is normatively superior to recent attempts to modify it by, for example, extending international human rights protections to individuals against states. 23 But what if we refuse to endorse his nostalgic preference for the traditional state system? Then a sympathetic reading of the argument would take the form of suggesting that the project of regulating irregular combatants by ordinary law must fail for another reason: it rests on a misguided quest to integrate incongruent models of interstate relations and international law. We cannot, in short, maintain core features of the (state-centered) Westphalian system while extending ambitious new protections to non-state actors.¶ This is a powerful argument, but it remains flawed. Every modern legal order rests on diverse and even conflicting normative elements and ideals, in part because human existence itself is always “in transition.” When one examines the so-called classical liberal legal systems of nineteenth-century England or the United States, for example, one quickly identifies liberal elements coexisting uneasily alongside paternalistic and authoritarian (e.g., the law of slavery in the United States), monarchist, as well as republican and communitarian moments. The same may be said of the legal moorings of the modern welfare state, which arguably rest on a hodgepodge of socialist, liberal, and Christian and even Catholic (for example, in some European maternity policies) programmatic sources. In short, it is by no means self-evident that trying to give coherent legal form to a transitional political and social moment is always doomed to fail. Moreover, there may be sound reasons for claiming that the contemporary transitional juncture in the rules of war is by no means as incongruent as Schmitt asserts. In some recent accounts, the general trend towards extending basic protections to non-state actors is plausibly interpreted in a more positive – and by no means incoherent – light.24¶ Third, Schmitt identifies a deep tension between the classical quest for codified and stable law and the empirical reality of a social world subject to permanent change: “The tendency to modify or even dissolve classical [legal] concepts…is general, and in view of the rapid change of the world it is entirely understandable” (12). Schmitt’s postwar writings include many provocative comments about what contemporary legal scholars describe as the dilemma of legal obsolescence. 25 In The Partisan, he suggests that the “great transformations and modifications” in the technological apparatus of modern warfare place strains on the aspiration for cogent legal norms capable of regulating human affairs (17; see also 48–50). Given the ever-changing character of warfare and the fast pace of change in military technology, it inevitably proves difficult to codify a set of cogent and stable rules of war. The Geneva Convention proviso that legal combatants must bear their weapons openly, for example, seems poorly attuned to a world where military might ultimately depends on nuclear silos buried deep beneath the surface of the earth, and not the success of traditional standing armies massed in battle on the open field. “Or what does the requirement mean of an insignia visible from afar in night battle, or in battle with the long-range weapons of modern technology of war?” (17).¶ As I have tried to show elsewhere, these are powerful considerations deserving of close scrutiny; Schmitt is probably right to argue that the enigma of legal obsolescence takes on special significance in the context of rapid-fire social change.26 Unfortunately, he seems uninterested in the slightest possibility that we might successfully adapt the process of lawmaking to our dynamic social universe. To be sure, he discusses the “motorization of lawmaking” in a fascinating 1950 publication, but only in order to underscore its pathological core.27 Yet one possible resolution of the dilemma he describes would be to figure how to reform the process whereby rules of war are adapted to novel changes in military affairs in order to minimize the danger of anachronistic or out-of-date law. Instead, Schmitt simply employs the dilemma of legal obsolescence as a battering ram against the rule of law and the quest to develop a legal apparatus suited to the special problem of irregular combatants.

#### The alternative is worse --- Critique of nuclear proliferation reifies national structure; legitimizing nuclear acquisition and use organized around hegemonic racial signifiers.

Biswas 2001

Shampa, Professor of political science at Whitman College, Alternatives, 'Nuclear apartheid' as political position: race as a postcolonial resource?, Vol. 26 Nbr. 4

As persuasive as the nuclear-apartheid argument may be at pointing to one set of global exclusions, its complicity in the production of boundaries that help sustain a whole other set of exclusions also makes it suspect. It is precisely the resonances of the concept of apartheid, and the strong visceral response it generates, that gives it the ability to bound and erase much more effectively. In one bold move, the nuclear-apartheid argument announces the place of nuclear weaponry as the arbiter of global power and status, and how its inaccessibility or unavailability to a racialized Third World relegates it forever to the dustheap of history. It thus makes it possible for "Indians" to imagine themselves as a "community of resistance." However, with that same stroke, the nuclear-apartheid position creates and sustains yet another racialized hierarchy, bringing into being an India that is exclusionary and oppressive**.** And it is precisely the boldness of this racial signifier that carries with it the ability to erase, mask, and exclude much more effectively. In the hands of the BJP, the "nuclear apartheid" position becomes dangerous--because the very boldness of this racial signifier makes it possible for the BJP to effect closure on its hegemonic vision of the Hindu/Indian nation. Hence, this article has argued, in taking seriously the racialized exclusions revealed by the use of the "nuclear apartheid" position at the international level, one must simultaneously reveal another set of racialized exclusions effected by the BJP in consolidating its hold on state power. I have argued that comprehending the force and effect of the invocation of "race" through the nuclear-apartheid position means to understand this mutually constitutive co-construction of racialized domestic and international hierarchical orders. However, if there is one lesson to be learned from Indian nuclearization, it is that any vision of substantive peace at the international level must incorporate normative claims of justice.

