## 1AC

### Plan

#### The United States federal government should limit the President's war powers authority to assert, on behalf of the United States, immunity from judicial review by establishing a cause of action allowing civil suits brought against the United States by those unlawfully injured by targeted killing operations, their heirs, or their estates in security cleared legal proceedings.

### Accountability

#### Accountability mechanisms that constrain the executive prevent drone overuse in Pakistan that causes massive structural violence and instability

Benjamin R. Farley 12, JD from Emory University School of Law, former Editor-in-Chief of the Emory International Law Review, “Drones and Democracy: Missing Out on Accountability?” Winter 2012, 54 S. Tex. L. Rev. 385, lexis

Effective accountability mechanisms constrain policymakers' freedom to choose to use force by increasing the costs of use-of-force decisions and imposing barriers on reaching use-of-force decisions. The accountability mechanisms discussed here, when effective, reduce the likelihood of resorting to force (1) through the threat of electoral sanctioning, which carries with it a demand that political leaders explain their resort to force; (2) by limiting policymakers to choosing force only in the manners authorized by the legislature; and (3) by requiring policymakers to adhere to both domestic and international law when resorting to force and demanding that their justifications for uses of force satisfy both domestic and international law. When these accountability mechanisms are ineffective, the barriers to using force are lowered and the use of force becomes more likely.¶ Use-of-force decisions that avoid accountability are problematic for both functional and normative reasons. Functionally, accountability avoidance yields increased risk-taking and increases the likelihood of policy failure. The constraints imposed by political, supervisory, fiscal, and legal accountability "make[] leaders reluctant to engage in foolhardy military expeditions... . If the caution about military adventure is translated into general risk-aversion when it comes to unnecessary military engagements, then there will likely be a distributional effect on the success rates of [democracies]." n205 Indeed, this result is predicted by the structural explanation of the democratic peace. It also explains why policies that rely on covert action - action that is necessarily less constrained by accountability mechanisms - carry an increased risk of failure. n206 Thus, although accountability avoidance seductively holds out the prospect of flexibility and freedom of action for policymakers, it may ultimately prove counterproductive.¶ In fact, policy failure associated with the overreliance on force - due at least in part to lowered barriers from drone-enabled accountability avoidance - may be occurring already. Airstrikes are deeply unpopular in both Yemen n207 and Pakistan, n208 and although the strikes have proven critical [\*421] to degrading al-Qaeda and associated forces in Pakistan, increased uses of force may be contributing to instability, the spread of militancy, and the failure of U.S. policy objectives there. n209 Similarly, the success of drone [\*422] strikes in Pakistan must be balanced against the costs associated with the increasingly contentious U.S.-Pakistani relationship, which is attributable at least in part to the number and intensity of drone strikes. n210 These costs include undermining the civilian Pakistani government and contributing to the closure of Pakistan to NATO supplies transiting to Afghanistan, n211 thus forcing the U.S. and NATO to rely instead on several repressive central Asian states. n212 Arguably the damage to U.S.-Pakistan relations and the destabilizing influence of U.S. operations in Yemen would be mitigated by fewer such operations - and there would be fewer U.S. operations in both Pakistan and Yemen if U.S. policymakers were more constrained by use-of-force accountability mechanisms.¶ From a normative perspective, the freedom of action that accountability avoidance facilitates represents the de facto concentration of authority to use force in the executive branch. While some argue that such concentration of authority is necessary or even pragmatic in the current international environment, 168 it is anathema to the U.S. constitutional system. Indeed, the founding generation’s fear of foolhardy military adventurism is one reason for the Constitution’s diffusion of use-of-force authority between the Congress and the President. 169 That generation recognized that a President vested with an unconstrained ability to go to war is more likely to lead the nation into war.

#### Judicial review is key to prevent mistakes – executive targeting decisions are inevitably flawed

Ahmad Chehab 12, Georgetown University Law Center, “RETRIEVING THE ROLE OF ACCOUNTABILITY IN THE TARGETED KILLINGS CONTEXT: A PROPOSAL FOR JUDICIAL REVIEW,” March 30 2012, abstract available at http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2031572

The practical, pragmatic justification for the COAACC derives largely from considering social psychological findings regarding the skewed potential associated with limiting unchecked decision-making in a group of individuals. As an initial point, psychologists have long pointed out how individuals frequently fall prey to cognitive illusions that produce systematic errors in judgment.137 People simply do not make decisions by choosing the optimal outcome from available alternatives, but instead employ shortcuts (i.e., heuristics) for convenience.138 Cognitive biases like groupthink can hamper effective policy deliberations and formulations.139 Groupthink largely arises when a group of decision-makers seek conformity and agreement, thereby avoiding alternative points of view that are critical of the consensus position.140 This theory suggests that some groups—particularly those characterized by a strong leader, considerable internal cohesion, internal loyalty, overconfidence, and a shared world view or value system—suffer from a deterioration in their capacity to engage in critical analysis.141 Many factors can affect such judgment, including a lack of crucial information, insufficient timing for decision-making, poor judgment, pure luck, and/or unexpected actions by adversaries.142 Moreover, decision-makers inevitably tend to become influenced by irrelevant information,143 seek out data and assessments that confirm their beliefs and personal hypotheses notwithstanding contradictory evidence,144 and “[i]rrationally avoid choices that represent extremes when a decision involves a trade-off between two incommensurable values.”145 Self-serving biases can also hamper judgment given as it has been shown to induce well-intentioned people to rationalize virtually any behavior, judgment or action after the fact.146 The confirmation and overconfidence bias, both conceptually related to groupthink, also result in large part from neglecting to consider contradictory evidence coupled with an irrational persistence in pursuing ideological positions divorced from concern of alternative viewpoints.147¶ Professor Cass Sunstein has described situations in which groupthink produced poor results precisely because consensus resulted from the failure to consider alternative sources of information.148 The failures of past presidents to consider alternative sources of information, critically question risk assessments, ensure neutral-free ideological sentiment among those deliberating,149 and/or generally ensure properly deliberated national security policy has produced prominent and devastating blunders,150 including the Iraq War of 2003,151 the Bay of Pigs debacle in the 1960’s,152 and the controversial decision to wage war against Vietnam.153¶ Professor Sunstein also has described the related phenomenon of “group polarization,” which includes the tendency to push group members toward a “more extreme position.”154 Given that both groupthink and group polarization can lead to erroneous and ideologically tainted policy positions, the notion of giving the President unchecked authority in determining who is eligible for assassination can only serve to increase the likelihood for committing significant errors.155 The reality is that psychological mistakes, organizational ineptitude, lack of structural coherence and other associated deficiencies are inevitable features in Executive Branch decision-making.¶ D. THE NEED FOR ACCOUNTABILITY CHECKS¶ To check the vices of groupthink and shortcomings of human judgment, the psychology literature emphasizes a focus on accountability mechanisms in which a better reasoned decision-making process can flourish.156 By serving as a constraint on behavior, “accountability functions as a critical norm-enforcement mechanism—the social psychological link between individual decision makers on the one hand and social systems on the other.”157 Such institutional review can channel recognition for the need by government decision-makers to be more self-critical in policy targeted killing designations, more willing to consider alternative points of view, and more willing to anticipate possible objections.158 Findings have also shown that ex ante awareness can lead to more reasoned judgment while also preventing tendentious and ideological inclinations (and political motivations incentivized and exploited by popular hysteria and fear).159¶ Requiring accounting in a formalized way prior to engaging in a targeted killing—by providing, for example, in camera review, limited declassification of information, explaining threat assessments outside the immediate circle of policy advisors, and securing meaningful judicial review via a COAACC-like tribunal—can promote a more reliable and informed deliberation in the executive branch. With process-based judicial review, the COAACC could effectively reorient the decision to target individuals abroad by examining key procedural aspects—particularly assessing the reliability of the “terrorist” designation—and can further incentivize national security policy-makers to engage in more carefully reasoned choices and evaluate available alternatives than when subject to little to no review.

#### In particular, current broad definitions of imminent threat guarantee blowback and collateral damage

Amos N. Guiora 12, Prof of Law at S.J. Quinney College of Law, University of Utah, Fall 2012, “Targeted Killing: When Proportionality Gets All Out of Proportion,” Case Western Reserve Journal of International Law, Vol 45 Issues 1 & 2, http://law.case.edu/journals/JIL/Documents/45CaseWResJIntlL1&2.13.Article.Guiora.pdf

Morality in armed conflict is not a mere mantra: it imposes significant demands on the nation state that must adhere to limits and considerations beyond simply killing “the other side.” For better or worse, drone warfare of today will become the norm of tomorrow. Multiply the number of attacks conducted regularly in the present and you have the operational reality of future warfare. It is important to recall that drone policy is effective on two distinct levels: it takes the fight to terrorists directly involved, either in past or future attacks, and serves as a powerful deterrent for those considering involvement in terrorist activity.53 However, its importance and effectiveness must not hinder critical conversation, particularly with respect to defining imminence and legitimate target. The overly broad definition, “flexible” in the Obama Administration’s words,54 raises profound concerns regarding how imminence is applied. That concern is concrete for the practical import of Brennan’s phrasing is a dramatic broadening of the definition of legitimate target. It is also important to recall that operators—military, CIA or private contractors—are responsible for implementing executive branch guidelines and directives.55 For that very reason, the approach articulated by Brennan on behalf of the administration is troubling.¶ This approach, while theoretically appealing, fails on a number of levels. First, it undermines and does a profound injustice to the military and security personnel tasked with operationalizing defense of the state, particularly commanders and officers. When senior leadership deliberately obfuscates policy to create wiggle room and plausible deniability, junior commanders (those at the tip of the spear, in essence) have no framework to guide their operational choices.56 The results can be disastrous, as the example of Abu Ghraib shows all too well.57 Second, it gravely endangers the civilian population. What is done in the collective American name poses danger both to our safety, because of the possibility of blow-back attacks in response to a drone attack that caused significant collateral damage, and to our values, because the policy is loosely articulated and problematically implemented.58 Third, the approach completely undermines our commitment to law and morality that defines a nation predicated on the rule of law. If everyone who constitutes “them” is automatically a legitimate target, then careful analysis of threats, imminence, proportionality, credibility, reliability, and other factors become meaningless. Self-defense becomes a mantra that justifies all action, regardless of method or procedure.¶ Accordingly, the increasing reliance on modern technology must raise a warning flag. Drone warfare is conducted using modern technology with the explicit assumption that the technology of the future is more sophisticated, more complex, and more lethal. Its sophistication and complexity, however, must not be viewed as a holy grail. While armed conflict involves the killing of individuals, the relevant questions must remain who, why, how, and when. Seductive methods must not lead us to reflexively conclude that we can charge ahead. Indeed, the more sophisticated the mechanism, the more questions we must ask. Capability cannot substitute for process and technology cannot substitute for analysis.¶ V. Conclusion¶ The state’s right to engage in pre-emptive self-defense must be subject to powerful restraints and conditions. A measured, cautious approach to targeted killing reflects the understanding that the state has the absolute, but not unlimited, right and obligation to protect its civilian population.¶ Targeted killing is a legal, legitimate, and effective form of active self-defense provided that it is conducted in accordance with international law, morality, and a narrow definition of legitimate target. Self-defense, according to international law, is subject to limits; otherwise, administration officials would not press for flexibility in defining imminent. The call for a flexible conception of imminence is a deeply troubling manifestation of a “slippery slope;” it opens the door to operational counterterrorism not conducted in accordance with international law or principles of morality. Therefore, analyzing the reliability of intelligence, assessing the threat posed, and determining whether the identified target is a legitimate target facilitates lawful, moral, and effective targeted killing.¶ Expansiveness and flexibility are at odds with a measured approach to targeted killing precisely because they eliminate our sense of what is proportional, in the broadest sense of the term. Flexibility with regard to imminence and threat-perception means that the identification of legitimate targets, the true essence of moral operational counterterrorism, becomes looser and less precise. In turn, broader notions of legitimate target and the right of self-defense introduce greater flexibility with regard to collateral damage—resulting in a wider understanding of who constitutes collateral damage and how much collateral damage is justified in the course of targeting a particular threat. Flexibility and the absence of criteria, process, and procedure result in notions of proportionality—which would normally guide decision making and operations— that are out of proportion. In the high-stakes world of operational counterterrorism, there is no room for imprecision and casual definitions; the risks, to innocent civilians on both sides and to our fundamental values, are just too high.

#### Strikes in Pakistan will accelerate

Adam Entous 2/5, National Security Correspondent, Siobhan Gorman, Intelligence Correspondent, and Saeed Shah, Journalist covering Pakistan for The Wall Street Journal, “U.S. to Curb Pakistan Drone Program,” http://online.wsj.com/news/articles/SB10001424052702304450904579365112070806176

Under the new approach, U.S. officials have told their Pakistani counterparts that the CIA's drone campaign will be used to protect U.S. troops in Afghanistan until all of them are pulled out.¶ Top U.S. military commanders in Afghanistan have made clear in administration meetings that the CIA's drone fleet will be needed to protect U.S. forces at least until the end of this year, officials said.¶ If Afghanistan approves a security pact with the U.S. and the White House agrees to keep 10,000 American troops in Afghanistan for up to two additional years, then the CIA's so-called force protection strikes in Pakistan could continue until the troops are out of the country, officials said.¶ Top CIA officials told their administration counterparts as recently as last summer that they believed the CIA would be able to strike enough of the agency's targets to end the program in one to two years, especially if Pakistan's military intelligence services cooperate more closely with the agency.¶ But U.S. intelligence officials have been more cautious in recent weeks. U.S. officials now say high-level targets are harder to find than they were before.¶ In a congressional hearing last week, Mr. Obama's top intelligence adviser, Director of National Intelligence James Clapper, pointed to indications that al Qaeda has stepped up its measures to evade U.S. detection.¶ Some CIA officers are privately arguing for using the limited time window left before the coming U.S. troop withdrawal from Afghanistan to kill as many al Qaeda leaders as possible, officials said. That could result in an increase in drone strikes in Pakistan in the short term, depending on whether the CIA can pinpoint targets, the officials said.

#### Polling, interviews and expert consensus prove that drone overuse in Pakistan causes blowback and empowers militants

IHRCRC 12, Stanford International Human Rights and Conflict Resolution Clinic, and the Global Justice Clinic at NYU School of Law, September 2012, “Living Under Drones: Death, Injury, and Trauma to Civilians From US Drone Practices in Pakistan,” http://www.livingunderdrones.org/wp-content/uploads/2013/10/Stanford-NYU-Living-Under-Drones.pdf

It is clear from polling and our research team’s interviews that drone strikes breed resentment and discontent toward the US, and there is evidence to suggest that the strikes have aided “militant” recruitment and motivated terrorist activity. US drone strikes are extremely unpopular in Pakistan. A 2012 poll by the Pew Research Center’s Global Attitude project found that only 17% of Pakistanis supported drone strikes. And remarkably, among those who professed to know a lot or a little about drones, 97% considered drone strikes bad policy.727 As numerous analysts have noted, “[i]f the price of the drone campaign that increasingly kills only low-level Taliban is alienating 180 million Pakistanis–that is too high a price to pay.”728¶ The Waziris interviewed for this report almost uniformly reported having neutral or in some instances positive views of the US before the advent of the drone campaign. One 18-year-old, for example, admitted, “[f]rankly speaking, before the drone attacks, I didn’t know anything about a country called America. I didn’t know where it was or its role in international affairs.”729 But the strikes now foster the development of strongly negative views toward the US. Another interviewee explained: “Before the drone attacks, we didn’t know [anything] about America. Now everybody has come to understand and know about America . . . . Almost all people hate America.”730 Noor Khan, whose father, Daud Khan, a respected community leader, was killed when a drone struck the March 17, 2011 jirga over which he presided, remarked that “America on one hand claims that it wants to bring peace to the world and it wants to bring education. But look at them, what they are doing?”731 One man, who has lost relatives in drone strikes, expressed his deep-seated anger toward the US, declaring that “we won’t forget our blood, for two hundred, two thousand, five thousand years—we will take our revenge for these drone attacks.”732 A Waziri who lost his younger brother in a strike stated that there would be revenge: “Blood for blood. . . . All I want to say to them is . . . why are you killing innocent people like us that have no concern with you?”733 ¶ A teenage victim of a drone strike commented: “America is 15,000 kilometers away from us; God knows what they want from us. We are not rich . . . . We don’t have as much food as they do. God knows what they want from us.”734 Unable to find any other explanation for why US strikes have struck innocent people in their community, some Waziris believe that the US actively seeks to kill them simply for being Muslims, viewing the drone campaign as a part of a religious crusade against Islam.735 ¶ Recognizing the danger posed by a campaign that breeds such hostility, more than two dozen US congressmen penned a letter to President Obama in June 2012 that described drones as “faceless ambassadors that cause civilian deaths, and are frequently the only direct contact with Americans that targeted communities have.”736 ¶ Many of the journalists, NGO and humanitarian workers, medical professionals, and Pakistani governmental officials with whom we spoke expressed their belief that, on balance, drone strikes likely increase terrorism. Syed Akhunzada Chittan, for example, a parliamentarian from North Waziristan, expressed his conviction that “for every militant killed,” many more are born.737 In another interview, a Pakistani professional told us that a professional school classmate had joined the Taliban after a drone strike killed a friend of his.738 Noor Behram is a Waziri-based journalist who has spent years photographing and interviewing victims of drone strikes. Having personally witnessed the immediate aftermath of numerous strikes, he relates: “When people are out there picking up body parts after a drone strike, it would be very easy to convince those people to fight against America.”739 ¶ Numerous policy analysts, officials, and independent observers have come to similar conclusions. David Kilcullen, a former advisor to US General David Petraeus, has stated that, “every one of these dead noncombatants represents an alienated family, a new desire for revenge, and more recruits for a militant movement that has grown exponentially even as drone strikes have increased.”740 Der Spiegel has also reported that in Pakistan “militants profit in a gruesome way from the drone missions. After each attack in which innocent civilians die, they win over some of the relatives as supporters—with a few even volunteering for suicide attacks.”741 As a May 2012 New York Times article succinctly put it, “[d]rones have replaced Guantánamo as the recruiting tool of choice for militants.”742 Pakistani Ambassador to the US Sherry Rehman told CNN’s Christiane Amanpour in a recent interview that the drone program “radicalizes foot soldiers, tribes, and entire villages in our region,” and that “[w]e honestly feel that there are better ways now of eliminating Al Qaeda.”743 It is also important to note that similar counter-productive effects have been noted in Yemen.744¶ While quantitative data is limited, one study, in June 2012 by the Middle East Policy Council, identified a correlation between drone strikes and terrorist attacks in the years 2004 - 2009. That study found it “probable that drone strikes provide motivation for retaliation, and that there is a substantive relationship between the increasing number of drone strikes and the increasing number of retaliation attacks.” 745 A July 2010 study by the New America Foundation revealed that almost six in ten residents of the Federally Administered Tribal Areas (FATA) now believe that suicide attacks are often or sometimes justified against the US military, 746 although a July 2012 journalistic assessment by Bergen and Rowland suggests that drone strikes may have contributed to reduced suicide attacks in Pakistan in 2010 - 2011. 747