### Executive Order

#### Counterplan doesn’t solve legitimacy or warfighting – the international community doesn’t trust it

Shane 11/24/12 (SCOTT, staffwriter, “Election Spurred a Move to Codify U.S. Drone Policy” http://www.nytimes.com/2012/11/25/world/white-house-presses-for-drone-rule-book.html?pagewanted=all&\_r=0)

WASHINGTON — Facing the possibility that President Obama might not win a second term, his administration accelerated work in the weeks before the election to develop explicit rules for the targeted killing of terrorists by unmanned drones, so that a new president would inherit clear standards and procedures, according to two administration officials. The matter may have lost some urgency after Nov. 6. But with more than 300 drone strikes and some 2,500 people killed by the Central Intelligence Agency and the military since Mr. Obama first took office, the administration is still pushing to make the rules formal and resolve internal uncertainty and disagreement about exactly when lethal action is justified. Mr. Obama and his advisers are still debating whether remote-control killing should be a measure of last resort against imminent threats to the United States, or a more flexible tool, available to help allied governments attack their enemies or to prevent militants from controlling territory. Though publicly the administration presents a united front on the use of drones, behind the scenes there is longstanding tension. The Defense Department and the C.I.A. continue to press for greater latitude to carry out strikes; Justice Department and State Department officials, and the president’s counterterrorism adviser, John O. Brennan, have argued for restraint, officials involved in the discussions say. More broadly, the administration’s legal reasoning has not persuaded many other countries that the strikes are acceptable under international law. For years before the Sept. 11, 2001, attacks, the United States routinely condemned targeted killings of suspected terrorists by Israel, and most countries still object to such measures. But since the first targeted killing by the United States in 2002, two administrations have taken the position that the United States is at war with Al Qaeda and its allies and can legally defend itself by striking its enemies wherever they are found. Partly because United Nations officials know that the United States is setting a legal and ethical precedent for other countries developing armed drones, the U.N. plans to open a unit in Geneva early next year to investigate American drone strikes.

#### DOD shift now – counterplan is the status quo

Jack Goldsmith, Harvard Law School Professor, focus on national security law, presidential power, cybersecurity, and conflict of laws, Former Assistant Attorney General, Office of Legal Counsel, and Special Counsel to the Department of Defense, Hoover Institution Task Force on National Security and Law, 3/20/13, No More Drones For CIA, www.lawfareblog.com/2013/03/no-more-drones-for-cia/

That is the title of Dan Klaidman’s important story:

Three senior U.S. officials tell The Daily Beast that the White House is poised to sign off on a plan to shift the CIA’s lethal targeting program to the Defense Department. . . .The proposed plan would unify the command and control structure of targeted killings, and create a uniform set of rules and procedures. The CIA would maintain a role, but the military would have operational control over targeting. Lethal missions would take place under Title 10 of the U.S. Code, which governs military operations, rather than Title 50, which sets out the legal authorities for intelligence activities and covert operations.

Quick reactions:

(1) It is not clear what is at stake here, especially if, as Marc Ambinder reports, the Air Force currently operates and “presses the button that releases the missile” on CIA drones. At least two things appear to be involved in the shift: (a) CIA will no longer be determining who is killed, and (b) CIA might no longer “own” armed drones (Ambinder reports that CIA has 30 UAVs, but it is unclear how many are armed). Presumably CIA will still play a heavy role in the intelligence side of drone strikes – which, as I understand it, is 99% of the operation. In that light, it is unclear what Klaidman entails when he says that “a potential downside of the Agency relinquishing control of the program was the loss of a decade of expertise that the CIA has developed since it has been prosecuting its war in Pakistan and beyond,” and adds that “for a period of transition, CIA operators would likely work alongside their military counterparts to target suspected terrorists.”

#### No solvency – XO isn’t binding – can be modified in secret

Dreyfuss 12 (Mike Dreyfuss is a Candidate for Doctor of Jurisprudence, “My Fellow Americans, We Are Going to Kill You: The Legality of Targeting and Killing U.S. Citizens Abroad,” http://www.vanderbiltlawreview.org/content/articles/2012/01/Dreyfuss\_65\_Vand\_L\_Rev\_249.pdf)

Notwithstanding any of the above, the President can revoke or modify Executive Order 12,333 by issuing a new executive order. Executive orders do not bind executive practice any more than the President wants them to, and the President can keep executive orders secret if he so chooses.40 Typically, new executive orders have to be published in the Federal Register. 41 However, when the President determines that as a result of an attack or a threatened attack on the United States, publication would be impracticable or would not “give appropriate notice to the public,” the President can suspend this filing requirement.42 So while targeted killing is distinct from assassination and, under currently published laws, must be distinct to be legal, the distinction matters little. Even classifying all targeted killings as assassinations within the meaning of Executive Order 12,333 would be of little practical importance, as any President who wished to continue the programs could secretly modify the order to carve out an exception for whatever activities he wished to conduct.