#### Unaccountable drone strikes destroy government legitimacy and destabilizes Pakistan

Michael J Boyle 13, Assistant Professor of Political Science at La Salle University, former Lecturer in International Relations and Research Fellow at the Centre for the Study of Terrorism and Political Violence at the University of St Andrews, PhD from Cambridge University, January 2013, “The costs and consequences of drone warfare,” International Affairs 89: 1 (2013) 1–29, http://www.chathamhouse.org/sites/default/files/public/International%20Affairs/2013/89\_1/89\_1Boyle.pdf

The escalation of drone strikes in Pakistan to its current tempo—one every few days—directly contradicts the long-term American strategic goal of boosting the capacity and legitimacy of the government in Islamabad. Drone attacks are more than just temporary incidents that erase all traces of an enemy. They have lasting political effects that can weaken existing governments, undermine their legitimacy and add to the ranks of their enemies. These political effects come about because drones provide a powerful signal to the population of a targeted state that the perpetrator considers the sovereignty of their government to be negligible. The popular perception that a government is powerless to stop drone attacks on its territory can be crippling to the incumbent regime, and can embolden its domestic rivals to challenge it through violence. Such continual violations of the territorial integrity of a state also have direct consequences for the legitimacy of its government. Following a meeting with General David Petraeus, Pakistani President Asif Ali Zardari described the political costs of drones succinctly, saying that ‘continuing drone attacks on our country, which result in loss of precious lives or property, are counterproductive and difficult to explain by a democratically elected government. It is creating a credibility gap.’75 Similarly, the Pakistani High Commissioner to London Wajid Shamsul Hasan said in August 2012 that¶ what has been the whole outcome of these drone attacks is that you have directly or indirectly contributed to destabilizing or undermining the democratic government. Because people really make fun of the democratic government—when you pass a resolution against drone attacks in the parliament and nothing happens. The Americans don’t listen to you, and they continue to violate your territory.76¶ The appearance of powerlessness in the face of drones is corrosive to the appearance of competence and legitimacy of the Pakistani government. The growing perception that the Pakistani civilian government is unable to stop drone attacks is particularly dangerous in a context where 87 per cent of all Pakistanis are dissatisfied with the direction of the country and where the military, which has launched coups before, remains a popular force.77

#### Pakistan instability causes loose nukes and Indian intervention --- goes nuclear

Michael O’Hanlon 5, senior fellow with the Center for 21st Century Security and Intelligence and director of research for the Foreign Policy program at the Brookings Institution, visiting lecturer at Princeton University, an adjunct professor at Johns Hopkins University, and a member of the International Institute for Strategic Studies

PhD in public and international affairs from Princeton, Apr 27 2005, “Dealing with the Collapse of a Nuclear-Armed State: The Cases of North Korea and Pakistan,” http://www.princeton.edu/~ppns/papers/ohanlon.pdf

Were Pakistan to collapse, it is unclear what the United States and like-minded states would or should do. As with North Korea, it is highly unlikely that “surgical strikes” to destroy the nuclear weapons could be conducted before extremists could make a grab at them. The United States probably would not know their location – at a minimum, scores of sites controlled by Special Forces or elite Army units would be presumed candidates – and no Pakistani government would likely help external forces with targeting information. The chances of learning the locations would probably be greater than in the North Korean case, given the greater openness of Pakistani society and its ties with the outside world; but U.S.-Pakistani military cooperation, cut off for a decade in the 1990s, is still quite modest, and the likelihood that Washington would be provided such information or otherwise obtain it should be considered small.¶ If a surgical strike, series of surgical strikes, or commando-style raids were not possible, the only option would be to try to restore order before the weapons could be taken by extremists and transferred to terrorists. The United States and other outside powers might, for example, respond to a request by the Pakistani government to help restore order. Given the embarrassment associated with requesting such outside help, the Pakistani government might delay asking until quite late, thus complicating an already challenging operation. If the international community could act fast enough, it might help defeat an insurrection. Another option would be to protect Pakistan’s borders, therefore making it harder to sneak nuclear weapons out of the country, while only providing technical support to the Pakistani armed forces as they tried to quell the insurrection. Given the enormous stakes, the United States would literally have to do anything it could to prevent nuclear weapons from getting into the wrong hands.¶ India would, of course, have a strong incentive to ensure the security of Pakistan’s nuclear weapons. It also would have the advantage of proximity; it could undoubtedly mount a large response within a week, but its role would be complicated to say the least. In the case of a dissolved Pakistani state, India likely would not hesitate to intervene; however, in the more probable scenario in which Pakistan were fraying but not yet collapsed, India’s intervention could unify Pakistan’s factions against the invader, even leading to the deliberate use of Pakistani weapons against India. In such a scenario, with Pakistan’s territorial integrity and sovereignty on the line and its weapons put into a “use or lose” state by the approach of the Indian Army, nuclear dangers have long been considered to run very high.

#### Extinction

Greg Chaffin 11, Research Assistant at Foreign Policy in Focus, July 8, 2011, “Reorienting U.S. Security Strategy in South Asia,” online: http://www.fpif.org/articles/reorienting\_us\_security\_strategy\_in\_south\_asia

A nuclear conflict in the subcontinent would have disastrous effects on the world as a whole. In a January 2010 paper published in Scientific American, climatology professors Alan Robock and Owen Brian Toon forecast the global repercussions of a regional nuclear war. Their results are strikingly similar to those of studies conducted in 1980 that conclude that a nuclear war between the United States and the Soviet Union would result in a catastrophic and prolonged nuclear winter, which could very well place the survival of the human race in jeopardy. In their study, Robock and Toon use computer models to simulate the effect of a nuclear exchange between India and Pakistan in which each were to use roughly half their existing arsenals (50 apiece). Since Indian and Pakistani nuclear devices are strategic rather than tactical, the likely targets would be major population centers. Owing to the population densities of urban centers in both nations, the number of direct casualties could climb as high as 20 million. ¶ The fallout of such an exchange would not merely be limited to the immediate area. First, the detonation of a large number of nuclear devices would propel as much as seven million metric tons of ash, soot, smoke, and debris as high as the lower stratosphere. Owing to their small size (less than a tenth of a micron) and a lack of precipitation at this altitude, ash particles would remain aloft for as long as a decade, during which time the world would remain perpetually overcast. Furthermore, these particles would soak up heat from the sun, generating intense heat in the upper atmosphere that would severely damage the earth’s ozone layer. The inability of sunlight to penetrate through the smoke and dust would lead to global cooling by as much as 2.3 degrees Fahrenheit. This shift in global temperature would lead to more drought, worldwide food shortages, and widespread political upheaval.

#### Independently, lack of legal accountability frees the executive to engage in endless war without restraint

Andrew Bacevich 12, Prof of History and IR at Boston University, PhD in American Diplomatic History from Princeton, visiting fellow at the Kroc Institute for International Peace Studies at the University of Notre Dame, “The New American Way of War,” http://www.lrb.co.uk/blog/2012/02/13/andrew-bacevich/the-new-american-way-of-war/

For a democracy, waging endless war poses a challenge. There are essentially two ways to do it. The first is for the state to persuade the people that the country faces an existential threat. This is what the Bush administration attempted to do after 9/11, for a time with notable success. Scaremongering made possible the invasion of Iraq. Had Operation Iraqi Freedom produced the victory expected by its architects, scaremongering would probably have led in due course to Operation Iranian Freedom and Operation Syrian Freedom. But Iraq led to an outcome that Americans proved unwilling to underwrite.¶ The second way is for the state to insulate the people from war’s effects, thereby freeing itself from constraints. A people untouched (or seemingly untouched) by war are far less likely to care about it. Persuaded that they have no skin in the game, they will permit the state to do whatever it wishes to do. This is the approach the Obama administration is now pursuing: first through the expanded use of aerial drones for both intelligence gathering and ‘targeted’ assassination; and, second, through the expanded deployment of covert special operations forces around the world, such as the team that killed Osama bin Laden. The New York Times reported today that the head of the Special Operations Command ‘is seeking new authority to move his forces faster and outside of normal Pentagon deployment channels’.¶ Drones and special forces are the essential elements of a new American way of war, conducted largely in secret with minimal oversight or accountability and disregarding established concepts of sovereignty and international law. Bush’s critics charge him with being a warmonger. But Obama has surpassed his predecessor in shedding any remaining restraints on waging war.

### Norms

#### Executive discretion over the legitimacy of targets will eviscerate legal restrictions on drone use and self-defense

Rosa Brooks 13, Professor of Law at the Georgetown University Law Center, Bernard L. Schwartz Senior Fellow at the New America Foundation, “The Constitutional and Counterterrorism Implications of Targeted Killing,” http://www.judiciary.senate.gov/pdf/04-23-13BrooksTestimony.pdf

5. Setting Troubling International Precedents ¶ Here is an additional reason to worry about the U.S. overreliance on drone strikes: Other states will follow America's example, and the results are not likely to be pretty. Consider once again the Letelier murder, which was an international scandal in 1976: If the Letelier assassination took place today, the Chilean authorities would presumably insist on their national right to engage in “targeted killings” of individuals deemed to pose imminent threats to Chilean national security -- and they would justify such killings using precisely the same legal theories the US currently uses to justify targeted killings in Yemen or Somalia. We should assume that governments around the world—including those with less than stellar human rights records, such as Russia and China—are taking notice. ¶ Right now, the United States has a decided technological advantage when it comes to armed drones, but that will not last long. We should use this window to advance a robust legal and normative framework that will help protect against abuses by those states whose leaders can rarely be trusted. Unfortunately, we are doing the exact opposite: Instead of articulating norms about transparency and accountability, the United States is effectively handing China, Russia, and every other repressive state a playbook for how to foment instability and –literally -- get away with murder. ¶ Take the issue of sovereignty. Sovereignty has long been a core concept of the Westphalian international legal order.42 In the international arena, all sovereign states are formally considered equal and possessed of the right to control their own internal affairs free of interference from other states. That's what we call the principle of non-intervention -- and it means, among other things, that it is generally prohibited for one state to use force inside the borders of another sovereign state. There are some well-established exceptions, but they are few in number. A state can lawfully use force inside another sovereign state with that state's invitation or consent, or when force is authorized by the U.N. Security Council, pursuant to the U.N. Charter,43 or in self-defense "in the event of an armed attack." ¶ The 2011 Justice Department White Paper asserts that targeted killings carried out by the United States don't violate another state's sovereignty as long as that state either consents or is "unwilling or unable to suppress the threat posed by the individual being targeted." That sounds superficially plausible, but since the United States views itself as the sole arbiter of whether a state is "unwilling or unable" to suppress that threat, the logic is in fact circular. ¶ It goes like this: The United States -- using its own malleable definition of "imminent" -- decides that Person X, residing in sovereign State Y, poses a threat to the United States and requires killing. Once the United States decides that Person X can be targeted, the principle of sovereignty presents no barriers, because either 1) State Y will consent to the U.S. use of force inside its borders, in which case the use of force presents no sovereignty problems or 2) State Y will not consent to the U.S. use of force inside its borders, in which case, by definition, the United States will deem State Y to be "unwilling or unable to suppress the threat" posed by Person X and the use of force again presents no problem. ¶ This is a legal theory that more or less eviscerates traditional notions of sovereignty, and has the potential to significantly destabilize the already shaky collective security regime created by the U.N. Charter.44 If the US is the sole arbiter of whether and when it can use force inside the borders of another state, any other state strong enough to get away with it is likely to claim similar prerogatives. And, of course, if the US executive branch is the sole arbiter of what constitutes an imminent threat and who constitutes a targetable enemy combatant in an ill- defined war, why shouldn’t other states make identical arguments—and use them to justify the killing of dissidents, rivals, or unwanted minorities?

#### The drone arms race is real and US precedent-setting is key---only changing the perceived utility of unrestrained targeted killing can alter US behavior

Robert Farley 11, assistant professor at the Patterson School of Diplomacy and International Commerce at the University of Kentucky, Over the Horizon: U.S. Drone Use Sets Global Precedent, October 12, http://www.worldpoliticsreview.com/articles/10311/over-the-horizon-u-s-drone-use-sets-global-precedent

Is the world about to see a "drone race" among the United States, China and several other major powers? Writing in the New York Times, Scott Shane argued that just such an arms race is already happening and that it is largely a result of the widespread use of drones in a counterterror role by the United States. Shane suggests that an international norm of drone usage is developing around how the United States has decided to employ drones. In the future, we may expect that China, Russia and India will employ advanced drone technologies against similar enemies, perhaps in Xinjiang or Chechnya. Kenneth Anderson agrees that the drone race is on, but disagrees about its cause, arguing that improvements in the various drone component technologies made such an arms race inevitable. Had the United States not pursued advanced drone technology or launched an aggressive drone campaign, some other country would have taken the lead in drone capabilities. ¶ So which is it? Has the United States sparked a drone race, or was a race with the Chinese and Russians inevitable? While there's truth on both sides, on balance Shane is correct. Arms races don't just "happen" because of outside technological developments. Rather, they are embedded in political dynamics associated with public perception, international prestige and bureaucratic conflict. China and Russia pursued the development of drones before the United States showed the world what the Predator could do, but they are pursuing capabilities more vigorously because of the U.S. example. Understanding this is necessary to developing expectations of what lies ahead as well as a strategy for regulating drone warfare.¶ States run arms races for a variety of reasons. The best-known reason is a sense of fear: The developing capabilities of an opponent leave a state feeling vulnerable. The Germany's build-up of battleships in the years prior to World War I made Britain feel vulnerable, necessitating the expansion of the Royal Navy, and vice versa. Similarly, the threat posed by Soviet missiles during the Cold War required an increase in U.S. nuclear capabilities, and so forth. However, states also "race" in response to public pressure, bureaucratic politics and the desire for prestige. Sometimes, for instance, states feel the need to procure the same type of weapon another state has developed in order to maintain their relative position, even if they do not feel directly threatened by the weapon. Alternatively, bureaucrats and generals might use the existence of foreign weapons to argue for their own pet systems. All of these reasons share common characteristics, however: They are both social and strategic, and they depend on the behavior of other countries. ¶ Improvements in technology do not make the procurement of any given weapon necessary; rather, geostrategic interest creates the need for a system. So while there's a degree of truth to Anderson's argument about the availability of drone technology, he ignores the degree to which dramatic precedent can affect state policy. The technologies that made HMS Dreadnought such a revolutionary warship in 1906 were available before it was built; its dramatic appearance nevertheless transformed the major naval powers' procurement plans. Similarly, the Soviet Union and the United States accelerated nuclear arms procurement following the Cuban Missile Crisis, with the USSR in particular increasing its missile forces by nearly 20 times, partially in response to perceptions of vulnerability. So while a drone "race" may have taken place even without the large-scale Predator and Reaper campaign in Pakistan, Yemen and Somalia, the extent and character of the race now on display has been driven by U.S. behavior. Other states, observing the effectiveness -- or at least the capabilities -- of U.S. drones will work to create their own counterparts with an enthusiasm that they would not have had in absence of the U.S. example.¶ What is undeniable, however, is that we face a drone race, which inevitably evokes the question of arms control. Because they vary widely in technical characteristics, appearance and even definition, drones are poor candidates for "traditional" arms control of the variety that places strict limits on number of vehicles constructed, fielded and so forth. Rather, to the extent that any regulation of drone warfare is likely, it will come through treaties limiting how drones are used. ¶ Such a treaty would require either deep concern on the part of the major powers that advances in drone capabilities threatened their interests and survival, or widespread revulsion among the global public against the practice of drone warfare. The latter is somewhat more likely than the former, as drone construction at this point seems unlikely to dominate state defense budgets to the same degree as battleships in the 1920s or nuclear weapons in the 1970s. However, for now, drones are used mainly to kill unpleasant people in places distant from media attention. So creating the public outrage necessary to force global elites to limit drone usage may also prove difficult, although the specter of "out of control robots" killing humans with impunity might change that. P.W. Singer, author of "Wired for War," argues that new robot technologies will require a new approach to the legal regulation of war. Robots, both in the sky and on the ground, not to mention in the sea, already have killing capabilities that rival those of humans. Any approach to legally managing drone warfare will likely come as part of a more general effort to regulate the operation of robots in war.¶ However, even in the unlikely event of global public outrage, any serious effort at regulating the use of drones will require U.S. acquiescence. Landmines are a remarkably unpopular form of weapon, but the United States continues to resist the Anti-Personnel Mine Ban Convention. If the United States sees unrestricted drone warfare as being to its advantage -- and it is likely to do so even if China, Russia and India develop similar drone capabilities -- then even global outrage may not be sufficient to make the U.S. budge on its position. This simply reaffirms the original point: Arms races don't just "happen," but rather are a direct, if unexpected outcome of state policy. Like it or not, the behavior of the United States right now is structuring how the world will think about, build and use drones for the foreseeable future. Given this, U.S. policymakers should perhaps devote a touch more attention to the precedent they're setting.

#### That makes war more likely by removing disincentives for the use of force---tighter legal restrictions decrease the likelihood of war

Eric Posner 13, a professor at the University of Chicago Law School, May 15th, 2013, "The Killer Robot War is Coming," Slate, www.slate.com/articles/news\_and\_politics/view\_from\_chicago/2013/05/drone\_warfare\_and\_spying\_we\_need\_new\_laws.html

Drones have existed for decades, but in recent years they have become ubiquitous. Some people celebrate drones as an effective and humane weapon because they can be used with precision to slay enemies and spare civilians, and argue that they pose no special risks that cannot be handled by existing law. Indeed, drones, far more than any other weapon, enable governments to comply with international humanitarian law by avoiding civilian casualties when attacking enemies. Drone defenders also mocked Rand Paul for demanding that the Obama administration declare whether it believed that it could kill people with drones on American territory. Existing law permits the police to shoot criminals who pose an imminent threat to others; if police can gun down hostage takers and rampaging shooters, why can’t they drone them down too?¶ While there is much to be said in favor of these arguments, drone technology poses a paradox that its defenders have not confronted. Because drones are cheap, effective, riskless for their operators, and adept at minimizing civilian casualties, governments may be tempted to use them too frequently.¶ Indeed, a panic has already arisen that the government will use drones to place the public under surveillance. Many municipalities have passed laws prohibiting such spying even though it has not yet taken place. Why can’t we just assume that existing privacy laws and constitutional rights are sufficient to prevent abuses?¶ To see why, consider U.S. v. Jones, a 2012 case in which the Supreme Court held that the police must get a search warrant before attaching a GPS tracking device to a car, because the physical attachment of the device trespassed on property rights. Justice Samuel Alito argued that this protection was insufficient, because the government could still spy on people from the air. While piloted aircraft are too expensive to use routinely, drones are not, or will not be. One might argue that if the police can observe and follow you in public without obtaining a search warrant, they should be able to do the same thing with drones. But when the cost of surveillance declines, more surveillance takes place. If police face manpower limits, then they will spy only when strong suspicions justify the intrusion on targets’ privacy. If police can launch limitless drones, then we may fear that police will be tempted to shadow ordinary people without good reason.¶ Similarly, we may be comfortable with giving the president authority to use military force on his own when he must put soldiers into harm’s way, knowing that he will not risk lives lightly. Presidents have learned through hard experience that the public will not tolerate even a handful of casualties if it does not believe that the mission is justified. But when drones eliminate the risk of casualties, the president is more likely to launch wars too often.¶ The same problem arises internationally. The international laws that predate drones assume that military intervention across borders risks significant casualties. Since that check normally kept the peace, international law could give a lot of leeway for using military force to chase down terrorists. But if the risk of casualties disappears, then nations might too eagerly attack, resulting in blowback and retaliation. Ironically, the reduced threat to civilians in tactical operations could wind up destabilizing relationships between countries, including even major powers like the United States and China, making the long-term threat to human life much greater.¶ These three scenarios illustrate the same lesson: that law and technology work in tandem. When technological barriers limit the risk of government abuse, legal restrictions on governmental action can be looser. When those technological barriers fall, legal restrictions may need to be tightened.

#### These conflicts go nuclear --- wrecks global stability

Michael J Boyle 13, Assistant Professor of Political Science at La Salle University, former Lecturer in International Relations and Research Fellow at the Centre for the Study of Terrorism and Political Violence at the University of St Andrews, PhD from Cambridge University, January 2013, “The costs and consequences of drone warfare,” International Affairs 89: 1 (2013) 1–29, http://www.chathamhouse.org/sites/default/files/public/International%20Affairs/2013/89\_1/89\_1Boyle.pdf

A second consequence of the spread of drones is that many of the traditional concepts which have underwritten stability in the international system will be radically reshaped by drone technology. For example, much of the stability among the Great Powers in the international system is driven by deterrence, specifically nuclear deterrence.135 Deterrence operates with informal rules of the game and tacit bargains that govern what states, particularly those holding nuclear weapons, may and may not do to one another.136 While it is widely understood that nuclear-capable states will conduct aerial surveillance and spy on one another, overt military confrontations between nuclear powers are rare because they are assumed to be costly and prone to escalation. One open question is whether these states will exercise the same level of restraint with drone surveillance, which is unmanned, low cost, and possibly deniable. States may be more willing to engage in drone overflights which test the resolve of their rivals, or engage in ‘salami tactics’ to see what kind of drone-led incursion, if any, will motivate a response.137 This may have been Hezbollah’s logic in sending a drone into Israeli airspace in October 2012, possibly to relay information on Israel’s nuclear capabilities.138 After the incursion, both Hezbollah and Iran boasted that the drone incident demonstrated their military capabilities.139 One could imagine two rival states—for example, India and Pakistan—deploying drones to test each other’s capability and resolve, with untold consequences if such a probe were misinterpreted by the other as an attack. As drones get physically smaller and more precise, and as they develop a greater flying range, the temptation to use them to spy on a rival’s nuclear programme or military installations might prove too strong to resist. If this were to happen, drones might gradually erode the deterrent relationships that exist between nuclear powers, thus magnifying the risks of a spiral of conflict between them.

#### Now is key and precedent-setting is real

James Whibley 13, received a M.A. in International Relations from Victoria University of Wellington, New Zealand, February 6th, 2013 "The Proliferation of Drone Warfare: The Weakening of Norms and International Precedent," Georgetown Journal of International Affairs,journal.georgetown.edu/2013/02/06/the-proliferation-of-drone-warfare-the-weakening-of-norms-and-international-precedent-by-james-whibley/

While drone advocates such as Max Boot argue that other countries are unlikely to follow any precedents about drone use established by America, power has an undeniable effect in establishing which norms are respected or enforced. America used its power in the international system after World War 2 to embed norms about human rights and liberal political organization, not only in allies, but in former adversaries and the international system as a whole. Likewise, the literature on rule-oriented constructivism presents a powerful case that norms have set precedents on the appropriate war-fighting and deterrence policies when using weapons of mass destruction and the practices of colonialism and human intervention. Therefore, drones advocates must consider the possible **unintended consequences of lending legitimacy to the** unrestricted use of drones. However, with the Obama administration only now beginning to formulate rules about using drones and seemingly uninterested in restraining its current practices, the US may miss an opportunity to entrench international norms about drone operations.

#### Unrestrained drone use facilitates violent internal policing and reinforces unequal international power dynamics

Michael J Boyle 13, Assistant Professor of Political Science at La Salle University, former Lecturer in International Relations and Research Fellow at the Centre for the Study of Terrorism and Political Violence at the University of St Andrews, PhD from Cambridge University, January 2013, “The costs and consequences of drone warfare,” International Affairs 89: 1 (2013) 1–29, http://www.chathamhouse.org/sites/default/files/public/International%20Affairs/2013/89\_1/89\_1Boyle.pdf

Fourth, there is a distinct danger that the world will divide into two camps: developed states in possession of drone technology, and weak states and rebel movements that lack them. States with recurring separatist or insurgent problems may begin to police their restive territories through drone strikes, essentially containing the problem in a fixed geographical region and engaging in a largely punitive policy against them. One could easily imagine that China, for example, might resort to drone strikes in Uighur provinces in order to keep potential threats from emerging, or that Russia could use drones to strike at separatist movements in Chechnya or elsewhere. Such behaviour would not necessarily be confined to authoritarian governments; it is equally possible that Israel might use drones to police Gaza and the West Bank, thus reducing the vulnerability of Israeli soldiers to Palestinian attacks on the ground. The extent to which Israel might be willing to use drones in combat and surveillance was revealed in its November 2012 attack on Gaza. Israel allegedly used a drone to assassinate the Hamas leader Ahmed Jabari and employed a number of armed drones for strikes in a way that was described as ‘unprecedented’ by senior Israeli officials. 148 It is not hard to imagine Israel concluding that drones over Gaza were the best way to deal with the problem of Hamas, even if their use left the Palestinian population subject to constant, unnerving surveillance. All of the consequences of such a sharp division between the haves and have-nots with drone technology is hard to assess, but one possi - bility is that governments with secessionist movements might be less willing to negotiate and grant concessions if drones allowed them to police their internal enemies with ruthless efficiency and ‘manage’ the problem at low cost. The result might be a situation where such conflicts are contained but not resolved, while citizens in developed states grow increasingly indifferent to the suffering of those making secessionist or even national liberation claims, including just ones, upon them.¶ Finally, drones have the capacity to strengthen the surveillance capacity of both democracies and authoritarian regimes, with significant consequences for civil liberties. In the UK, BAE Systems is adapting military-designed drones for a range of civilian policing tasks including ‘monitoring antisocial motorists, protesters, agricultural thieves and fly-tippers’. 149 Such drones are also envisioned as monitoring Britain’s shores for illegal immigration and drug smuggling. In the United States, the Federal Aviation Administration (FAA) issued 61 permits for domestic drone use between November 2006 and June 2011, mainly to local and state police, but also to federal agencies and even universities. 150 According to one FAA estimate, the US will have 30,000 drones patrolling the skies by 2022. 151 Similarly, the European Commission will spend US$260 million on Eurosur, a new programme that will use drones to patrol the Mediterranean coast. 152 The risk that drones will turn democracies into ‘surveillance states’ is well known, but the risks for authoritarian regimes may be even more severe. Authoritarian states, particularly those that face serious internal opposition, may tap into drone technology now available to monitor and ruthlessly punish their opponents. In semi-authoritarian Russia, for example, drones have already been employed to monitor pro-democracy protesters. 153 One could only imagine what a truly murderous authoritarian regime—such as Bashar al-Assad’s Syria—would do with its own fleet of drones. The expansion of drone technology may make the strong even stronger, thus tilting the balance of power in authoritarian regimes even more decisively towards those who wield the coercive instruments of power and against those who dare to challenge them.

#### Independently, US targeted killing is driving a global shift in strategic doctrine toward preventive self-defense---causes nuclear war

Kerstin Fisk 13, visiting assistant professor in the Department of Political Science at Loyola Marymount University, PhD in Political Science from Claremont Graduate University, and Jennifer M. Ramos, Assistant Professor of Political Science at Loyola Marymount University, PhD in Political Science from UC Davis, April 15 2013, “Actions Speak Louder Than Words: Preventive Self-Defense as a Cascading Norm,” International Studies Perspectives, http://onlinelibrary.wiley.com.turing.library.northwestern.edu/doi/10.1111/insp.12013/full

How and to what extent is the preventive use of force becoming the future of foreign policy for states around the world? We explore the spread of preventive logic to increasing numbers of states and examine the degree to which an international norm toward preventive self-defense is cascading in the international system. Through content and comparative case study analysis, we investigate leaders’ rhetoric and security policies concerning what we theorize is the key indicator of a country's emulation of the United States: assertion of the right to the unilateral, preventive use of force outside of its borders. Our evidence indicates that there has been a shift away from the established international norm—which considers the use of preventive force illegal and illegitimate—toward growing acceptance of unilateral preventive strategies, a shift largely propelled by the precedents set by the United States in the war in Iraq and its use of unmanned aerial vehicles (UAVs or drones) in the global war on terror. Our findings also reveal that some states are applying the strategy of preventive self-defense beyond the use of UAVs for targeted killings to the extreme contingency plan for nuclear war. We conclude by discussing possibilities for further research and considering the implications of this phenomenon.

#### The impact is an endless, global series of preventive wars---those go nuclear

Ariel Colonomos 13, Director of Research at the French National Centre for Scientific Research, Ph.D. in political science from the Institut d'Etudes Politiques de Paris, “The Gamble of War: Is it Possible to Justify Preventive War?” p 72-75, google books

John Yoo holds that the American interventions in Afghanistan or Iraq fulfilled the criteria of necessity and proportionality. To support this argument (which was contested on the invasion of Iraq), he contends that technological change has a direct impact on the calculation of proportionality and the definition of what constitutes an emergency. The proliferation of WMDs, the networking potential of the United States’ enemies, involving also transnational movements, required the adoption of an anticipatory mode of use of force. This is a disturbing line of reasoning. On the one hand—and this is the case with many of the propositions advanced by these intellectuals—it sweeps away the contemporary model of international law, which is based on a cautious (though, it should also be said, ambiguous and hence fragile) interpretation of self-defense. On the other hand, the transition from the empirical to the normative is very abrupt here, with the argument that law depends on the “reality” specific to a particular moment of history. Insofar as WMDs are actually within the reach of a large number of the United States’ enemies today (the USSR and China are no longer the only threats), the world would, in this view, be constantly on tenterhooks at the possibility of a series of preventive wars. These would be triggered by provocations or hasty, contradictory declarations on the part of movements whose strategy is, at times, to draw Westerners—and particularly the American global policeman—into endless wars. This greatly increases instability. During the Cold War, the triggering of a nuclear clash depended on interactions between a limited number of states. Today, nuclear weapons—previously regarded by some as a factor of stability, particularly because of the supposed rationality of those who possessed them—have become grounds for war. More generally there is the whole question of WMDs. The players involved are more numerous, and there is great distrust, both on account of the lack of rationality attributed by the United States to its new enemies and of their greater number and dispersal.

#### Credible external oversight is key to solve---the alternative is an anything-goes standard

Omar S. Bashir 12, is a Ph.D. candidate in the Department of Politics at Princeton University and a graduate of the Department of Aeronautics and Astronautics at MIT, September 24th, 2012, "Who Watches the Drones?" Foreign Affairs,www.foreignaffairs.com/articles/138141/omar-s-bashir/who-watches-the-drones

Further, the U.S. counterterrorism chief John Brennan has noted that the administration is "establishing precedents that other nations may follow." But, for now, other countries have no reason to believe that the United States carries out its own targeted killing operations responsibly. Without a credible oversight program, those negative perceptions of U.S. behavior will fill the vacuum, and an anything-goes standard might be the result. U.S. denunciations of other countries' programs could come to ring hollow. ¶ If the United States did adopt an oversight system, those denunciations would carry more weight. So, too, would U.S. pressure on other states to adopt similar systems: just as suspicions grow when countries refuse nuclear inspection, foreign governments that turned down invitations to apply a proven system of oversight to their own drone campaigns would reveal their disregard for humanitarian concerns.

#### The proliferation of drones is inevitable, but establishing standards for drone use would mitigate their worst consequences

Michael J Boyle 13, Assistant Professor of Political Science at La Salle University, former Lecturer in International Relations and Research Fellow at the Centre for the Study of Terrorism and Political Violence at the University of St Andrews, PhD from Cambridge University, January 2013, “The costs and consequences of drone warfare,” International Affairs 89: 1 (2013) 1–29, http://www.chathamhouse.org/sites/default/files/public/International%20Affairs/2013/89\_1/89\_1Boyle.pdf

In his second term, President Obama has an opportunity to reverse course and establish a new drones policy which mitigates these costs and avoids some of the long-term consequences that flow from them. A more sensible US approach would impose some limits on drone use in order to minimize the political costs and long-term strategic consequences. One step might be to limit the use of drones to HVTs, such as leading political and operational figures for terrorist networks, while reducing or eliminating the strikes against the ‘foot soldiers’ or other Islamist networks not related to Al-Qaeda. This approach would reduce the number of strikes and civilian deaths associated with drones while reserving their use for those targets that pose a direct or imminent threat to the security of the United States. Such a self-limiting approach to drones might also minimize the degree of political opposition that US drone strikes generate in states such as Pakistan and Yemen, as their leaders, and even the civilian population, often tolerate or even approve of strikes against HVTs. Another step might be to improve the levels of transparency of the drone programme. At present, there are no publicly articulated guidelines stipulating who can be killed by a drone and who cannot, and no data on drone strikes are released to the public.154 Even a Department of Justice memorandum which authorized the Obama administration to kill Anwar al-Awlaki, an American citizen, remains classified.155 Such non-transparency fuels suspicions that the US is indifferent to the civilian casualties caused by drone strikes, a perception which in turn magnifies the deleterious political consequences of the strikes. Letting some sunlight in on the drones programme would not eliminate all of the opposition to it, but it would go some way towards undercutting the worst conspiracy theories about drone use in these countries while also signalling that the US government holds itself legally and morally accountable for its behaviour.156¶ A final, and crucial, step towards mitigating the strategic consequences of drones would be to develop internationally recognized standards and norms for their use and sale. It is not realistic to suggest that the US stop using its drones altogether, or to assume that other countries will accept a moratorium on buying and using drones. The genie is out of the bottle: drones will be a fact of life for years to come. What remains to be done is to ensure that their use and sale are transparent, regulated and consistent with internationally recognized human rights standards. The Obama administration has already begun to show some awareness that drones are dangerous if placed in the wrong hands. A recent New York Times report revealed that the Obama administration began to develop a secret drones ‘rulebook’ to govern their use if Mitt Romney were to be elected president.157 The same logic operates on the international level. Lethal drones will eventually be in the hands of those who will use them with fewer scruples than President Obama has. Without a set of internationally recognized standards or norms governing their sale and use, drones will proliferate without control, be misused by governments and non-state actors, and become an instrument of repression for the strong. One remedy might be an international convention on the sale and use of drones which could establish guidelines and norms for their use, perhaps along the lines of the Convention on Certain Conventional Weapons (CCW) treaty, which attempted to spell out rules on the use of incendiary devices and fragment-based weapons.158 While enforcement of these guidelines and adherence to rules on their use will be imperfect and marked by derogations, exceptions and violations, the presence of a convention may reinforce norms against the flagrant misuse of drones and induce more restraint in their use than might otherwise be seen. Similarly, a UN investigatory body on drones would help to hold states accountable for their use of drones and begin to build a gradual consensus on the types of activities for which drones can, and cannot, be used.159 As the progenitor and leading user of drone technology, the US now has an opportunity to show leadership in developing an international legal architecture which might avert some of the worst consequences of their use.