### Warfighting

#### 5. Executive speed and flexibility kills warfighting – external restraint is key

Deborah N. Pearlstein 9, lecturer in public and international affairs, Woodrow Wilson School of Public & International Affairs, July 2009, "Form and Function in the National Security Constitution," Connecticut Law Review, 41 Conn. L. Rev. 1549, lexis nexis

It is in part for such reasons that studies of organizational performance in crisis management have regularly found that "planning and effective [\*1604] response are causally connected." n196 Clear, well-understood rules, formalized training and planning can function to match cultural and individual instincts that emerge in a crisis with commitments that flow from standard operating procedures and professional norms. n197 Indeed, "the less an organization has to change its pre-disaster functions and roles to perform in a disaster, the more effective is its disaster [sic] response." n198 In this sense, **a decisionmaker with absolute flex**ibility **in an emergency-unconstrained by protocols or plans-may be systematically more prone to error than a decision-maker who is in some way compelled to follow procedures and guidelines, which have incorporated professional expertise, and which are set as effective constraints in advance**.¶ **Examples of excessive flexibility producing adverse consequences are ample**. Following Hurricane **Katrina**, one of the most important lessons independent analysis drew from the government response was the extent to which the disaster was made worse as a result of the lack of experience and knowledge of crisis procedures among key officials, the absence of expert advisors **replacing those rules with more than the most general guidance about custodial intelligence collection.** available to key officials (including the President), and the failure to follow existing response plans or to draw from lessons learned from simulations conducted before the fact. n199 Among the many consequences, [\*1605] basic items like food, water, and medicines were in such short supply that local law enforcement (instead of focusing on security issues) were occupied, in part, with breaking into businesses and taking what residents needed. n200¶ Or **consider the widespread abuse of prisoners at U.S. detention facilities such as Abu Ghraib**. Whatever the theoretical merits of applying coercive interrogation in a carefully selected way against key intelligence targets, n201 the systemic torture and abuse of scores of detainees was an outcome no one purported to seek. There is substantial agreement among security analysts of both parties that the prisoner abuse scandals have produced predominantly negative consequences for U.S. national security. n202 While there remain important questions about the extent to which some of the abuses at Abu Ghraib were the result of civilian or senior military command actions or omissions, one of the too often overlooked findings of the government investigations of the incidents is the unanimous agreement that the abuse was (at least in part) the result of structural organization failures n203 -failures that one might expect to [\*1606] produce errors either to the benefit or detriment of security.¶ In particular, military investigators looking at the causes of Abu Ghraib cited vague guidance, as well as inadequate training and planning for detention and interrogation operations, as key factors leading to the abuse. Remarkably, "pre-war planning [did] not include[] planning for detainee operations" in Iraq. n204 Moreover, **investigators cited failures at the policy level- decisions to lift existing detention and interrogation strictures without** n205 As one Army General later investigating the abuses noted: "**By October 2003, interrogation policy in Iraq had changed three times in less than thirty days and it became very confusing as to what techniques could be employed and at what level non-doctrinal approaches had to be approved**." n206 It was thus unsurprising that detention and interrogation operations were assigned to troops with grossly inadequate training in any rules that were still recognized. n207 The **uncertain effect of broad, general guidance**, coupled [\*1607] with the competing imperatives of guidelines that differed among theaters of operation, agencies, and military units, caused serious confusion among troops and led to decisionmaking that it is overly kind to call arbitrary. n208¶ Would the new functionalists disagree with the importance of government planning for detention operations in an emergency surrounding a terrorist nuclear attack? Not necessarily. Can an organization anticipate and plan for everything? Certainly not. But **such findings should at least call into question the inclination to simply maximize flex**ibility **and discretion in an emergency, without, for example, structural incentives that might ensure the engagement of professional expertise**. n209 Particularly if one embraces the view that the most potentially damaging terrorist threats are **nuclear and biological terrorism**, involving highly technical information about weapons acquisition and deployment, a security policy **structure based on nothing more than general popular mandate and political instincts is unlikely to suffice**; **a structure that systematically excludes knowledge of and training in emergency response will almost certainly result in mismanagement**. n210 In this light, a general take on role effectiveness might suggest favoring a structure in which the engagement of relevant expertise in crisis management is required, leaders have incentives to anticipate and plan in advance for trade-offs, and [\*1608] organizations are able to train subordinates to ensure that plans are adhered to in emergencies. Such **structural constraints could help increase the likelihood that something more than arbitrary attention has been paid before transcendent priorities are overridden.**