### Solvency

#### The plan establishes legal norms and ensures compliance with the laws of war --- resolves expansive interpretation of imminence

Jonathan Hafetz 13, Associate Prof of Law at Seton Hall University Law School, former Senior Staff Attorney at the ACLU, served on legal teams in multiple Supreme Court cases regarding national security, “Reviewing Drones,” 3/8/2013, http://www.huffingtonpost.com/jonathan-hafetz/reviewing-drones\_b\_2815671.html

The better course is to ensure meaningful review after the fact. To this end, Congress should authorize federal damages suits by the immediate family members of individuals killed in drone strikes.¶ Such ex post review would serve two main functions: providing judicial scrutiny of the underlying legal basis for targeted killings and affording victims a remedy. It would also give judges more leeway to evaluate the facts without fear that an error on their part might leave a dangerous terrorist at large.¶ For review to be meaningful, judges must not be restricted to deciding whether there is enough evidence in a particular case, as they would likely be under a FISA model. They must also be able to examine the government's legal arguments and, to paraphrase the great Supreme Court chief justice John Marshall, "to say what the law is" on targeted killings.¶ Judicial review through a civil action can achieve that goal. It can thus help resolve the difficult questions raised by the Justice Department white paper, including the permissible scope of the armed conflict with al Qaeda and the legality of the government's broad definition of an "imminent" threat.¶ Judges must also be able to afford a remedy to victims. Mistakes happen and, as a recent report by Columbia Law School and the Center for Civilians in Conflict suggests, they happen more than the U.S. government wants to acknowledge.¶ Errors are not merely devastating for family members and their communities. They also increase radicalization in the affected region and beyond. Drone strikes -- if unchecked -- could ultimately create more terrorists than they eliminate.¶ Courts should thus be able to review lethal strikes to determine whether they are consistent with the Constitution and with the 2001 Authorization for Use of Military Force, which requires that such uses of force be consistent with the international laws of war. If a drone strike satisfies these requirements, the suit should be dismissed.

#### “Cause of action” creates a makes officials think twice about the worst drone strikes --- drawbacks of judicial review don’t apply

Stephen I. Vladeck 13, Professor of Law and Associate Dean for Scholarship at American University Washington College of Law, senior editor of the peer-reviewed Journal of National Security Law and Policy, Supreme Court Fellow at the Constitution Project, and fellow at the Center on National Security at Fordham University School of Law, JD from Yale Law School, Feb 27 2013, “DRONES AND THE WAR ON TERROR: WHEN CAN THE U.S.TARGET ALLEGED AMERICAN TERRORISTS OVERSEAS?” Hearing Before the House Committee on the Judiciary, http://www.lawfareblog.com/wp-content/uploads/2013/02/Vladeck-02272013.pdf

At first blush, it may seem like many of these issues would be equally salient in the context of after-the-fact damages suits. But as long as such a regime was designed carefully and conscientiously, I believe that virtually all of these concerns could be mitigated. ¶ For starters, retrospective review doesn’t raise anywhere near the same concerns with regard to adversity or judicial competence. With respect to adversity, presumably those who are targeted in an individual strike could be represented as plaintiffs in a post-hoc proceeding, whether through their next friend or their heirs. And as long as they could state a viable claim for relief, it’s difficult to see any pure Article III problem with such a suit for retrospective relief.¶ As for competence, judges routinely review whether government officers acted in lawful self-defense under exigent circumstances (this is exactly what the Supreme Court’s 1985 decision in Tennessee v. Garner20 contemplates, after all). And if the Guantánamo litigation of the past five years has shown nothing else, it demonstrates that judges are also more than competent to resolve not just whether individual terrorism suspects are who the government says they are (and thus members of al Qaeda or one of its affiliates), but to do so using highly classified information in a manner that balances—albeit not always ideally—the government’s interest in secrecy with the detainee’s ability to contest the evidence against him.21 Just as Guantánamo detainees are represented in their habeas proceedings by security-cleared counsel who must comply with court-imposed protective orders and security procedures,22 so too, the subjects of targeted killing operations could have their estates represented by security-cleared counsel, who would be in a far better position to challenge the government’s evidence and to offer potentially exculpatory evidence / arguments of their own. And although the Guantánamo procedures have been developed by courts on an ad hoc basis (a process that has itself been criticized by some jurists), 23 Congress might also look to provisions it enacted in 1996 in creating the little-known Alien Terrorist Removal Court, especially 8 U.S.C. § 1534,24 as a model for such proceedings. ¶ More to the point, it should also follow that courts would be far more able as a practical matter to review the relevant questions in these cases after the fact. Although the pure membership question can probably be decided in the abstract, it should stand to reason that the imminence and infeasibility-of-capture issues will be much easier to assess in hindsight—removed from the pressures of the moment and with the benefit of the dispassionate distance that judicial review provides. To similar effect, whether the government used excessive force in relation to the object of the attack is also something that can only reasonably be assessed post hoc.¶ In addition to the substantive questions, it will also be much easier for courts to review the government’s own internal procedures after they are employed, especially if the government itself is already conducting after-action reviews that could be made part of the (classified) record in such cases. Indeed, the government’s own analysis could, in many cases, go a long way toward proving the lawfulness vel non of an individual strike.¶ As I mentioned before, there would still be a host of legal doctrines that would likely get in the way of such suits. Just to name a few, there is the present (albeit, in my view, unjustified) hostility to judicially inferred causes of actions under Bivens; the state secrets privilege;and sovereign and official immunity doctrines. But I am a firm believer that, except where the President himself is concerned (where there’s a stronger argument that immunity is constitutionally grounded),25 each of these concerns can be overcome by statute—as at least some of them arguably have been in the context of the express damages actions provided for under FISA. 26 So long as Congress creates an express cause of action for nominal damages, and so long as the statute both (1) expressly overrides state secrets and immunity doctrines; and (2) replaces them with carefully considered procedures for balancing the secrecy concerns that would arise in many—if not most—of these cases, these legal issues would be vitiated. Moreover, any concerns about exposing to liability government officers who acted in good faith and within the scope of their employment can be ameliorated by following the model of the Westfall Act, and substituting the United States as the proper defendant in any suit arising out of such an operation.27¶ Perhaps counterintuitively, I also believe that after-the-fact judicial review wouldn’t raise anywhere near the same prudential concerns as those noted above. Leaving aside how much less pressure judges would be under in such cases, it’s also generally true that damages regimes don’t have nearly the same validating effect on government action that ex ante approval does. Otherwise, one would expect to have seen a dramatic upsurge in lethal actions by law enforcement officers after each judicial decision refusing to impose individual liability arising out of a prior use of deadly force. So far as I know, no such evidence exists.¶ Of course, damages actions aren’t a perfect solution here. It’s obvious, but should be said anyway, that in a case in which the government does act unlawfully, no amount of damages will make the victim (or his heirs) whole. It’s also inevitable that, like much of the Guantánamo litigation, most of these suits would be resolved under extraordinary secrecy, and so there would be far less public accountability for targeted killings than, ideally, we might want. Some might also object to this proposal as being unnecessary—that, given existing criminal laws and executive orders, there is already a sufficiently clear prohibition on unlawful strikes to render any such damages regime unnecessarily superfluous. ¶ At least as to this last objection, it bears emphasizing that the existing laws depend entirely upon the beneficence of the Executive Branch, since they assume both that the government will (1) willfully disclose details of unlawful operations rather than cover them up; and (2) prosecute its own in cases in which they cross the line. Given both prior practice and unconfirmed contemporary reports of targeted killing operations that appear to raise serious legality issues, such as “signature strikes,” it doesn’t seem too much of a stretch to doubt that these remedies will prove sufficient.¶ In addition, there are two enormous upsides to damages actions that, in my mind, make them a least-worst solution—even if they are deeply, fundamentally flawed:¶ First, if nothing else, the specter of damages, even nominal damages, should have a deterrent effect on future government officers, such that, if a targeted killing operation ever was carried out in a way that violated the relevant legal rules, there would be liability—and, as importantly, precedent—such that the next government official in a similar context might think twice, and might make sure that he’s that much more convinced that the individual in question is who the government claims, and that there’s no alternative to the use of lethal force. Second, at least where the targets of such force are U.S. citizens, I believe that there is a non-frivolous argument that the Constitution may even compel at least some form of judicial process. 28 Compared to the alternatives, nominal damages actions litigated under carefully circumscribed rules of secrecy may be the only way to balance all of the relevant private, government, and legal interests at stake in such cases.¶ \* \* \*¶ In his concurrence in the Supreme Court’s famous decision in the Steel Seizure case, Justice Frankfurter suggested that “The accretion of dangerous power does not come in a day. It does come, however slowly, from the generative force of unchecked disregard of the restrictions that fence in even the most disinterested assertion of authority.”¶ 29 It seems to me, Mr. Chairman, that targeted killing operations by the Executive Branch present the legislature with two realistic choices: Congress could accept with minimal scrutiny the Executive Branch’s claims that these operations are carried out lawfully and with every relevant procedural safeguard to maximize their accuracy—and thereby open the door to the “unchecked disregard” of which Justice Frankfurter warned. Or Congress could require the government to defend those assertions in individual cases before a neutral magistrate invested with the independence guaranteed by the Constitution’s salary and tenure protections. So long as the government’s interests in secrecy are adequately protected in such proceedings, and so long as these operations really are consistent with the Constitution and laws of the United States, what does the government have to hide?

#### Ex post review creates a credible signal of compliance that restrains future executives

Kwame Holman 13, congressional correspondent for PBS NewsHour; citing Rosa Brooks, Prof of Law at Georgetown University Law Center, former Counselor to the Under Secretary of Defense for Policy, former senior advisor at the US Dept of State, “Congress Begins to Weigh In On Drone Strikes Policy,” http://www.pbs.org/newshour/rundown/2013/04/congress-begins-to-weigh-in-on-drone-strikes-policy.html

While some experts have argued for court oversight of drone strikes before they're carried out, Brooks sides with those who say that would be unwieldy and unworkable.¶ Brooks says however an administration that knows its strikes could face court review after the fact -- with possible damages assessed -- would be more responsible and careful about who it strikes and why.¶ "If Congress were to create a statutory cause of action for damages for those who had been killed in abusive or mistaken drone strikes, you would have a court that would review such strikes after the fact. [That would] create a pretty good mechanism that would frankly keep the executive branch as honest as we hope it is already and as we hope it will continue to be into administrations to come," Brooks said.¶ "It would be one of the approaches that would go a very long way toward reassuring both U.S. citizens and the world more generally that our policies are in compliance with rule of law norms."

#### Only judicial oversight can credibly verify compliance with the laws of war

Avery Plaw 7, Associate Prof of Political Science at the University of Massachusetts at Dartmouth, PhD in Political Science from McGill University, “Terminating Terror: The Legality, Ethics and Effectiveness of Targeting Terrorists,” Theoria: A Journal of Social and Political Theory, No. 114, War and Terror (December 2007), pp. 1-27

To summarize, the general policy of targeting terrorists appears to be defensible in principle in terms of legality, morality and effectiveness. However, some specific targetings have been indefensible and should be prevented from recurring. Critics focus on the indefensible cases and insist that these are best prevented by condemning the general policy. States which target terrorists and their defenders have insisted that self-defense provides a blanket justification for targeting operations. The result has been a stalemate over terrorist targeting harmful to both the prosecution of the war on terror and the credibility of international law. Yet neither advocates nor critics of targeting appear to have a viable strategy for resolving the impasse. A final issue which urgently demands attention, therefore, is whether there are any plausible prospects for a coherent and principled political compromise over the issue of targeting terrorists.¶ Conclusion: the Possibility of Principled Compromise ¶ This final section offers a brief case that there is room for a principled compromise between critics and advocates of targeting terrorists. The argument is by example—a short illustration of one promising possibility. It will not satisfy everyone, but I suggest that it has the potential to resolve the most compelling concerns on both sides.¶ The most telling issues raised by critics of targeting fall into three categories: (1) the imperative need to establish that targets are combatants; (2) the need in attacking combatants to respect the established laws of war; and (3) the overwhelming imperative to avoid civilian casualties. The first issue seems to demand an authoritative judicial determination that could only be answered by a competent court. The second issue requires the openly avowed and consistent implementation of targeting according to standards accepted in international law—a requirement whose fulfillment would best be assured through judicial oversight. The third issue calls for independent evaluation of operations to assure that standards of civilian protection are robustly upheld, a role that could be effectively performed by a court.

## Topicality

### 2AC Topicality

#### We meet---plan restricts Presidential authority to construe the legal limits on TK---assassination ban proves

Jonathan Ulrich 5, associate in the International Arbitration Group of White & Case, LLP, JD from the University of Virginia School of Law, “NOTE: The Gloves Were Never On: Defining the President's Authority to Order Targeted Killing in the War Against Terrorism,” 45 Va. J. Int'l L. 1029, lexis

The discretionary authority to construe the limits of the assassination ban remains in the hands of the president. He holds the power, moreover, to amend or revoke the Executive Order, and may do so without publicly disclosing that he has done so; since the Order addresses intelligence activities, any modifications may be classified information. n24 The placement of the prohibition within an executive order, therefore, effectively "guarantees that the authority to order assassination lies with the president alone." n25 Congress has similar authority to revise or repeal the Order - though its failure to do so, when coupled with the three unsuccessful attempts to legislate a ban, may be read as implicit authority for the president to retain targeted killing as a [\*1035] policy option. n26 Indeed, in recent years, there have been some efforts in Congress to lift the ban entirely. n27

#### We meet---we prohibit TKs without judicial review

#### Restrictions mean limitations

CAA 8,COURT OF APPEALS OF ARIZONA, DIVISION ONE, DEPARTMENT A, STATE OF ARIZONA, Appellee, v. JEREMY RAY WAGNER, Appellant., 2008 Ariz. App. Unpub. LEXIS 613

P10 The term "restriction" is not defined by the Legislature for the purposes of the DUI statutes. See generally A.R.S. § 28-1301 (2004) (providing the "[d]efinitions" section of the DUI statutes). In the absence of a statutory definition of a term, we look to ordinary dictionary definitions and do not construe the word as being a term of art. Lee v. State, 215 Ariz. 540, 544, ¶ 15, 161 P.3d 583, 587 (App. 2007) ("When a statutory term is not explicitly defined, we assume, unless otherwise stated, that the Legislature intended to accord the word its natural and obvious meaning, which may be discerned from its dictionary definition.").¶ P11 The dictionary definition of "restriction" is "[a] limitation or qualification." Black's Law Dictionary 1341 (8th ed. 1999). In fact, "limited" and "restricted" are considered synonyms. See Webster's II New Collegiate Dictionary 946 (2001). Under these commonly accepted definitions, Wagner's driving privileges were "restrict[ed]" when they were "limited" by the ignition interlock requirement. Wagner was not only [\*7] statutorily required to install an ignition interlock device on all of the vehicles he operated, A.R.S. § 28-1461(A)(1)(b), but he was also prohibited from driving any vehicle that was not equipped with such a device, regardless whether he owned the vehicle or was under the influence of intoxicants, A.R.S. § 28-1464(H). These limitations constituted a restriction on Wagner's privilege to drive, for he was unable to drive in circumstances which were otherwise available to the general driving population. Thus, the rules of statutory construction dictate that the term "restriction" includes the ignition interlock device limitation.

#### We restrict the war power to assert sovereign immunity AND cause of action is a restriction

Edward Keynes 10, Professor of Political Science at The Pennsylvania State University and has been visiting professor at the universities of Cologne, Kiel, and Marburg. A University of Wisconsin Ph.D., he has been a Fulbright and an Alexander von Humboldt fellow, “Undeclared War: Twilight Zone of Constitutional Power”, Google Books, p. 119-120

Despite numerous cases challenging the President’s authority to initiate and conduct the Vietnam War, the Federal courts exhibited extreme caution in entering this twilight zone of constitutional power. The federal judiciary’s reluctance to decide war-powers controversies reveals a respect for the constitutional separation of powers, an appreciation of the respective constitutional functions of Congress and the President in external affairs, and a sense of judicial self-restraint. Although most Federal courts exercised self-restraint, several courts scaled such procedural barriers as jurisdiction, standing to sue, sovereign immunity, and the political question to address the scope of congressional and presidential power to initiate war and military hostilities without a declaration of war. The latter decisions reveal an appreciation of the constitutional equilibrium upon which the separation of powers and the rule of law rest. Despite judicial caution, several Federal courts entered the political thicket in order to restore the constitutional balance between Congress and the President. Toward the end of the war in Indochina, judicial concern for the rule of law recommended intervention rather than self-restraint.