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#### Latin American nations have the technology and will to proliferate

Ghoshal 8/20/13 (Debalina, Associate Fellow at the Centre for Air Power Studies, Western Air Command, New Delhi, India, “South America Goes Nuclear: Now Brazil” <http://www.gatestoneinstitute.org/3941/nuclear-brazil>)

In Venezuela, Russia is building naval capabilities, including nuclear-powered guided-missile cruisers and anti-submarine ships. Chile's Scorpène class submarine can be fitted with missiles. Argentina is also eyeing nuclear-powered submarines, equipped, however, at least for now, with conventional weapons. Brazil, a party to the Non Proliferation Treaty, is reportedly planning to develop indigenously a nuclear-propulsion system: the nation's first submarine is expected to be operational by 2017; its first nuclear submarine by 2023.[1] If Brazil develops a nuclear submarine, it would be South America's first,[2] and enable Brazil to project itself as a "developed country with sophisticated industry capable of absorbing, mastering and using advanced technologies."[3] The nuclear submarine program is based on Pressurised Water Reactors, which enable a submarine to deliver a large amount of power from very low amount of energy, Brazil could could use either Low Enriched Uranium, nuclear fuel enriched up to 20% which is "easier and less expensive to acquire,"[4] or Highly Enriched Uranium, processed between 50-90%. Evidently prompted by the lessons of Falklands War of 1982, as well as by a desire to protect Brazil's large off-shore oil reserves in the Amazon region, Brazil took its first step toward establishing a sea-based deterrent in 2009, when its leadership decided to develop five submarines -- some of them nuclear-powered. Background During the Falklands War, a British nuclear-powered submarine sank the Argentine cruiser General Belgrano, propelling both Argentina and Brazil to recognize the importance of a strong navy.[5] As Brazil has always advocated Argentina's claims over the Falkland Islands,[6] an increased projection of power from Brazil could be of concern to Britain. At present, Brazil's navy, built largely in cooperation with France[7] is seen as a "key part of the country's new national armaments and defence strategy." [8] Submarines are "a key part of Brazil's effort to build a modern navy that can defend its oil and trade interests in the South Atlantic, a region long dominated by British and U.S. navies,"[9] where United States "patrolled, shadowed, trailed and tracked Soviet strategic submarines as part of their forward deployment strategy."[10] The naval expert Ambassador Paul D. Taylor[11] has pointed out three maritime goals in Brazil's national defence concept: "Sea denial, control of maritime areas, and power projection."[12] Brazil's navy is responsible for the protection of some 7400 km of coastline, of which, submarines would form an integral component.[13] The submarines could be used not only to attack the lines of communication of adversaries, but also for power projection "through the disembarkation of special forces, for intelligence collection, and for laying mines".[14] The Scorpène class conventional submarine designed to maximise stealth and have low acoustic, magnetic, electro-magnetic, and infra-red signatures [15]is reportedly to be used for "anti-submarine warfare, special operations and intelligence collection."[16] Flexible cables to be used are for reduction of noise; and special low-noise emission components for rotating machinery. [17] Conventional submarines, however, may not be sufficient to protect Brazil's oil wealth; hence, the need for nuclear powered submarines. Mauricio Santoro, a political scientist, writes that the nuclear submarine technology would enable the Brazilian navy to "create a "production prototype,"[18] which could be used subsequently in other naval vessels, such as aircraft carriers. Brazil is part of the BRICS group of emerging economies (Brazil, Russia, India and China, South Africa). All members except South Africa have ventured into nuclear powered submarine programs. Brazil may also be concerned about Chile's submarine capabilities. Although Chile does not possess any nuclear attack submarines, its Scorpène class submarine can be fitted with anti-ship and anti-submarine torpedoes as well as anti-surface missiles.[19] An advantage with Scorpène class submarines is that they can be fitted with air-independent propulsion, which means they can stay submerged for a longer duration than those with conventional propulsion. Argentina is also eyeing nuclear powered submarines, but equipped, at least for now, with conventional weapons. In Venezuela, Russia is building naval capabilities, including nuclear-powered guided-missile cruisers and anti-submarine ships. Nuclear submarines would, therefore, in the words of Brazilian President Rousseff, "allow [Brazil] to affirm itself on the world stage, and, above all, develop in an independent sovereign way Towards Nuclear Weapons Proliferation Brazil's nuclear submarine would apparently mean a "revival of nuclear development by the Brazilian military that was halted in 1990 with the end of the country's nuclear bomb program."