#### So is ex post

ECHR 91,European Court of Human Rights, Decision in Ezelin v. France, 26 April 1991, http://www.bailii.org/eu/cases/ECHR/1991/29.html

The main question in issue concerns Article 11 (art. 11), which provides:¶ "1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.¶ 2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. ..."¶ Notwithstanding its autonomous role and particular sphere of application, Article 11 (art. 11) must, in the present case, also be considered in the light of Article 10 (art. 10) (see the Young, James and Webster judgment of 13 August 1981, Series A no. 44, p. 23, § 57). The protection of personal opinions, secured by Article 10 (art. 10), is one of the objectives of freedom of peaceful assembly as enshrined in Article 11 (art. 11).¶ A. Whether there was an interference with the exercise of the freedom of peaceful assembly¶ In the Government’s submission, Mr Ezelin had not suffered any interference with the exercise of his freedom of peaceful assembly and freedom of expression: he had been able to take part in the procession of 12 February 1983 unhindered and to express his convictions publicly, in his professional capacity and as he wished; he was reprimanded only after the event and on account of personal conduct deemed to be inconsistent with the obligations of his profession.¶ The Court does not accept this submission. The term "restrictions" in paragraph 2 of Article 11 (art. 11-2) - and of Article 10 (art. 10-2) - cannot be interpreted as not including measures - such as punitive measures - taken not before or during but after a meeting (cf. in particular, as regards Article 10 (art. 10), the Handyside judgment of 7 December 1976, Series A no. 24, p. 21, § 43, and the Müller and Others judgment of 24 May 1988, Series A no. 133, p. 19, § 28).

#### Counter-interp---authority means legality

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---cause of action clarifies permissible scope---that’s 1AC Vladeck

#### Counter-interp---war powers authority is OVERALL power over war-making---we meet

Manget 91 Fred F, Assistant General Counsel with the CIA, "Presidential War Powers", 1991, media.nara.gov/dc-metro/rg-263/6922330/Box-10-114-7/263-a1-27-box-10-114-7.pdf

The President's war powers authority is actually a national defense power that exists at all times, whether or not there is a war declared by Congress, an armed conflict, or any other hostilities or fighting. In a recent case the Supreme Court upheld the revocation of the passport of a former CIA employee (Agee) and rejected his contention that certain statements of Executive Branch policy were entitled to diminished weight because they concerned the powers of the Executive in wartime. The Court stated: "History eloquently attests that grave problems of national security and foreign policy are by no means limited to times of formally declared war. " 3 ; Another court has said that the war power is not confined to actual engagements on fields of battle only but embraces every aspect of national defense and comprehends everything required to wage war successfully. 3 H A third court stated: "It is-and must be-true that the Executive should be accorded wide and normally unassailable discretion with respect to the conduct of the national defense and the prosecution of national objectives through military means . "39 ¶ Thus, the Executive Branch's constitutional war powers authority does not spring into existence when Congress declares war, nor is it dependent on there being hostilities. It empowers the President to prepare for war as well as wage it, in the broadest sense. It operates at all times.

#### Prefer it

#### Ground---legality is key to advantages against the exec counterplan---total ban affs lose to agent counterplans and reform counterplans

#### Topic education---most nuanced and discussed mechs involve reforms, not bans---reading them on the aff is key to most in-depth debate

#### Core of the topic---they ignore discretionary authority the exec creates by interpreting statute

William G. Howell 11, Sydney Stein Professor in American Politics at the University of Chicago, PhD in political science from Stanford University, “The Future of the War Presidency: the Case of the War Powers Consultation Act,” in The Presidency in the Twenty-first Century, Aug 1 2011, ed. Charles Dunn, google books

But a basic point remains: over the nation’s history, presidents have managed to secure a measure of influence over the doings of government that cannot be found either in a strict reading of the Constitution or in the expressed authority that Congress has delegated. This discretionary influence of presidential power encompasses a major pillar of recent scholarship on the modern presidency. Article II of the Constitution is notoriously vague. As a practical matter, Congress cannot write statutes with enough clarity or detail to keep presidents from reading into them at least some discretionary authority. And for their part, the courts have established as a basic principle of jurisprudence deference to administrative (and by extension presidential) expertise.17 It is little wonder, then, that through ambiguity presidents have managed to radically transform their office, placing it at the very epicenter of U.S. foreign policy.¶ By way of example, consider the mileage that President Bush derived from the 2001 Authorization for the Use of Military Force (AUMF). According to that law, the president was authorized to use all necessary and appropriate force against those nations, organizations, or persons he determined had planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or those that had harbored such organizations, or persons. President Bush cited this language to justify actions ranging from military deployments in Iraq, to the warrantless wiretapping of U.S. citizens to the indefinite detainment of enemy combatants at Guantanamo Bay, to the adoption of “enhanced interrogation techniques,” to the seizure of funds held by charities suspected of supporting terrorist activities. As the Iraq and Afghanistan wars and the war on terror proceeded, the adjoining branches of government looked upon such interpretations with increasing skepticism. But President Bush held steadfast to an expansive reading of the law and the seemingly limitless authority it conferred upon his office. As the U.S. Department of Justice put it, the AUMF “does not lend itself to a narrow reading.” Quite to the contrary: “The AUMF places the President’s authority at its zenith under Youngston.”18

#### Reasonability---competing interps cause a race to the bottom to arbitrarily exclude the aff

#### \*\*\*Ex post is only way to determine legality

Steve Vladeck 13, Professor of Law and Associate Dean for Scholarship at American University Washington College of Law, senior editor of the peer-reviewed Journal of National Security Law and Policy, Supreme Court Fellow at the Constitution Project, and fellow at the Center on National Security at Fordham University School of Law, JD from Yale Law School, Feb 10th, 2013, “Why a “Drone Court” Won’t Work–But (Nominal) Damages Might…” <http://www.lawfareblog.com/2013/02/why-a-drone-court-wont-work/>

That’s why, even though I disagree with the DOJ white paper that ex ante review would present a nonjusticiable political question, I actually agree that courts are ill-suited to hear such cases–not because, as the white paper suggests, they lack the power to do so, but because, in most such cases, they would lack the competence to do so.¶ III. Drone Courts and the Legitimacy Problem¶ That brings me to perhaps the biggest problem we should all have with a “drone court”–the extent to which, even if one could design a legally and practically workable regime in which such a tribunals could operate, its existence would put irresistible pressure on federal judges to sign off even on those cases in which they have doubts.¶ As a purely practical matter, it would be next to impossible meaningfully to assess imminence, the existence of less lethal alternatives, or the true nature of a threat that an individual suspect poses ex ante. Indeed, it would be akin to asking law enforcement officers to obtain judicial review before they use lethal force in defense of themselves or third persons–when the entire legal question turns on what was actually true in the moment, as opposed to what might have been predicted to be true in advance. At its core, that’s why the analogy to search warrants utterly breaks down–and why it would hardly be surprising if judges in those circumstances approved a far greater percentage of applications than they might have on a complete after-the-fact record. Judges, after all, are humans.¶ In the process, the result would be that such ex ante review would do little other than to add legitimacy to operations the legality of which might have otherwise been questioned ex post. Put another way, ex ante review in this context would most likely lead to a more expansive legal framework within which the targeted killing program could operate, one sanctioned by judges asked to decide these cases behind closed doors; without the benefit of adversary parties, briefing, or presentation of the facts; and with the very real possibility that the wrong decision could directly lead to the deaths of countless Americans. Thus, even if it were legally and practically possible, a drone court would be a very dangerous idea.¶ IV. Why Damages Actions Don’t Raise the Same Legal Concerns¶ At first blush, it may seem like many of these issues would be equally salient in the context of after-the-fact damages suits. But as long as such a regime was designed carefully and conscientiously, I actually think virtually all of these concerns could be mitigated.¶ For starters, retrospective review doesn’t raise anywhere near the same concerns with regard to adversity or judicial competence. Re: adversity, presumably those who are targeted in an individual strike could be represented as plaintiffs in a post-hoc proceeding, whether through their next friend or their heirs. And as long as they could state a viable claim for relief (more on that below), it’s hard to see any pure Article III problem with such a suit for retrospective relief.¶ As for competence, judges routinely review whether government officers acted in lawful self-defense under exigent circumstances (this is exactly what Tennessee v. Garner contemplates, after all). And if the Guantánamo litigation of the past five years has shown nothing else, it demonstrates that judges are also more than competent to resolve not just whether individual terrorism suspects are who the government says they are (and thus members of al Qaeda or one of its affiliates), but to do so using highly classified information in a manner that balances–albeit not always ideally–the government’s interest in secrecy with the detainee’s ability to contest the evidence against him. Just as Guantánamo detainees are represented in their habeas proceedings by security-cleared counsel who must comply with court-imposed protective orders and security procedures, so too, the subjects of targeted killing operations could have their estates represented by security-cleared counsel, who would be in a far better position to challenge the government’s evidence and to offer potentially exculpatory evidence / arguments of their own.¶ More to the point, it should also follow that courts would be far more able to review the questions that will necessary be at the core of these cases after the fact. Although the pure membership question can probably be decided in the abstract, it should stand to reason that the imminence and infeasibility-of-capture issues will be much easier to assess in hindsight–removed from the pressures of the moment and with the benefit of the dispassionate distance on which judicial review must rely. To similar effect, whether the government used excessive force in relation to the object of the attack is also something that can only reasonably be assessed post hoc.

### Solvency

#### Obama won’t circumvent the plan---recent DC Circuit ruling

Joel B. Pollak 13, "Nuclear Fallout: Yucca Decision Could Affect Immigration, Obamacare", August 14, www.breitbart.com/Big-Government/2013/08/14/Nuclear-Fallout-Yucca-Decision-Affects-Immigration-Obamacare

The Obama administration suffered a setback Tuesday when the D.C. Circuit Court of Appeals ruled against it over the issue of nuclear waste storage at Yucca Mountain, Nevada, which President Barack Obama opposes. Though the ruling re-opens the issue, and provoked bipartisan backlash from Nevada Senators Harry Reid (D) and Dean Heller (R), the bigger impact is the fallout the decision may have for the White House on other issues.¶ In his decision, Judge Brett Kavanaugh, a George W. Bush appointee, held that the Obama administration and federal agencies could not ignore their statutory duty, under the Nuclear Waste Policy Act of 1983, to issue a final decision on the Yucca issue within three years. The Obama administration simply ignored that duty because of policy objections, Kavanaugh held, and therefore had failed to show the "constitutional respect owed to Congress."¶ While a President may refuse to obey a statutory mandate if he has a constitutional objection to it, or if Congress has failed to appropriate the funds necessary to carry it out, he may not do so simply because he has a different opinion: "[T]he President may not decline to follow a statutory mandate or prohibition simply because of policy objections," Kavanaugh said, referring to Article II of the Constitution and Supreme Court precedent.¶ That holding could be relevant to several other issues on which President Obama has decided to flout federal statutes. In 2012, after Congress refused to pass the "Dream Act" to ease immigration laws for illegal aliens brought to the country as children, Obama announced that he would direct federal agencies not to enforce existing immigration laws against them. That decision is already the subject of a lawsuit by ICE agents.¶ Kavanaugh noted that the Constitution protects the President's prosecutorial discretion, but that applies only to the decision to enforce a law, not the decision to follow it. The ICE agents are suing on the grounds that the new Obama administration policy goes so far that it effectively violates existing immigration law.

#### Multiple incentives to comply

Richard H. Pildes 12, Sudler Family Professor of Constitutional Law at NYU School of Law and Co-Director of the NYU Center on Law and Security, April 2012, “Law and the President,” NYU School of Law Public Law & Legal Theory Research Paper Series, Working Paper No. 12-13, http://ssrn.com/abstract=2012024

But as Levinson’s work helps to show, even on its own terms, Posner and Vermeule’s approach offers an incomplete account of the role of law. Levinson’s work, for example, is devoted to showing why constitutional law will be followed, even by disappointed political majorities, for purely instrumental reasons, even if those majorities do not experience any internal sense of duty to obey. He identifies at least six rational-choice mechanisms that will lead rational actors to adhere to constitutional law decisions of the Supreme Court: coordination, reputation, repeat-play, reciprocity, asset- specific investment, and positive political feedback mechanisms.76 No obvious reason exists to explain why all or some of these mechanisms would fail to lead presidents similarly to calculate that compliance with the law is usually important to a range of important presidential objectives. At the very least, for example, the executive branch is an enormous organization, and for internal organizational efficacy, as well as effective cooperation with other parts of the government, law serves an essential coordination function that presidents and their advisors typically have an interest in respecting. There is a reason executive branch departments are staffed with hundreds of lawyers: while Posner and Vermeule might cynically speculate that the reason is to figure out how to circumvent the law artfully, the truth, surely, is that law enables these institutions to function effectively, both internally and in conjunction with other institutions, and that lawyers are there to facilitate that role. In contrast to Posner and Vermeule, who argue that law does not constrain, and who then search for substitute constraints, scholars like Levinson establish that rational-choice theory helps explain why law does constrain. Indeed, as Posner and Vermeule surely know, there is a significant literature within the rational-choice framework that explains why powerful political actors would agree to accept and sustain legal constraints on their power, including the institution of judicial review.77¶ That Posner and Vermeule miss the role of legal compliance as a powerful signal, perhaps the most powerful signal, in maintaining a President’s critical credibility as a well-motivated user of discretionary power is all the more surprising in light of the central role executive self-binding constraints play in their theory. After asserting that “one of the greatest constraints on [presidential] aggrandizement” is “the president’s own interest in maintaining his credibility” (p. 133), they define their project as seeking to discover the “social-scientific microfoundations” (p. 123) of presidential credibility: the ways in which presidents establish and maintain credibility. One of the most crucial and effective mechanisms, in their view, is executive self-binding, “whereby executives commit themselves to a course of action that would impose higher costs on ill-motivated actors” (p. 137). As they also put it, “a well-motivated president can distinguish himself from an ill-motivated president by binding himself to a policy position that an ill-motivated president would reject” (p. 135). ¶ By complying with these constraints, presidents signal their good faith and accrue more trust to take further action. Most importantly from within Posner and Vermeule’s theory, these constraints, many self-generated through executive self-binding, substitute for the constraints of law. Law does not, or cannot, or should not constrain presidents, in their view, but rational-actor presidents recognize that complying with constraints is in their own self-interest; presidents therefore substitute or accept other constraints.¶ Thus, Posner and Vermeule recognize the importance of “enabling constraints”78 in effective mobilization and maintenance of political power; that is, they recognize that what appear to be short-term constraints on the immediate preferences of actors like presidents might actually enable longterm marshaling of effective presidential power. Yet they somehow miss that law, too, can work as an enabling constraint; when it comes to law, Posner and Vermeule seem to see nothing but constraint. Indeed, this failing runs even deeper. For if presidents must signal submission to various constraints to maintain and enhance their credibility — as Posner and Vermeule insist they must — Posner and Vermeule miss the fact that the single most powerful signal of that willingness to be constrained, particularly in American political culture, is probably the President’s willingness to comply with law. ¶ In theoretical terms, then, Posner and Vermeule emerge as inconsistent or incomplete consequentialists. Even if law does not bind presidents purely for normative reasons, presidents will have powerful incentives to comply with law — even more powerful than the incentives Posner and Vermeule rightly recognize presidents will have to comply with other constraints on their otherwise naked power. To the extent that Posner and Vermeule mean to acknowledge this point but argue that it means presidents are not “really” complying with the law and are only bowing to these other incentives, they are drawing a semantic distinction that seems of limited pragmatic significance, as the next Part shows.

#### Officials will be deterred even if the Prez is not

Walter Dellinger 6, Douglas B. Maggs Professor of Law at Duke University, former head of the Office of Legal Counsel, partner at O’Melveny & Myers in Washington, D.C., June 29 2006, “A Supreme Court Conversation,” http://www.slate.com/articles/life/the\_breakfast\_table/features/2006/a\_supreme\_court\_conversation/the\_most\_important\_decision\_on\_presidential\_power\_ever.html

I will expand upon this later tonight. But first, I must deal with your unwarranted fear that President Bush's administration might simply refuse to comply with the court's determinations, either openly or covertly. First of all, no one in this administration has ever suggested that the president would ever decline to obey Supreme Court decisions. But there is an even more practical restraint on noncompliance. The law officers of the government will not let that happen.¶ Yes, I know, actions have been taken in secret—prisons, torture, wiretapping, God knows what else. But many? most? of those actions have—to the extent of our knowledge—been approved by legal opinions from the Department of Justice and the White House counsel. Those legal opinions have seemed to very many lawyers to be fundamentally wrong in their assertions of sweeping unilateral presidential power to act in defiance of clearly valid laws. But, right or wrong, those legal opinions, signed and sealed on official government stationery, were a reality that gave substantial legal protection to government officers and agents who acted in compliance with what the lawyers found to be valid presidential directives.¶ No more. A lot of those legal opinions are inoperative as of 10 a.m. this morning. And without the cover of the now-discredited theory of sweeping unilateral executive power, the criminal law of the United States again controls.¶ Today the court holds that common Article 3 of the Geneva Conventions applies to the conflict against al-Qaida. As Justice Kennedy expressly notes in his (controlling) concurring opinion, Section 2441 of the U.S. Criminal Code defines a "war crime" as including any conduct "which constitutes a violation of common Article 3 of the international conventions signed at Geneva." And the statute makes any "war crime"—when committed by any member of the U.S. Armed Forces, or against any member of the U.S. Armed Forces, or against a U.S. national—punishable by life imprisonment, or in certain cases, by death. Now that the fig leaf of untenable legal opinions has been stripped away, there will be great resistance by covered officials to complying with directives that may violate such a serious federal criminal statute.