[20] In 2000, however, Brazil's government began exploring a civil nuclear program. Even though Brazil is officially a party to the Non Proliferation Treaty, former President Lula da Silva criticized the NPT as discriminatory toward non-nuclear-weapons states. Brazil's unwillingness to join the Additional Protocol of the Nuclear Non Proliferation Treaty further signals efforts toward nuclearization. Venezuela's close collaboration with Russia and Iran may result in the proliferation of nuclear material or weapons from these countries to Venezuela. There were reports in 2011 that Venezuela, in collaboration with Iran, was building missiles deployed within range of the United States. Brazil would be reasonable to conclude that even basic nuclear capability could deter hostile South American states or other rival attempts on its vast oil resources. Brazil's constitution bans the development of nuclear weapons; also, as a member of Agência Brasileiro-Argentina de Contabilidade e Côntrole de Materiais Nucleares (ABACC), the country would be subject to the monitoring of all nuclear stockpiles. Still, the agency's ability to prevent Brazil from becoming nuclear state is questionable. Moreover, the NPT has a loophole for the non-nuclear-weapons states: in a "critical non-proliferation concern for international community," [21] members can legitimately stockpile large amounts of enriched, weapons-grade uranium, resulting, as with Brazil, in their drifting away from the treaty.[22] Of note, therefore, is Brazil's support for the development of nuclear weapons as a crucial tool of deterrence: to portray itself as an important player in international politics and possibly an eventual bid for permanent membership in the United Nations Security Council. Brazil carries out its nuclear submarine construction in areas it considers "restricted military areas" that bar investigation from the International Atomic Energy Agency. As nuclear submarines require enriched uranium, Brazil could disguise its submarine development as a means to develop nuclear weapons. Deterrence Existential deterrence -- the product of a mode of thought that emphasizes military capabilities over diplomacy and rhetoric -- has, in the nuclear age, been acclaimed by many states as a strategic necessity. As has been stated: "Potential opponents would be expected to draw conclusions about the capacity and will which would inform their own posture and actions."[23] Brazil therefore asserts its nuclear powered submarines as a peaceful deterrent and not a weapon of war. Since the Cold War era, common belief has held that mutual assured destruction ["MAD",] especially with a stated policy of "no first use," can be strengthened with the deployment of nuclear-powered submarines. Brazil may well determine that if it acquires nuclear capability, at least some of its weapons could survive an enemy's first strike and thereby deter further attempts at aggression. Conclusion By stating that submarines would be used for defensive roles only, Brazil apparently tries to make clear, as the analyst William Goncalvez stated, that it has "strategic needs," but no desire to fuel an "arms race….nor does it want to be a military power."[24] At a time when countries such as China, Russia, and Iran are intensifying their efforts to deny to their adversaries access to certain areas,[25] Brazil's nuclear-powered submarines could also enable the country to enhance its sea-denial capabilities. Brazil's nuclear-powered submarine is expected to have a "world wide reach, deep water stealth, and strike capability."[26] The submarine could further be used for finding and tracking enemy submarines and to carry out covert missions for intelligence gathering. The cost of building the fleet of submarines would be high, estimated up to USD $4 billion. As such, Brazil's domestic problems might cause a reduction to its defense budget. Moreover, the Brazilian navy has had an uneven experience with its French Sao Paulo aircraft carrier which, when deployed,[27] has undergone a number of mechanical problems. Brazil's submarine capabilities could, of course, enable it to take part in warfare away from Brazil's borders. When under the threat of nuclear war, having the capability to wage a war distant from the homefront is advantageous. Although, under the Treaty of Tlalelolco of 1967, Latin America is at present is a nuclear-weapons-free zone, Brazil's move towards nuclearization could prompt Venezuela and Argentina to follow suit. Brazil could also eventually develop SSBNs(ship-submersible ballistic missile nuclear-powered submarines), which can fire submarine-launched ballistic missiles, and which are one of the components of a nuclear triad -- to move towards a credible deterrent. Brazil could choose to develop submarine-launched missiles or torpedoes. In the long run, the nuclear attack submarines could be converted to submarines capable of carrying nuclear-capable cruise missiles. Only then can Brazil strengthen its Continuous-at-Sea Deterrent, or the ability of a submarine armed with nuclear missiles to be on constant patrol. These nuclear developments in Brazil are worth watching closely: the precariousness of deterrence, or of collapsed or ineffective deterrence, easily leads to all-out war.

### Turns

#### Drones are critical to prevent cruise missile use – that magnifies blowback and civilian casualties

Byman 13 (Daniel, Professor in the Security Studies Program at the Edmund A. Walsh School of Foreign Service at Georgetown University and a Senior Fellow at the Saban Center for Middle East Policy at the Brookings Institution, “Why Drones Work: The case for washington’s weapon of choice,” 92 Foreign Aff. 32 (2013), Accessed at Hein Online)

Despite the obvious benefits of using drones and the problems associated with the alternatives, numerous critics argue that drones still have too many disadvantages. First among them is an unacceptably high level of civilian casualties. Admittedly, drones have killed innocents. But the real debate is over how many and whether alternative approaches are any better. The Bureau of Investigative Journalism reports that in 2011 alone, nearly 900 noncombatants, including almost 200 children, were killed by U.S. drone strikes. Columbia Law School's Human Rights Clinic also cites high numbers of civilian deaths, as does the Pakistani organization Pakistan Body Count. Peter Bergen of the New America Foundation oversees a database of drone casualties culled from U.S. sources and international media reports. He estimates that between 150 and 500 civilians have been killed by drones during Obama's administration. U.S. officials, meanwhile, maintain that drone strikes have killed almost no civilians. In June 2011, John Brennan, then Obama's.top counterterrorism adviser, even contended that U.S. drone strikes had killed no civilians in the previous year. But these claims are based on the fact that the U.S. government assumes that all military-age males in the blast area of a drone strike are combatants- unless it can determine after the fact that they were innocent (and such intelligence gathering is not a priority). The United States has recently taken to launching "signature strikes," which target not specific individuals but instead groups engaged in suspicious activities. This approach makes it even more difficult to distinguish between combatants and civilians and verify body counts of each. Still, as one U.S. official told The New York Times last year, "Al Qaeda is an in- sular, paranoid organization-innocent neighbors don't hitchhike rides in the back-of trucks headed for the border with guns and bombs." Of course, not everyone accepts this reasoning. Zeeshan-ul-hassan Usmani, who runs Pakistan Body Count, says that "neither [the United States] nor Pakistan releases any detailed information about the victims ... so [although the United States] likes to call everybody Taliban, I call everybody civilians. The truth is that all the public numbers are unreliable. Who con- stitutes a civilian is often unclear; when trying to kill the Pakistani Taliban leader Baitullah Mehsud, for example, the United States also killed his doctor. The doctor was not targeting U.S. or allied forces, but he was aiding a known terrorist leader. In addition, most strikes are carried out in such remote locations that it is nearly impossible for independent sources to verify who was killed. In Pakistan, for example, the overwhelming majority of drone killings occur in tribal areas that lie outside the government's control and are prohibitively dangerous for Westerners and independent local journalists to enter. Thus, although the New America Foundation has come under fire for relying heavily on unverifiable information provided by anonymous U.S. officials, reports from local Pakistani organizations, and the Western organizations that rely on them, are no better: their numbers are frequently doctored by the Pakistani government or by militant groups. After a strike in Pakistan, militants often cordon off the area, remove their dead, and admit only local reporters sympathetic to their cause or decide on a body count themselves. The U.S. media often then draw on such faulty reporting to give the illusion of having used multiple sources. As a result, statistics on civilians killed by drones are often inflated. One of the few truly independent on-the-ground reporting efforts, conducted by the Associated Press last year, concluded that the strikes "are killing far fewer civilians than many in [Pakistan] are led to believe." But even the most unfavorable estimates of drone casualties reveal that the ratio of civilian to militant deaths-about one to three, according to the Bureau of Investigative Journalism-is lower than it would be for other forms of strikes. Bombings by F-16s or Tomahawk cruise missile salvos, for example, pack a much more deadly payload. In December 2009, the United States fired Tomahawks at a suspected terrorist training camp in Yemen, and over 30 people were killed in the blast, most of them women and children. At the time, the Yemeni regime refused to allow the use of drones, but had this not been the case, a drone's real-time surveillance would probably have spotted the large number of women and children, and the attack would have been aborted. Even if the strike had gone forward for some reason, the drone's far smaller warhead would have killed fewer innocents. Civilian deaths are tragic and pose political problems. But the data show that drones are more discriminate than other types of force.

#### Experts make better predictions

Doremus, 1997 (Holly, Professor of Law at the University, 75 Wash. U. L. Q. 1029, Lexis)

Hunches and incompletely confirmed intuitions are both less objective and less reliable than theories which have been strongly confirmed by empirical data. Nonetheless, just as they have a role in the scientific process, they have value for policymakers. In particular, the hunches of scientists may represent the most reliable answer available to questions which have not yet been tested, or which for some reason cannot be tested at this time. n217  [\*1072]  Neither scientists nor laypersons can know the answers to such questions with any degree of certainty. There is good reason to believe, however, that the educated intuitions of scientists may prove more trustworthy than the guesses of non-experts. n218 For one thing, successful scientists are likely to have developed special observational skills in their area of expertise. n219 Their choice of career demonstrates a powerful personal interest likely to motivate careful, insightful observation, n220 and their success at that career depends in part upon their ability to distinguish reliable data and theories worthy of further pursuit from unreliable data and unproductive theories. n221 In addition, experts in the field will be more familiar than the lay public with the background knowledge against which novel data and theories must be interpreted. n222

### Security

#### The forum of college debate is vitally important for creating effective forms of public deliberation necessary to challenge illegitimate national security policy-switch side debate is intrinsically linked to this process.