### Gender K

#### This misunderstands the perm – incorporating gender into mainstream IR solves best

Mary Caprioli 4, Dept. of Political Science @ the University of Tennessee, PhD from the University of Connecticut, “Feminist IR Theory and Quantitative Methodology: A Critical Analysis,” International Studies Review, Vol. 6, No. 2 (Jun., 2004), pp. 253-269

A Response to the "Add Gender and Stir" Criticism ¶ The derision with which many conventional feminists view feminist quantitative studies persists to the detriment of both feminist and other types of IR scholarship. As Jan Jindy Pettman (2002) has argued, however, no single feminist position exists in international relations. One of the most common feminist critiques of feminist quantitative research is that scholars cannot simply "add gender and stir" (Peterson 2002; Steans 2003), for gender is not just one of many variables. Yet, gender is one of many variables when we are discussing international issues, from human rights to war. As Fred Halliday (1988) has observed, gender is not the core of international relations or the key to understanding it. Such a position would grossly overstate the feminist case. Gender may be an important explanatory and predictive component but it certainly is not the only one. ¶ Such a critique only serves to undermine the feminist argument against a sci- entific methodology for the social sciences by questioning the scholarship of those who employ quantitative methodologies. One does not pull variables "out of the air" to put into a model, thereby "adding and stirring." Variables are added to models if a theoretical justification for doing so exists: ¶ the basic method of social science remains the same: make a conjecture about causality; formulate that conjecture as an hypothesis, consistent with established theory (and perhaps deduced from it, at least in part); specify the observable implications of the hypothesis; test for whether those implications obtain in the real world; and overall, ensure that one's procedures are publicly known and replicable. Relevant evidence has to be brought to bear on hypotheses generated by theory for the theory to be meaningful. (Keohane 1998:196) ¶ Peterson (2002:158) postulates that "as long as IR understands gender only as an empirical category (for example, how do women in the military affect the conduct of war?), feminisms appear largely irrelevant to the discipline's primary questions and inquiry." Yet, little evidence actually supports this contention--unless one is arguing that gender is the only important category of analysis. ¶ If researchers cannot add gender to an analysis, then they must necessarily use a purely female-centered analysis, even though the utility of using a purely female- centered analysis seems equally biased. Such research would merely be gender- centric based on women rather than men, and it would thereby provide an equally biased account of international relations as those that are male-centric. Although one might speculate that having research done from the two opposing worldviews might more fully explain international relations, surely an integrated approach would offer a more comprehensive analysis of world affairs. ¶ Beyond a female-centric analysis, some scholars (for example, Carver 2002) ar- gue that feminist research must offer a critique of gender as a set of power relations. Gender categories, however, do exist and have very real implications for individ- uals, social relations, and international affairs. Critiquing the social construction of gender is important, but it fails to provide new theories of international relations or to address the implications of gender for what happens in the world. Sylvester (2002a) has wondered aloud whether feminist research should be focused primarily on critique, warning that feminists should avoid an exclusive focus on highlighting anomalies, for such a focus does not add to feminist IR theories.

#### Structural violence decreasing now

Goklany 9**—**Worked with federal and state governments, think tanks, and the private sector for over 35 years. Worked with IPCC before its inception as an author, delegate and reviewer. Negotiated UN Framework Convention on Climate Change. Managed the emissions trading program for the EPA. Julian Simon Fellow at the Property and Environment Research Center, visiting fellow at AEI, winner of the Julian Simon Prize and Award. PhD, MS, electrical engineering, MSU. B.Tech in electrical engineering, Indian Institute of Tech. (Indur, “Have increases in population, affluence and technology worsened human and environmental well-being?” 2009, http://www.ejsd.org/docs/HAVE\_INCREASES\_IN\_POPULATION\_AFFLUENCE\_AND\_TECHNOLOGY\_WORSENED\_HUMAN\_AND\_ENVIRONMENTAL\_WELL-BEING.pdf)

Although global population is no longer growing exponentially, it has quadrupled since 1900. Concurrently, affluence (or GDP per capita) has sextupled, global economic product (a measure of aggregate consumption) has increased 23-fold and carbon dioxide has increased over 15-fold (Maddison 2003; GGDC 2008; World Bank 2008a; Marland et al. 2007).4 But contrary to Neo- Malthusian fears, average **human well-being,** measured by any objective indicator, **has never been higher**. Food supplies, Malthus’ original concern, are up worldwide. Global food supplies per capita increased from 2,254 Cals/day in 1961 to 2,810 in 2003 (FAOSTAT 2008). This helped reduce hunger and malnutrition worldwide. The proportion of the population in the developing world, suffering from chronic hunger declined from 37 percent to 17 percent between 1969–71 and 2001–2003 despite an 87 percent population increase (Goklany 2007a; FAO 2006). The reduction in hunger and malnutrition, along with improvements in basic hygiene, improved access to safer water and sanitation, broad adoption of vaccinations, antibiotics, pasteurization and other public health measures, helped reduce mortality and increase life expectancies. These improvements first became evident in today’s developed countries in the mid- to late-1800s and started to spread in earnest to developing countries from the 1950s. The infant mortality rate in developing countries was 180 per 1,000 live births in the early 1950s; today it is 57. Consequently, global life expectancy, perhaps the single most important measure of human well-being, increased from 31 years in 1900 to 47 years in the early 1950s to 67 years today (Goklany 2007a). Globally, average annual per capita incomes tripled since 1950. The proportion of the world’s population outside of high-income OECD countries living in absolute poverty (average consumption of less than $1 per day in 1985 International dollars adjusted for purchasing power parity), fell from 84 percent in 1820 to 40 percent in 1981 to 20 percent in 2007 (Goklany 2007a; WRI 2008; World Bank 2007). Equally important, the world is more literate and better educated. Child labor in low income countries declined from 30 to 18 percent between 1960 and 2003. In most countries, people are freer politically, economically and socially to pursue their goals as they see fit. More people choose their own rulers, and have freedom of expression. They are more likely to live under rule of law, and less likely to be arbitrarily deprived of life, limb and property. Social and professional mobility has never been greater. It is easier to transcend the bonds of caste, place, gender, and other accidents of birth in the lottery of life. People work fewer hours, and have more money and better health to enjoy their leisure time (Goklany 2007a). Figure 3 summarizes the U.S. experience over the 20th century with respect to growth of population, affluence, material, fossil fuel energy and chemical consumption, and life expectancy. It indicates that population has multiplied 3.7-fold; income, 6.9-fold; carbon dioxide emissions, 8.5-fold; material use, 26.5-fold; and organic chemical use, 101-fold. Yet its life expectancy increased from 47 years to 77 years and infant mortality (not shown) declined from over 100 per 1,000 live births to 7 per 1,000. It is also important to note that not only are people living longer, they are healthier. The disability rate for seniors declined 28 percent between 1982 and 2004/2005 and, despite better diagnostic tools, major diseases (e.g., cancer, and heart and respiratory diseases) occur 8–11 years later now than a century ago (Fogel 2003; Manton et al. 2006). If similar figures could be constructed for other countries, most would indicate qualitatively similar trends, especially after 1950, except Sub-Saharan Africa and the erstwhile members of the Soviet Union. In the latter two cases, life expectancy, which had increased following World War II, declined after the late 1980s to the early 2000s, possibly due poor economic performance compounded, especially in Sub-Saharan Africa, by AIDS, resurgence of malaria, and tuberculosis due mainly to poor governance (breakdown of public health services) and other manmade causes (Goklany 2007a, pp.66–69, pp.178–181, and references therein). However, there are signs of a turnaround, perhaps related to increased economic growth since the early 2000s, although this could, of course, be a temporary blip (Goklany 2007a; World Bank 2008a). Notably, in most areas of the world, the healthadjusted life expectancy (HALE), that is, life expectancy adjusted downward for the severity and length of time spent by the average individual in a less-than-healthy condition, is greater now than the unadjusted life expectancy was 30 years ago. HALE for the China and India in 2002, for instance, were 64.1 and 53.5 years, which exceeded their unadjusted life expectancy of 63.2 and 50.7 years in 1970–1975 (WRI 2008). Figure 4, based on cross country data, indicates that contrary to Neo-Malthusian fears, both life expectancy and infant mortality improve with the level of affluence (economic development) and time, a surrogate for technological change (Goklany 2007a). Other indicators of human well-being that improve over time and as affluence rises are: access to safe water and sanitation (see below), literacy, level of education, food supplies per capita, and the prevalence of malnutrition (Goklany 2007a, 2007b).

#### Recent evidence proves

Dash 13 Co-Founder and Managing Director at Activate, a new kind of strategy consultancy that advises companies about the opportunities at the intersection of technology and media co-founder and CEO of ThinkUp, which shows you how to be better at using your social networks, publisher, editor and owner of Dashes.com, my personal blog where I've been publishing continuously since 1999, entrepreneur, writer and geek living in New York City (Anil Dash, 4 February 2013, “THE WORLD IS GETTING BETTER. QUICKLY.,” http://dashes.com/anil/2013/02/the-world-is-getting-better-quickly.html)

The world is getting better, faster, than we could ever have imagined. For those of us who are fortunate enough to live in wealthy communities or countries, we have a common set of reference points we use to describe the world's most intractable, upsetting, unimaginable injustices. Often, we only mention these horrible realities in minimizing our own woes: "Well, that's annoying, but it's hardly as bad as children starving in Africa." Or "Yeah, this is important, but it's not like it's the cure for AIDS." Or the omnipresent description of any issue as a "First World Problem". But let's, for once, look at the actual data around developing world problems. Not our condescending, world-away displays of emotion, or our slacktivist tendencies to see a retweet as meaningful action, but the actual numbers and metrics about how progress is happening for the world's poorest people. Though metrics and measurements are always fraught and flawed, Gates' single biggest emphasis was the idea that measurable progress and metrics are necessary for any meaningful improvements to happen in the lives of the world's poor. So how are we doing? THE WORLD HAS CHANGED The results are astounding. Even if we caveat that every measurement is imprecise, that billionaire philanthropists are going to favor data that strengthens their points, and that some of the most significant problems are difficult to attach metrics to, it's inarguable that the past two decades have seen the greatest leap forward in the lives of the global poor in the history of humanity. Some highlights: Children are 1/3 less likely to die before age five than they were in 1990. The global childhood mortality rate for kids under 5 has dropped from 88 in 1000 in 1990 to 57 in 1000 in 2010. The global infant mortality rate for kids dying before age one has plunged from 61 in 1000 to 40 in 1000. Now, any child dying is of course one child too many, but this is astounding progress to have made in just twenty years. In the past 30 years, the percentage of children who receive key immunizations such as the DTP vaccine has quadrupled. The percentage of people in the world living on less than $1.25 per day has been cut in half since 1990, ahead of the schedule of the Millennium Development Goals which hoped to reach this target by 2015. The number of deaths to tuberculosis has been cut 40% in the past twenty years. The consumption of ozone-depleting substances has been cut 85% globally in the last thirty years. The percentage of urban dwellers living in slums globally has been cut from 46.2% to 32.7% in the last twenty years. And there's more progress in hunger and contraception, in sustainability and education, against AIDS and illiteracy. After reading the Gates annual letter and following up by reviewing the UN's ugly-but-data-rich Millennium Development Goals statistics site, I was surprised by how much progress has been made in the years since I've been an adult, and just how little I've heard about the big picture despite the fact that I'd like to keep informed about such things. I'm not a pollyanna — there's a lot of work to be done. But I can personally attest to the profound effect that basic improvements like clean drinking water can have in people's lives. Today, we often use the world's biggest problems as metaphors for impossibility. But the evidence shows that, actually, we're really good at solving even the most intimidating challenges in the world. What we're lacking is the ability to communicate effectively about how we make progress, so that we can galvanize even more investment of resources, time and effort to tackling the problems we have left.

#### Value to life is inevitable and subjective

Lisa Schwartz, Chair at the Centre for Health Economics and Policy Analysis, 2002

“Medical Ethic: A Case Based Approach” Chapter 6, www.fleshandbones.com/readingroom/pdf/399.pdf

The second assertion made by supporters of the quality of life as a criterion for decisionmaking is closely related to the first, but with an added dimension. This assertion suggests that the determination of the value of the quality of a given life is a subjective determination to be made by the person experiencing that life. The important addition here is that the decision is a personal one that, ideally, ought not to be made externally by another person but internally by the individual involved. Katherine Lewis made this decision for herself based on a comparison between two stages of her life. So did James Brady. Without this element, decisions based on quality of life criteria lack salient information and the patients concerned cannot give informed consent. Patients must be given the opportunity to decide for themselves whether they think their lives are worth living or not. To ignore or overlook patients’ judgement in this matter is to violate their autonomy and their freedom to decide for themselves on the basis of relevant information about their future, and comparative consideration of their past. As the deontological position puts it so well, to do so is to violate the imperative that we must treat persons as rational and as ends in themselves.

#### Prioritizing pedagogy causes self-marginalization

Fred Halliday 96, Prof of IR at the London School of Economics, “The future of international relations: fears and hopes,” Chapter 16 in International Theory: Positivism and Beyond, ed. Steve Smith, Ken Booth, Marysia Zalewski, p. 323, google books

For its part, feminism has already shown how a range of issues seen as gender-neutral do in fact have a gendered character: security, national interest, human rights, war, nationalism. As such it suggests a general reconceptualization of much of IR, linked to the development of other, critical, approaches. But equally feminist engagement with the international suggests a range of issues on which the feminist perspective, hitherto focused on individual and social dimensions, may itself be affected by such a context – the international constitution of economies, gender images, social practices, legal possibilities. At the same time, the encounter of feminism with the international as much as that of sociology, poses questions to both bodies of thought – the very complexities, analytic and ethical, of international issues force clarification and development of feminist approaches. Feminism too has not been immune to the distortions of post-modernism: its impact on the discipline has been reduced by this divisionary association. The conceit, prevalent throughout much of post-modernism, that it alone provides a means of examining structures of domination, and giving a voice to the oppressed, is reproduced in analysis of gender relations. As feminist critics of post-modernism has shown, the risk is one of self-marginalisations, often disguised as principle: too often methodological introversion prevails at the expense of ethical critique or substantive analysis.

#### Learning technical aspects of military policy is key to solve the K

Goddard 13 [Stacie Goddard, Assistant Prof of Poli Sci at Wellesley College, “Blogging the syllabus, international security edition: what is security?” 8/22/2013, http://www.whiteoliphaunt.com/duckofminerva/2013/08/blogging-the-syllabus-international-security-edition-what-is-security.html]

Students interested in any aspect of security need to learn the nuts and bolts of military force. If you’re going to make an argument for intervention in, I don’t know, Syria, you need to have at least rudimentary knowledge about issues involved in projecting power, what air power can and cannot do, what it would mean to put special operations forces in to contain chemical weapon caches (and what chemical weapons are and what they are not). It amazes me that so many of our students think that the US is all powerful, that troops arrive in locations by way of apparition, that operations supply themselves, and that airpower is a magic wand that only kills the bad guys. This leads naturally to my last reason:¶ I think the ability to engage in conversations about the military makes us better citizens, and it brings women into critical conversations about foreign policy. I was lucky enough to have professors at both the undergraduate and graduate level willing to teach me the foundations of military strategy, and I think it has made all of the difference in how I function, not only as an academic, but as a women interested in politics. When colleagues hear that I teach security studies at a women’s college, they often ask how I’ve modified my approach to security studies. I think the answer is that I’m even more of a traditionalist at Wellesley than I would be elsewhere. Learning about military strategy, in essence, is learning a bit of a new language. I’m not going to teach my students all of it in one semester, but I can give them a start and, maybe more importantly, I can signal to them that they need not be intimidated by or excluded from this incredibly important conversation. And then if they want to go write a feminist critique of a “traditional” subject like nuclear warfighting, that’s awesome, but they’d better know the basics of counterforce targeting first.

#### Rejecting the state fails

Harrington 92 (Mona, lawyer, political scientist, and writer in Cambridge, MA, “The Liberal State as an Agent of Feminist Change,” in Gendered States: Feminist (Re)Visions of International Relations Theory, ed. V. Spike Peterson, pg. 66)

In the face of such pressures, I believe that feminist critics of the present state system should beware. The very fact that the state creates, condenses, and focuses political power may make it the best friend, not the enemy, of feminists--because the availability of real political power is essential to real democratic control. Not sufficient, I know, but essential. My basic premise is that political power can significantly disrupt patriarchal and class (which is to say, economic) power. It holds the potential, at least, for disrupting the patriarchal/economic oppression of those in the lower reaches of class, sex, and race hierarchies. It is indisputable that, in the nineteenth and twentieth centuries, it has been the political power of states that has confronted the massive economic power privately constructed out of industrial processes and has imposed obligations on employers for the welfare of workers as well as providing additional social supports for the population at large. And the political tempering of economic power has been the most responsive to broad public needs in liberal democracies, where governments must respond roughly to the interests of voters.