Kurr-Ph.D. student Communication, Penn State-9/5/13

Bridging Competitive Debate and Public Deliberation on Presidential War Powers

http://public.cedadebate.org/node/14

The second major function concerns the specific nature of deliberation over war powers. Given the connectedness between presidential war powers and the preservation of national security, deliberation is often difficult. Mark Neocleous describes that when political issues become securitized; it “helps consolidate the power of the existing forms of social domination and justifies the short-circuiting of even the most democratic forms.” (2008, p. 71). Collegiate debaters, through research and competitive debate, serve as a bulwark against this “short-circuiting” and help preserve democratic deliberation. This is especially true when considering national security issues. Eric English contends, “The success … in challenging the dominant dialogue on homeland security politics points to efficacy of academic debate as a training ground.” Part of this training requires a “robust understanding of the switch-side technique” which “helps prevent misappropriation of the technique to bolster suspect homeland security policies” (English et. al, 2007, p. 224). Hence, competitive debate training provides foundation for interrogating these policies in public. Alarmism on the issues of war powers is easily demonstrated by Obama’s repeated attempts to transfer detainees from Guantanamo Bay. Republicans were able to launch a campaign featuring the slogan, “not in my backyard” (Schor, 2009). By locating the nexus of insecurity as close as geographically possible, the GOP were able to instill a fear of national insecurity that made deliberation in the public sphere not possible. When collegiate debaters translate their knowledge of the policy wonkery on such issues into public deliberation, it serves to cut against the alarmist rhetoric purported by opponents. In addition to combating misperceptions concerning detainee transfers, the investigative capacity of collegiate debate provides a constant check on governmental policies. A new trend concerning national security policies has been for the government to provide “status updates” to the public. On March 28, 2011, Obama gave a speech concerning Operation Odyssey Dawn in Libya and the purpose of the bombings. Jeremy Engels and William Saas describe this “post facto discourse” as a “new norm” where “Americans are called to acquiesce to decisions already made” (2013, p. 230). Contra to the alarmist strategy that made policy deliberation impossible, this rhetorical strategy posits that deliberation is not necessary. Collegiate debaters researching war powers are able to interrogate whether deliberation is actually needed. Given the technical knowledge base needed to comprehend the mechanism of how war powers operate, debate programs serve as a constant investigation into whether deliberation is necessary not only for prior action but also future action. By raising public awareness, there is a greater potential that “the public’s inquiry into potential illegal action abroad” could “create real incentives to enforce the WPR” (Druck, 2010, p. 236). While this line of interrogation could be fulfilled by another organization, collegiate debaters who translate their competitive knowledge into public awareness create a “space for talk” where the public has “previously been content to remain silent” (Engels & Saas, 2013, p. 231). Given the importance of presidential war powers and the strategies used by both sides of the aisle to stifle deliberation, the import of competitive debate research into the public realm should provide an additional check of being subdued by alarmism or acquiescent rhetorics. After creating that space for deliberation, debaters are apt to influence the policies themselves. Mitchell furthers, “Intercollegiate debaters can play key roles in retrieving and amplifying positions that might otherwise remain sedimented in the policy process” (2010, p. 107). With the timeliness of the war powers controversy and the need for competitive debate to reorient publicly, the CEDA/Miller Center series represents a symbiotic relationship that ought to continue into the future. Not only will collegiate debaters become better public advocates by shifting from competition to collaboration, the public becomes more informed on a technical issue where deliberation was being stifled. As a result, debaters reinvigorate debate.

#### And the alt fails, state action is key to solve. Policy makers and elites are responsive.

Kurki 2011

Milja, The Limitations of the Critical Edge: Reflections on Critical and Philosophical IR Scholarship Today, Principal Investigator of ‘Political Economies of Democratisation’, a European Research Council-funded project based at the International Politics Department, Aberystwyth University, Millennium: Journal of International Studies 40(1) 129–146 September 2011

We have yet another call to a new beginning, another meta-theoretical debate for the consumers of international relations theory. This is the easy part, and I support it as far as it goes. However, now it is time to move beyond introductions and openings to concrete applications, to the construction and illustration of viable alternatives. It is important that we proceed in this manner not because these alternatives are necessarily going to be ‘better’, closer to ‘truth’ or more ‘real’ in some sense than prevailing theoretical explanations; but in order to demonstrate the possibility of alternative – possibly, but not necessarily, superior – conceptualisations, that are otherwise widely held to be self-evident by the vast majority of scholars of IR.53 There have been many calls for more critical and philosophical debate in IR; yet, just how critical are all these debates and what effects do they have? What is the purpose of critical IR theory or philosophical reflection, and what is the purpose of the supposed theoretical diversity that the critical voices bring into IR? Many, in my view, misunderstand their purpose. Biersteker summarises my own view perfectly. The point of philosophical reflection and post-positivism, he argues, is not to provide ‘pluralism without purpose, but a critical pluralism, designed to reveal embedded power and authority structures, provoke critical scrutiny of dominant discourses, engage marginalised peoples and perspectives and provide a basis for alternative conceptualisations’.54 There is a purpose to critical theory that needs to be acknowledged, reflected upon and ‘practised’; both inside and outside academia. At present, it seems to me that relatively little such engagement takes place; not because critical theorists are ‘lazy’ or wrong-headed, but because the disciplinary environment and professional structures favour disassociation and depoliticisation even of these strands of thought. Strategic thinking of critical theorists is not missing, but it is oriented in such a way that does not facilitate real-world political changes. In the era of the expansion of the image of homo oeconomicus in academia too, much remains to be done in reinvigorating critical theoretical thought. At present, we have many theoretically sophisticated but practically disinvested scholars. This renders IR, and especially philosophical and critical theory within it, rather useless in challenging global structures and paradigms of domination. But what can we do about this? Arguably, revisions of conceptual categories and their political underpinnings, as well as spaces to think about alternatives, are needed more than ever. But how do we generate them, or, in Cox’s or Murphy’s words, how can IR academics help in generating such alternatives? We can do so in a few ways. We can do so by passing on the torch by continuing to teach critical theory: as Hoffman usefully reminds us, theorising itself (and passing it on through teaching) is a critical practice in itself.55 We can also do so today by continuing to fight the cuts to social science research in universities and the constriction of space for free thought within universities. We can also seek to obtain, but also seek to reshape, the kind of research funding that is provided by funding councils or states. This takes some perseverance, for it is not easy to argue for conceptual or philosophical engagement, let alone critical praxaeology, at a time of crisis or for reform within bureaucratic and conservative structures. Yet, this brings in another core aspect of the challenge faced by critical theorists, which is that we must also seek to engage with the world: to act in it as well as analyse it. We must engage the social groups and NGOs, but also the elites and bureaucrats. We can do so and we must try and do so; partly because these elites (and also NGO elites) are actually more well-meaning and even reflective than many academics give them credit for; and because, in my experience, they are very capable of understanding both the pros and cons, limits and possibilities, of alternative frameworks and actions when concretely presented with them. This is not to say that significant structural and ideological constraints do not exist to generating alternative political scenarios – they do – but the structures are only partly, and in many cases only secondarily, supported, even by governmental or intergovernmental elites. These elites may be a good ally, rather than an enemy, in re-shifting international political and economic paradigms. The result of a new kind of engagement with the empirical and the practical is not necessarily a victory of critical theory; critical theory rarely – indeed never, it would seem – ‘wins’, that much is a clear lesson of history. Yet, it can occasionally activate, motivate and, indeed, ‘enthral’ people, as well as giving them hope and impetus to achieve change. Despite its sceptical outlook, critical and philosophical theory is still valuable in reminding us that, while it does not seem so, we do not live in a world without any alternatives.

#### War turns structural violence but not the other way around

Joshua Goldstein, Int’l Rel Prof @ American U, 2001, War and Gender, p. 412

First, peace activists face a dilemma in thinking about causes of war and working for peace. Many peace scholars and activists support the approach, “if you want peace, work for justice.” Then, if one believes that sexism contributes to war one can work for gender justice specifically (perhaps among others) in order to pursue peace. This approach brings strategic allies to the peace movement (women, labor, minorities), but rests on the assumption that injustices cause war. The evidence in this book suggests that causality runs at least as strongly the other way. War is not a product of capitalism, imperialism, gender, innate aggression, or any other single cause, although all of these influence wars’ outbreaks and outcomes. Rather, war has in part fueled and sustained these and other injustices.9 So,”if you want peace, work for peace.” Indeed, if you want justice (gender and others), work for peace. Causality does not run just upward through the levels of analysis, from types of individuals, societies, and governments up to war. It runs downward too. Enloe suggests that changes in attitudes towards war and the military may be the most important way to “reverse women’s oppression.” The dilemma is that peace work focused on justice brings to the peace movement energy, allies, and moral grounding, yet, in light of this book’s evidence, the emphasis on injustice as the main cause of war seems to be empirically inadequate.

#### Extinction first

Bostrum, Philosophy prof at Oxford, 02 (Nick, Existential Risks: Analyzing Human Extinction Scenarios and Related Hazards, Published in the Journal of Evolution and Technology, Vol. 9, No. 1 (2002), http://www.nickbostrom.com/existential/risks.html)

In combination, these indirect arguments add important constraints to those we can glean from the direct consideration of various technological risks, although there is not room here to elaborate on the details. But the balance of evidence is such that it would appear unreasonable not to assign a substantial probability to the hypothesis that an existential disaster will do us in. My subjective opinion is that setting this probability lower than 25% would be misguided, and the best estimate may be considerably higher. But even if the probability were much smaller (say, ~1%) the subject matter would still merit very serious attention because of how much is at stake.