**Not the root cause**

**Goldstein 1** – IR, American U (Joshua, 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**.

#### Their patriarchy impacts are contrived, reductionist, essentialist, and marginalizes and fractures resistance

Crenshaw 2 [Carrie Crenshaw PhD, Former President of CEDA, “Perspectives In Controversy: Selected Articles from Contemporary Argumentation and Debate” 2002 p. 119-126]

Feminism is not dead. It is alive and well in intercollegiate debate. Increasingly, students rely on feminist authors to inform their analysis of resolutions. While I applaud these initial efforts to explore feminist thought, I am concerned that such arguments only exemplify the general absence of sound causal reasoning in debate rounds. Poor causal reasoning results from a debate practice that privileges empirical proof over rhetorical proof, fostering ignorance of the subject matter being debated. To illustrate my point, I claim that debate arguments about feminists suffer from a reductionism that tends to marginalize the voices of significant feminist authors. David Zarefsky made a persuasive case for the value of causal reasoning in intercollegiate debate as far back as 1979. He argued that causal arguments are desirable for four reasons. First, causal analysis increases the control of the arguer over events by promoting understanding of them. Second, the use of causal reasoning increases rigor of analysis and fairness in the decision-making process. Third, causal arguments promote understanding of the philosophical paradox that presumably good people tolerate the existence of evil. Finally, causal reasoning supplies good reasons for “commitments to policy choices or to systems of belief which transcend whim, caprice, or the non-reflexive “claims of immediacy” (117-9). Rhetorical proof plays an important role in the analysis of causal relationships. This is true despite the common assumption that the identification of cause and effect relies solely upon empirical investigation. For Zarefsky, there are three types of causal reasoning. The first type of causal reasoning describes the application of a covering law to account for physical or material conditions that cause a resulting event This type of causal reasoning requires empirical proof prominent in scientific investigation. A second type of causal reasoning requires the assignment of responsibility. Responsible human beings as agents cause certain events to happen; that is, causation resides in human beings (107-08). A third type of causal claim explains the existence of a causal relationship. It functions “to provide reasons to justify a belief that a causal connection exists” (108). The second and third types of causal arguments rely on rhetorical proof, the provision of “good reasons” to substantiate arguments about human responsibility or explanations for the existence of a causal relationship (108). I contend that the practice of intercollegiate debate privileges the first type of causal analysis. It reduces questions of human motivation and explanation to a level of empiricism appropriate only for causal questions concerning physical or material conditions. Arguments about feminism clearly illustrate this phenomenon. Substantive debates about feminism usually take one of two forms. First, on the affirmative, debaters argue that some aspect of the resolution is a manifestation of patriarchy. For example, given the spring 1992 resolution, “[rjesolved: That advertising degrades the quality of life," many affirmatives argued that the portrayal of women as beautiful objects for men's consumption is a manifestation of patriarchy that results in tangible harms to women such as rising rates of eating disorders. The fall 1992 topic, "(rjesolved: That the welfare system exacerbates the problems of the urban poor in the United States," also had its share of patri- archy cases. Affirmatives typically argued that women's dependence upon a patriarchal welfare system results in increasing rates of women's poverty. In addition to these concrete harms to individual women, most affirmatives on both topics, desiring "big impacts," argued that the effects of patriarchy include nightmarish totalitarianism and/or nuclear annihilation. On the negative, many debaters countered with arguments that the some aspect of the resolution in some way sustains or energizes the feminist movement in resistance to patriarchal harms. For example, some negatives argued that sexist advertising provides an impetus for the reinvigoration of the feminist movement and/or feminist consciousness, ultimately solving the threat of patriarchal nuclear annihilation. likewise, debaters negating the welfare topic argued that the state of the welfare system is the key issue around which the feminist movement is mobilizing or that the consequence of the welfare system - breakup of the patriarchal nuclear family -undermines patriarchy as a whole. Such arguments seem to have two assumptions in common. First, there is a single feminism. As a result, feminists are transformed into feminism. Debaters speak of feminism as a single, monolithic, theoretical and pragmatic entity and feminists as women with identical motivations, methods, and goals. Second, these arguments assume that patriarchy is the single or root cause of all forms of oppression. Patriarchy not only is responsible for sexism and the consequent oppression of women, it also is the cause of totalitarianism, environmental degradation, nuclear war, racism, and capitalist exploitation. These reductionist arguments reflect an unwillingness to debate about the complexities of human motivation and explanation. They betray a reliance upon a framework of proof that can explain only material conditions and physical realities through empirical quantification. The transformation of feminists 'Mo feminism and the identification of patriarchy as the sole cause of all oppression is related in part to the current form of intercollegiate debate practice. By "form," I refer to Kenneth Burke's notion of form, defined as the "creation of appetite in the mind of the auditor, and the adequate satisfying of that appetite" (Counter-Statement 31). Though the framework for this understanding of form is found in literary and artistic criticism, it is appropriate in this context; as Burke notes, literature can be "equipment for living" (Biilosophy 293). He also suggests that form "is an arousing and fulfillment of desires. A work has form in so far as one part of it leads a reader to anticipate another part, to be gratified by the sequence" (Counter-Statement 124). Burke observes that there are several aspects to the concept of form. One of these aspects, conventional form, involves to some degree the appeal of form as form. Progressive, repetitive, and minor forms, may be effective even though the reader has no awareness of their formality. But when a form appeals as form, we designate it as conventional form. Any form can become conventional, and be sought for itself - whether it be as complex as the Greek tragedy or as compact as the sonnet (Counter-Statement 126). These concepts help to explain debaters' continuing reluctance to employ rhetorical proof in arguments about causality. Debaters practice the convention of poor causal reasoning as a result of judges' unexamined reliance upon conventional form. Convention is the practice of arguing single-cause links to monolithic impacts that arises out of custom or usage. Conventional form is the expectation of judges that an argument will take this form. Common practice or convention dictates that a case or disadvantage with nefarious impacts causally related to a single link will "outweigh" opposing claims in the mind of the judge. In this sense, debate arguments themselves are conventional. Debaters practice the convention of establishing single-cause relationships to large monolithic impacts in order to conform to audience expectation. Debaters practice poor causal reasoning because they are rewarded for it by judges. The convention of arguing single-cause links leadsthe judge to anticipate the certainty of the impact and to be gratified by the sequence. I suspect that the sequence is gratifying for judges because it relieves us from the responsibility and difficulties of evaluating rhetorical proofs. We are caught between our responsibility to evaluate rhetorical proofs and our reluctance to succumb to complete relativism and subjectivity. To take responsibility for evaluating rhetorical proof is to admit that not every question has an empirical answer. However, when we abandon our responsibility to rhetorical proofs, we sacrifice our students' understanding of causal reasoning. The sacrifice has consequences for our students' knowledge of the subject matter they are debating. For example, when feminism is defined as a single entity, not as a pluralized movement or theory, that single entity results in the identification of patriarchy as the sole cause of oppression. The result is ignorance of the subject position of the particular feminist author, for highlighting his or her subject position might draw attention to the incompleteness of the causal relationship between link and impact Consequently, debaters do not challenge the basic assumptions of such argumentation and ignorance of feminists is perpetuated. Feminists are not feminism. The topics of feminist inquiry are many and varied, as are the philosophical approaches to the study of these topics. Different authors have attempted categorization of various feminists in distinctive ways. For example, Alison Jaggar argues that feminists can be divided into four categories: liberal feminism, marxist feminism, radical feminism, and socialist feminism. While each of these feminists may share a common commitment to the improvement of women's situations, they differ from each other in very important ways and reflect divergent philosophical assumptions that make them each unique. Linda Alcoff presents an entirely different categorization of feminist theory based upon distinct understandings of the concept "woman," including cultural feminism and post-structural feminism. Karen Offen utilizes a comparative historical approach to examine two distinct modes of historical argumentation or discourse that have been used by women and their male allies on behalf of women's emancipation from male control in Western societies. These include relational feminism and individualist feminism. Elaine Marks and Isabelle de Courtivron describe a whole category of French feminists that contain many distinct versions of the feminist project by French authors. Women of color and third-world feminists have argued that even these broad categorizations of the various feminism have neglected the contributions of non-white, non-Western feminists (see, for example, hooks; Hull; Joseph and Lewis; Lorde; Moraga; Omolade; and Smith). In this literature, the very definition of feminism is contested. Some feminists argue that "all feminists are united by a commitment to improving the situation of women" (Jaggar and Rothenberg xii), while others have resisted the notion of a single definition of feminism, bell hooks observes, "a central problem within feminist discourse has been our inability to either arrive at a consensus of opinion about what feminism is (or accept definitions) that could serve as points of unification" (Feminist Theory 17). The controversy over the very definition of feminism has political implications. The power to define is the power both to include and exclude people and ideas in and from that feminism. As a result, [bjourgeois white women interested in women's rights issues have been satisfied with simple definitions for obvious reasons. Rhetorically placing themselves in the same social category as oppressed women, they were not anxious to call attention to race and class privilege (hooks. Feminist Wieory 18). Debate arguments that assume a singular conception of feminism include and empower the voices of race- and class-privileged women while excluding and silencing the voices of feminists marginalized by race and class status. This position becomes clearer when we examine the second assumption of arguments about feminism in intercollegiate debate - patriarchy is the sole cause of oppression. Important feminist thought has resisted this assumption for good reason. Designating patriarchy as the sole cause of oppression allows the subjugation of resistance to other forms of oppression like racism and classism to the struggle against sexism. Such subjugation has the effect of denigrating the legitimacy of resistance to racism and classism as struggles of equal importance. "Within feminist movement in the West, this led to the assumption that resisting patriarchal domination is a more legitimate feminist action than resisting racism and other forms of domination" (hooks. Talking Back 19). The relegation of struggles against racism and class exploitation to offspring status is not the only implication of the "sole cause" argument In addition, identifying patriarchy as the single source of oppression obscures women's perpetration of other forms of subjugation and domination, bell hooks argues that we should not obscure the reality that women can and do partici- pate in politics of domination, as perpetrators as well as victims - that we dominate, that we are dominated. If focus on patriarchal domination masks this reality or becomes the means by which women deflect attention from the real conditions and circumstances of our lives, then women cooperate in suppressing and promoting false consciousness, inhibiting our capacity to assume responsibility for transforming ourselves and society (hooks. Talking Back 20). Characterizing patriarchy as the sole cause of oppression allows mainstream feminists to abdicate responsibility for the exercise of class and race privilege. It casts the struggle against class exploitation and racism as secondary concerns. Current debate practice promotes ignorance of these issues because debaters appeal to conventional form, the expectation of judges that they will isolate a single link to a large impact Feminists become feminism and patriarchy becomes the sole cause of all evil. Poor causal arguments arouse and fulfill the expectation of judges by allowing us to surrender our responsibility to evaluate rhetorical proof for complex causal relationships. The result is either the mar-ginalization or colonization of certain feminist voices. Arguing feminism in debate rounds risks trivializing feminists. Privileging the act of speaking about feminism over the content of speech "often turns the voices and beings of non-white women into commodity, spectacle" (hooks, Talking Back 14). Teaching sophisticated causal reasoning enables our students to learn more concerning the subject matter about which they argue. In this case, students would learn more about the multiplicity of feminists instead of reproducing the marginalization of many feminist voices in the debate itself. The content of the speech of feminists must be investigated to subvert the colonization of exploited women. To do so, we must explore alternatives to the formal expectation of single-cause links to enormous impacts for appropriation of the marginal voice threatens the very core of self-determination and free self-expression for exploited and oppressed peoples. If the identified audience, those spoken to, is determined solely by ruling groups who control production and distribution, then it is easy for the marginal voice striving for a hearing to allow what is said to be overdetermined by the needs of that majority group who appears to be listening, to be tuned in (hooks, Talking Back 14).

### 2AC Word PIC

#### Discursive rejection allows elites to fill in the vacuum of meaning---turns the impact

Sanford F Schram 95, professor of social theory and policy, 1995, “Words of welfare: The Poverty of Social Science and the Social Science of Poverty,” pg. 20-26 “The sounds of silence…what isolated instances of renaming can accomplish”

The sounds of silence are several in poverty research. Whereas many welfare policy analysts are constrained by economistic-herapeutic-manage- na1 discourse, others find themselves silenced by a politics of euphemisms. The latter suggests that if only the right words can be found, then political change will quickly follow. This is what happens when a good idea goes bad, when the interrogation of discourse collapses into the valorization of terminological distinctions.' Recently, I attended a conference of social workers who were part of a network of agencies seeking to assist homeless youths. A state legislator addressed the group and at one point in the question-and-answer period commiserated with one professional about how the by then well- accepted phrase children at risk ought to be dropped, for it is pejorative. The legislator preferred children under stress as a more "politically correct" euphemism. Much discussion ensued regarding how to categorize clients so as to neither patronize nor marginalize them. No one, however, mentioned the reifying effects of all categorization, or how antiseptic language only exacerbates the problem by projecting young people in need onto one or another dehumanizing dimension of therapeutic discourse.' No one suggested that although isolated name changes may be a necessary part of po- litical action, they are insufficient by themselves. No one emphasized the need for renamings that destabilize prevailing institutional practices.' In- stead, a science of renaming seemed to displace a politics of interrogation. A fascination with correcting the terms of interpersonal communication had replaced an interest in the critique of structure. A comfort in dealing with discourse in the most narrow and literal sense had replaced an inter- est in the broader discursive structures that set the terms for reproducing organized daily life. I was left to question how discourse and structure need to be seen as connected before reflection about poverty can inform political action.' The deconstruction of prevailing discursive structures helps politi- cize the institutionalized practices that inhibit alternative ways of con- structing social relations.5 Isolated acts of renaming, however, are unlikely to help promote political change if they are not tied to interrogations of the structures that serve as the interpretive context for making sense of new terms.' This is especially the case when renamings take the form of eu-phemisms designed to make what is described appear to be consonant with the existing order. In other words, the problems of a politics of renaming are not confined to the left, but are endemic to what amounts to a classic American practice utilized across the political spectrum.' Homeless, wel- fare, and family planning provide three examples of how isolated in- stances of renaming fail in their efforts to make a politics out of sanitizing language. Reconsidering the Politics of Renaming Renaming can do much to indicate respect and sympathy. It may strategi- cally recast concerns so that they can be articulated in ways that are more appealing and less dismissive. Renaming the objects of political contesta- tion may help promote the basis for articulating latent affinities among disparate political constituencies. The relentless march of renamings can help denaturalize and delegitimate ascendant categories and the constraints they place on political possibility. At the moment of fissure, destabilizing renamings have the potential to encourage reconsideration of how biases embedded in names are tied to power relations." Yet isolated acts of renam- ing do not guarantee that audiences will be any more predisposed to treat things differently than they were before. The problem is not limited to the political reality that dominant groups possess greater resources for influenc- ing discourse. Ascendant political economies, such as liberal postindustrial capitalism, whether understood structurally or discursively, operate as insti- tutionalized systems of interpretation that can subvert the most earnest of renamings." It is just as dangerous to suggest that paid employment exhausts possi- bilities for achieving self-sufficiency as to suggest that political action can be meaningfully confined to isolated renamings.'° Neither the workplace nor a name is the definitive venue for effectuating self-worth or political intervention." Strategies that accept the prevailing work ethos will con- tinue to marginalize those who cannot work, and increasingly so in a post- industrial economy that does not require nearly as large a workforce as its industrial predecessor. Exclusive preoccupation with sanitizing names over- looks the fact that names often do not matter to those who live out their lives according to the institutionalized narratives of the broader political economy, whether it is understood structurally or discursively, whether it is monolithically hegemonic or reproduced through allied, if disparate, prac- tices. What is named is always encoded in some publicly accessible and as- cendent discourse." Getting the names right will not matter if the names are interpreted according to the institutionalized insistences of organized society." Only when those insistences are relaxed does there emerge the possibil- ity for new names to restructure daily practices. Texts, as it now has become notoriously apparent, can be read in many ways, and they are most often read according to how prevailing discursive structures provide an interpretive context for reading diem. 14 The meanings implied by new names of necessity overflow their categorizations, often to be reinterpreted in terms of available systems of intelligibility (most often tied to existing institutions). Whereas re- naming can maneuver change within the interstices of pervasive discursive structures, renaming is limited in reciprocal fashion. Strategies of contain- ment that seek to confine practice to sanitized categories appreciate the discursive character of social life, but insufficiently and wrongheadedly. I do not mean to suggest that discourse is dependent on structure as much as that structures are hegemonic discourses. The operative structures reproduced through a multitude of daily practices and reinforced by the efforts of aligned groups may be nothing more than stabilized ascendent discourses." Structure is the alibi for discourse. We need to destabilize this prevailing interpretive context and the power plays that reinforce it, rather than hope that isolated acts of linguistic sanitization will lead to political change. Interrogating structures as discourses can politicize the terms used to fix meaning, produce value, and establish identity. Denaturalizing value as the product of nothing more than fixed interpretations can create new possibilities for creating value in other less insistent and injurious ways. The discursively/structurally reproduced reality of liberal capitalism as deployed by power blocs of aligned groups serves to inform the existentially lived experiences of citizens in the contemporary postindustrial order." The powerful get to reproduce a broader context that works to reduce the dissonance between new names and established practices. As long as the prevailing discursive structures of liberal capitalism create value from some practices, experiences, and identities over others, no matter how often new names are insisted upon, some people will continue to be seen as inferior simply because they do not engage in the same practices as those who are currently dominant in positions of influence and prestige. Therefore, as much as there is a need to reconsider the terms of debate, to interrogate the embedded biases of discursive practices, and to resist living out the invid- ious distinctions that hegemonic categories impose, there are real limits to what isolated instances of renaming can accomplish.¶ Renaming points to the profoundly political character of labels. Labels oper- ate as sources of power that serve to frame identities and interests. They predispose actors to treat the subjects in question in certain ways, whether they are street people or social policies. This increasingly common strategy, however, overlooks at least three major pitfalls to the politics of renaming." Each reflects a failure to appreciate language's inability to say all that is meant by any act of signification. First, many renamings are part of a politics of euphemisms that conspires to legitimate things in ways consonant with hegemonic discourse. This is done by stressing what is consistent and de-emphasizing what is inconsis- tent with prevailing discourse. When welfare advocates urge the nation to invest in its most important economic resource, its children, they are seek- ing to recharacterize efforts on behalf of poor families as critical for the country's international economic success in a way that is entirely consonant with the economistic biases of the dominant order. They are also distracting the economic-minded from the social democratic politics that such policy changes represent." This is a slippery politics best pursued with attention to how such renamings may reinforce entrenched institutional practices." Yet Walter Truett Anderson's characterization of what happened to the "cultural revolution" of the 1960s has relevance here: One reason it is so hard to tell when true cultural revolutions have occurred is that societies are terribly good at co-opting their opponents; something that starts out to destroy the prevailing social construction of reality ends up being a part of it. Culture and counterculture overlap and merge in countless ways. And the hostility, toward established social constructions of reality that produced strikingly new movements and behaviors in the early decades of this century, and peaked in the 1960s, is now a familiar part of the cultural scene. Destruction itself becomes institutionalized." According to Jeffrey Goldfarb, cynicism has lost its critical edge and has become the common denominator of the very society that cynical criticism sought to debunk .21 If this is the case, politically crafted characterizations can easily get co-opted by a cynical society that already anticipates the politi- cal character of such selective renamings. The politics of renaming itself gets interpreted as a form of cynicism that uses renamings in a disingenuous ashion in order to achieve political ends. Renaming not only loses credibility but also corrupts the terms used. This danger is ever present, given the limits of language. Because all terms are partial and incomplete characterizations, every new term can be invalidated as not capturing all that needs to be said about any topic? With time, the odds increase that a new term will lose its potency as it fails to emphasize ne-glected dimensions of a problem. As newer concerns replace the ones that helped inspire the terminological shift, newer terms will be introduced to ad- dress what has been neglected. Where disabled was once an improvement over handicapped, other terms are now deployed to make society inclusive of all people, however differentially situated. The "disabled" are now "physi- cally challenged" or "mentally challenged?' The politics of renaming promotes higher and higher levels of neutralizing language." Yet a neutralized language is itself already a partial reading even if it is only implicitly biased in favor of some attributes over others. Neutrality is always relative to the prevailing context As the context changes, what was once neutral becomes seen as biased. Implicit moves of emphasis and de-emphasis become more visible in a new light. "Physically" and "mentally challenged" already begin to look insufficiently affirmative as efforts intensify to include people with such attributes in all avenues of contemporary life.24 Not just terms risk being corrupted by a politics ofrenaming. Proponents of a politics of renaming risk their personal credibility as well. Proponents of a politics of renaming often pose a double bind for their audiences. The politics of renaming often seeks to highlight sameness and difference si- multaneously.25 It calls for stressing the special needs of the group while at the same time denying that the group has needs different from those of anyone else. Whether it is women, people of color, gays and lesbians, the disabled, or even "the homeless:' renaming seeks to both affirm and deny difference. This can be legitimate, but it is surely almost always bound to be difficult. Women can have special needs, such as during pregnancy, that make it unfair to hold them to male standards; however, once those differ- ent circumstances are taken into account, it becomes inappropriate to as- sume that men and women are fundamentally different in socially signifi- cant ways .21 Yet emphasizing special work arrangements for women, such as paid maternity leave, may reinforce sexist stereotyping that dooms women to inferior positions in the labor force. Under these circumstances, advocates of particular renamings can easily be accused of paralyzing their audience and immobilizing potential sup- porters. Insisting that people use terms that imply sameness and difference simultaneously is a good way to ensure such terms do not get used. This encourages the complaint that proponents of new terms are less interested in meeting people's needs than in demonstrating who is more sophisticated and sensitive. Others turn away, asking why they cannot still be involved in trying to right wrongs even if they cannot correct their use of terminology," Right-minded, if wrong-worded, people fear being labeled as the enemy; important allies are lost on the high ground of linguistic purity. Euphemisms also encourage self-censorship. The politics of renaming discourages its proponents from being able to respond to inconvenient infor- mation inconsistent with the operative euphemism. Yet those who oppose it are free to dominate interpretations of the inconvenient facts. This is bad politics. Rather than suppressing stories about the poor, for instance, it would be much better to promote actively as many intelligent interpretations as possible. The politics of renaming overlooks that life may be more complicated than attempts to regulate the categories of analysis. Take, for instance, the curious negative example of "culture?' Somescholars have been quite insis- tent that it is almost always incorrect to speak about culture as a factor in explaining poverty, especially among African Americans .211 Whereas some might suggest that attempts to discourage examining cultural differences, say in family structure, are a form of self-censorship, others might want to argue that it is just clearheaded, informed analysis that de- mphasizes cul- ture's relationship to poverty.29 Still others suggest that the question of what should or should not be discussed cannot be divorced from the fact that when blacks talk publicly in this country it is always in a racist society that uses their words to reinforcetheir subordination. Open disagreement among African Americans will be exploited by whites to delegitimate any challengesto racism and to affirm the idea that black marginalization is self-generated.3° Emphasizing cultural differences between blacks and whites and exposing internal "problems" in the black community minimize how "problems" across races and structural political-economic factors, including especially the racist and sexist practices of institutionalized society, are the primary causes of poverty. Yet it is distinctly possible that although theories proclaiming a "culture of poverty" are incorrect, cultural variation itself may be an important issue in need of examination." For instance, there is much to be gained from contrasting the extended-family tradition among African Americans with the welfare system of white society, which is dedicated to reinforcing the nuclear two-parent family.32 A result of self-censorship, however, is that animportant subject is left to be studied by the wrong people. Although ana- lyzing cultural differences may not tell us much about poverty and may be dangerous in a racist society, leaving it to others to study culture and poverty can be a real mistake as well. Culture in their hands almost always becomes "culture of poverty."" A politics of renaming risks reducing the discussants to only those who help reinforce existing prejudices.

#### Language isn’t predetermined – the CP only masks the function of power

Butler 1 (Judith, Speech Acts Politically, Deconstruction: a Reader, pg 256-257)

When anti-intellectualism becomes the counter to anti-censorship, and academic language seeks to dissolve itself in an effort to approximate the ordinary, the bodily, and the intimate, then the rituals of codification at work in such renderings become more insidious and less legible. The substitution of a notion of ordinary language becomes the alternative to censorship, fails to take account the formative power of censorship, as well as it subversive effects. The ‘break’ with ordinary discourse that intellectual language performs does not have to be complete for a certain decontextualization and denaturalization of discourse to take place, one with potentially salutary consequences. The play between the ordinary and non-ordinary is crucial to the process of reelaborating and reworking the constraints that maintain the limits of speakability and, consequently, the viability of the subject.¶ The effects of catachresis in political discourse are possible only when terms that have traditionally signified in certain ways are misappropriated for other kinds of purposes. When, for instance, the term ‘subject’ appears to be too bound up with presumptions of sovereignty and epistemological transparency, arguments are made that such a term can no longer be used. And yet, it seems that the reuse of such a term in, say, a post-sovereign context, rattles the otherwise firm sense of context that such a term invokes. Derrida refers to this possibility as reinscription. The key terms of modernity are vulnerable to such reinscriptions as well, a paradox to which I will return toward the end of this chapter. Briefly, though, my point is this: precisely the capacity of such terms to acquire non-ordinary meanings constitutes their continuing political promise. Indeed, I would suggest that the insurrectionary potential of such invocations consists precisely in the break that they produce between an ordinary and an extraordinary sense. I propose to borrow the depart from Bourdieu’s view of the speech act as a rite of institution to show that there are invocations of speech act as a rite of institution to show that there are invocations of speech that are insurrectionary acts. ¶ To account for such speech acts, however, one must understand language not as a static and closed system whose utterances are functionally secured in advance by the ‘social positions’ to which are mimetically related. The force and meaning of an utterance are not exclusively determined by prior contexts or ‘positions’; an utterance may gain its force precisely by virtue of the break with context that it performs. Such break with prior context or, indeed, with ordinary usage, are crucial to the political operation of the performative. Language takes on a non-ordinary meaning in order precisely to contest what has become sedimented in and as the ordinary.

## 1AR

### Solvency

#### external checks are effective

Aziz Z. Huq 12, Assistant Professor of Law, University of Chicago Law School, "Binding the Executive (by Law or by Politics)", May 25, www.law.uchicago.edu/files/file/400-ah-binding.pdf

Paulson ’ s genuflection and Obama ’ s reticence, I will contend here, are symptomatic of our political system ’ s operation rather than being aberration al . It is generally the case that even in the heart of crisis, and even on matters where executive competence is supposedly at an acme , legislators employ formal institutional powers not only to delay executive initiatives but also affirmatively to end presidential policies. 20 Numerous examples from recent events illustrate the point. Congressional adversaries of Obama, for instance, cut off his policy of emptying Guantánamo Bay via appropriations riders. 21 Deficit hawks spent 2011 resisting the President’s solutions to federal debt, while the President declined to short - circuit negotiations with unilateral action. 22 Even in military matters, a growing body of empirical research suggests Congress often successfully influences the course of overseas engagements to a greater degree than legal scholars have discerned or acknowledged. 23¶ That work suggests that the failure of absolute congressional control over military matters cannot be taken as evidence of “the inability of law to constrain the executive ” in more subtle ways (p 5). The conventional narrative of executive dominance , in other words, is at best incomplete and demands supplementing .¶ This Review uses The Executive Unbound as a platform to explore how the boundaries of discretionary executive action are established. As the controversial national security policies of the Bush administration recede in time, the issue of executive power becomes ripe for reconsideration. Arguments for or against binding the executive are starting to lose their partisan coloration. There is more room to investigate the dynamics of executive power in a purely positive fashion without the impinging taint of ideological coloration.¶ Notwithstanding this emerging space for analys i s, t here is still surprising inattention to evidence of whether the executive is constrained and to the positive question of how constraint works. The Executive Unbound is a significant advance because it takes seriously this second “ mechanism question. ” Future studies of the executive branch will ignore its i mportant and trenchant analysis at their peril. 24 Following PV ’ s lead, I focus on the descriptive , positive question of how the executive is constrained . I do speak briefly and in concluding to normative matters . B ut f irst and foremost, my arguments should be understood as positive and not normative in nature unless otherwise noted.¶ Articulating and answering the question “ W hat binds the executive ?” , The Executive Unbound draws a sharp line between legal and political constraints on discretion — a distinction between laws and institutions on the one hand, and the incentives created by political competition on the other hand . While legal constraints usually fail, it argues, political constraints can prevail. PV thus postulate what I call a “strong law/ politics dichotomy. ” My central claim in this Review is that this strong law/politics dichotomy cannot withstand scrutiny. While doctrinal scholars exaggerate law ’s autonomy, I contend, the realists PV underestimate the extent to which legal rules and institutions play a pivotal role in the production of executive constraint. Further, the political mechanisms they identify as substitutes for legal checks cannot alone do the work of regulating executive discretion. Diverging from both legalist and realist positions, I suggest that law and politics do not operate as substitutes in the regulation of executive authority. 25 They instead work as interlocking complements. An account of the borders of executive discretion must focus on the interaction of partisan and electoral forces on the one hand and legal rules. It must specify the conditions under which the interaction of political actors’ exertions and legal rules will prove effective in limiting such discretion.

#### Their argument is empirically disproven---multiple suits have been brought but they were DISMISSED because the exec said there was no legal standing---the plan solves this

Joshua Hersch 12, July 18th, 2012, "Drone Wars: Civil Liberties Groups Sue CIA, Pentagon Over Targeted Killings ," www.huffingtonpost.com/2012/07/18/drone-wars-aclu-cia-lawsuit\_n\_1681508.html

The ACLU and the Center for Constitutional Rights both have long track records of attempting to use the courts to force the White House to address the practice of targeted killings across the world, to little avail. In 2010, the two groups sued the government, on behalf of Awlaki's father to prevent his assassination. A judge later threw out the case, ruling that Awlaki's father did not have standing to sue, and asserting that the courts may not have the capacity to assess the decision to place someone on a classified kill list.¶The Obama administration has successfully blocked previous efforts by courts to review documents related to the drone assassination program under the state secrets privilege, which permits the executive branch to prevent the review of certain information that could harm national security. The administration declined to acknowledge the existence of the drone program until Obama defended it during a video chat with the public on Google+ earlier this year.

### Word PIC

#### Focusing solely on text as generating an external reality forgoes understanding and acting within the world

Roberts and Joseph 5 (John Michael, Lecture in sociology and communication @ Brunel University, and Jonathon, professor of politics and international relations @ University of Kent, “Derrida, Foucault, and Zizek: Being Realistic About Social Theory”, Critical Realism Today, 56, Autumn, pg 119-120)

To conclude, we would say that epistemic caution is necessary for the ‘discursive’ domain is full of different theories, knowledge claims and views of the world. But instead of meriting a full turn to relativism, it reaffirms the need to uphold a knowledge- independent real domain, over which knowledge claims are fought, and which must be appealed to when different theories make different claims. While there may be no ultimate guarantee of the ‘truth’ or certainty of knowledge, theories can be judged according to their explanatory adequacy. Indeed, the fact that discourse is dialogic in the sense that the Bakhtin Circle maintain, implies that we must always try to understand the internal relationship between the discursive and real domains in order to provide some sort of normative ground in which to assess competing meanings and themes within and between discourses. ¶ To overcome the problem of relativism, it is necessary to bring back reality in order to assess, not just ‘truth’ but, to use Foucault’s terminology, the regimes that ‘produce’ it. In other words, truth may take shape within ‘regimes of truth’, but these in turn also take shape within the wider world. Therefore truth and knowledge are not just internal to regimes of truth, but relate to the world beyond

MARKED

and must be judged accordingly. To take a critical attitude towards truth claims, means to criticise the adequacy of regimes of truth in order to explain the real, intransitive world. ¶ Therefore, truth is not just defined by its relation to ‘regimes of truth’ or in the case of Derrida and Zizek, textual or symbolic production, but also in relation to the (real) world beyond. There is a need to move from the problems of knowledge, truth, the text and the symbolic to the question of ontology and to examine the ‘real reason(s) for, or dialectical ground of, things as distinct from propositions’.43 So whereas for Derrida, Foucault and Zizek, the problems of truth are related to the discursive domain, for realism the problems of truth are a consequence of both the discursive domain, and the real domain that it tries to explain. If we have problems getting to the truth, and if we are obliged to accept some form of epistemic (but not judgmental) relativism, this is not simply because of truth’s internal relation to discourse, but because truth is out there and involves a relation between what we know and the broader social and cultural world of which we are a part.

#### Isolated instances of renaming fail to create change

Schram 95 (Sanford F., Associate Professor of Political Science at Macalester College, former Visiting Professor at the La Follette Institute of Public Affairs at the University of Wisconsin and Visiting Affiliate at the Institute for Research on Poverty at the University of Wisconsin, “Discourses of Dependency: The Politics of Euphemism,” Words of Welfare: The Poverty of Social Science and The Social Science of Poverty, Published by The University of Minnesota Press, ISBN 0816625778, p. 21-23)

The deconstruction of prevailing discursive structures helps politicize the institutionalized practices that inhibit alternative ways of constructing social relations.5 Isolated acts of renaming, however, are unlikely to help promote political change if they are not tied to interrogations of the structures that serve as the interpretive context for making sense of new terms.6 This is especially the case when renamings take the form of euphemisms designed to make what is described appear to be consonant with the existing order. In other words, the problems of a politics of renaming are not confined to the left, but are endemic to what amounts to a classic American practice utilized across the political spectrum.7 Homeless, welfare, and family planning provide three examples of how isolated instances of renaming fail in their efforts to make a politics out of sanitizing language. [end page 21] Reconsidering the Politics of Renaming Renaming can do much to indicate respect and sympathy. It may strategically recast concerns so that they can be articulated in ways that are more appealing and less dismissive. Renaming the objects of political contestation may help promote the basis for articulating latent affinities among disparate political constituencies. The relentless march of renamings can help denaturalize and delegitimate ascendant categories and the constraints they place on political possibility. At the moment of fissure, destabilizing renamings have the potential to encourage reconsideration of how biases embedded in names are tied to power relations.8 Yet isolated acts of renaming do not guarantee that audiences will be any more predisposed to treat things differently than they were before. The problem is not limited to the political reality that dominant groups possess greater resources for influencing discourse. Ascendant political economies, such as liberal postindustrial capitalism, whether understood structurally or discursively, operate as institutionalized systems of interpretation that can subvert the most earnest of renamings.9 It is just as dangerous to suggest that paid employment exhausts possibilities for achieving self-sufficiency as to suggest that political action can be meaningfully confined to isolated renamings.10 Neither the workplace nor a name is the definitive venue for effectuating self-worth or political intervention.11 Strategies that accept the prevailing work ethos will continue to marginalize those who cannot work, and increasingly so in a post­ industrial economy that does not require nearly as large a workforce as its industrial predecessor. Exclusive preoccupation with sanitizing names overlooks the fact that names often do not matter to those who live out their lives according to the institutionalized narratives of the broader political economy, whether it is understood structurally or discursively, whether it is monolithically hegemonic or reproduced through allied, if disparate, practices. What is named is always encoded in some publicly accessible and ascendent discourse. 12 Getting the names right will not matter if the names are interpreted according to the institutionalized insistences of organized society.13 Only when those insistences are relaxed does there emerge the possibility for new names to restructure daily practices. Texts, as it now has become notoriously apparent, can be read in many ways, and they are most often read according to how prevailing discursive structures provide an interpretive context for reading them.14 The meanings implied by new names of necessity [end page 22] overflow their categorizations, often to be reinterpreted in terms of available systems of intelligibility (most often tied to existing institutions). Whereas renaming can maneuver change within the interstices of pervasive discursive structures, renaming is limited in reciprocal fashion. Strategies of containment that seek to confine practice to sanitized categories appreciate the discursive character of social life, but insufficiently and wrongheadedly. I do not mean to suggest that discourse is dependent on structure as much as that structures are hegemonic discourses. The operative structures reproduced through a multitude of daily practices and reinforced by the efforts of aligned groups may be nothing more than stabilized ascendent discourses.15 Structure is the alibi for discourse. We need to destabilize this prevailing interpretive context and the power plays that reinforce it, rather than hope that isolated acts of linguistic sanitization will lead to political change. Interrogating structures as discourses can politicize the terms used to fix meaning, produce value, and establish identity. Denaturalizing value as the product of nothing more than fixed interpretations can create new possibilities for creating value in other less insistent and injurious ways. The discursively/structurally reproduced reality of liberal capitalism as deployed by power blocs of aligned groups serves to inform the existentially lived experiences of citizens in the contemporary postindustrial order.16 The powerful get to reproduce a broader context that works to reduce the dissonance between new names and established practices. As long as the prevailing discursive structures of liberal capitalism create value from some practices, experiences, and identities over others, no matter how often new names are insisted upon, some people will continue to be seen as inferior simply because they do not engage in the same practices as those who are currently dominant in positions of influence and prestige. Therefore, as much as there is a need to reconsider the terms of debate, to interrogate the embedded biases of discursive practices, and to resist living out the invidious distinctions that hegemonic categories impose, there are real limits to what isolated instances of renaming can accomplish.