# 1AC – Harvard Round 5

### 1AC – Allies

#### CONTENTION 1: ALLIES

**Allies will insist on a policy that limits operations to zones of active hostilities with criminal prosecutions elsewhere---codification key**

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University of Penn L. Rev., THE GEOGRAPHY OF THE BATTLEFIELD: A FRAMEWORK FOR DETENTION AND TARGETING OUTSIDE THE "HOT" CONFLICT ZONE, April, 2013, 161 U. Pa. L. Rev. 1165, Lexis

The debate has largely devolved into an either-or dichotomy, even while security and practical considerations demand more nuanced practices. Thus, the **U**nited **S**tates, supported by a vocal group of scholars, including Professors Jack Goldsmith, Curtis Bradley, and Robert Chesney, has long asserted that it is at war with al Qaeda and associated groups. Therefore, it can legitimately detain without charge - and kill - al Qaeda members and their associates **wherever they are** found, subject of course to additional law-of-war, constitutional, and sovereignty constraints. n9 Conversely, European [\*1170] allies, supported by an equally vocal group of scholars and human rights advocates, assert that the **U**nited **S**tates is engaged in a conflict with al Qaeda only in specified regions, and that the United States' authority to employ law-of-war detention and lethal force extends only to **those particular zones**. n10 In all other places, al Qaeda and its associates should be subject to [\*1171] law enforcement measures, as governed by international human rights law and the domestic laws of the relevant states. n11 Recent statements by **U**nited **S**tates officials suggest an attempt to mediate between these two extremes, at least for purposes of targeted killing, and **as a matter of policy, not law**. While continuing to assert a global conflict with al Qaeda, official statements have limited the defense of out-of-conflict zone targeting operations to high-level leaders and others who pose a "significant" threat. n12 In the words of President Obama's then-Assistant for Homeland Security and Counterterrorism, John O. Brennan, the United States does not seek to "eliminate every single member of al-Qaida in the world," but instead conducts targeted strikes to mitigate "actual[,] ongoing threats." n13 That said, the **U**nited **S**tates continues to suggest that it can, as a matter of law, "take action" against anyone who is "part of" al Qaeda or associated forces - a very broad category of persons - **without any explicit geographic limits.** n14 The stakes are high. If the United States were permitted to launch a drone strike against an alleged al Qaeda operative in Yemen, why not in London - so long as the United States had the United Kingdom's consent and was confident that collateral damage to nearby civilians would be minimal (thereby addressing sovereignty and proportionality concerns)? There are many reasons why such a scenario is unlikely, but the **U**nited [\*1172] **S**tates has yet to assert **any limiting principle** that would, as a matter of law, prohibit such actions. And in fact, the United States did rely on the laws of war to detain a U.S. citizen picked up in a Chicago airport for almost four years. n15 Even if one accepts the idea that the United States now exercises its asserted authority with appropriate restraint, what is to prevent **Russia**, for example, from asserting that it is engaged in an armed conflict with Chechens and that it can target or detain, without charge, an alleged member of a Chechen rebel group wherever he or she is found, including possibly in the United States? Conversely, it cannot be the case - as the extreme version of the territorially restricted view of the conflict suggests - that an enemy with whom a state is at war can merely cross a territorial boundary in order to plan or plot, free from the threat of being captured or killed. In the London example, law enforcement can and should respond effectively to the threat. n16 But there also will be instances in which the enemy escapes to an effective safe haven because the host state is unable or unwilling to respond to the threat (think Yemen and Somalia in the current conflict), capture operations are infeasible because of conditions on the ground (think parts of Yemen and Somalia again), or criminal prosecution is not possible, at least in the short run. This Article proposes a way forward - offering a new legal framework for thinking about the geography of the conflict in a way that better mediates the multifaceted liberty, security, and foreign policy interests at stake. It argues that the jus ad bellum questions about the geographic borders of the conflict that have dominated much of the literature are the wrong questions to focus on. Rather, it focuses on jus in bello questions about the conduct of hostilities. This Article assumes that the conflict extends to **wherever the enemy threat is found**, but argues for **more stringent rules of conduct outside zones of active hostilities**. Specifically, it proposes a series of substantive and procedural rules designed to limit the use of lethal targeting [\*1173] and detention outside zones of active hostilities - subjecting their use to an **individualized threat finding**, a **least-harmful-means test**, and **meaningful procedural safeguards**. n17 The Article does not claim that existing law, which is uncertain and contested, dictates this approach. (Nor does it preclude this approach.) Rather, the Article explicitly recognizes that the set of current rules, developed mostly in response to state-on-state conflicts in a world without drones, fails to address adequately the complicated security and liberty issues presented by conflicts between a state and mobile non-state actors in a world where technological advances allow the state to track and attack the enemy wherever he is found. New rules are needed. Drawing on evolving state practice, underlying principles of the law of war, and prudential policy considerations, the Article proposes a set of such rules for conflicts between states and transnational non-state actors - rules designed both to promote the state's security and legitimacy and to protect against the erosion of individual liberty and the rule of law. The Article proceeds in four parts. Part I describes how the legal framework under which the United States is currently operating has generated legitimate concerns about the creep of war. This Part outlines how the U.S. approach over the past several years has led to a polarized debate between opposing visions of a territorially broad and territorially restricted conflict, and how both sides of the debate have failed to [\*1174] acknowledge the legitimate substantive concerns of the other. Part II explains why a territorially broad conflict can and should distinguish between zones of active hostilities and elsewhere, thus laying out the broad framework under which the Article's proposal rests. Part III details the proposed zone approach. It distinguishes zones of active hostilities from both peacetime and lawless zones, and outlines the enhanced substantive and procedural standards that ought to apply in the latter two zones. Specifically, Part III argues that outside zones of active hostilities, law-of-war detention and use of force should be employed **only in exceptional situations,** subject to an individualized threat finding, least-harmful-means test, and meaningful procedural safeguards. n18 This Part also describes how such an approach maps onto the conflict with al Qaeda, and is, at least in several key ways, **consistent with the approach** **already taken** by the **U**nited **S**tates as a matter of policy. Finally, Part IV explains how such an approach ought to apply not just to the current conflict with al Qaeda but to other conflicts with transnational non-state actors in the future, as well as self-defense actions that take place outside the scope of armed conflict. It concludes by making several recommendations as to how this approach should be incorporated into U.S. and, ultimately, international law. The Article is United States-focused, and is so for a reason. To be sure, other states, most notably Israel, have engaged in armed conflicts with non-state actors that are dispersed across several states or territories. n19 But the **U**nited **S**tates is the first state to self-consciously declare itself at war with a non-state terrorist organization that **potentially spans the globe**. Its **actions and asserted authorities** in response to this threat **establish a reference point** for state practice that will **likely be mimicked by others** and inform the development of **c**ustomary **i**nternational **l**aw.

**Alignment with allies brings detention policy into compliance---makes criminal justice effective outside zones**

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Yale Law School); Samuel Adelsberg (J.D. candidate at Yale Law School); Spencer Amdur (J.D. candidate at Yale Law School); Freya Pitts (J.D. candidate at Yale Law School); Philip Levitz (J.D. from Yale Law School); and Sirine Shebaya (J.D. from Yale Law School), “The Power To Detain: Detention of Terrorism Suspects After 9/11”, The Yale Journal of International Law, Vol. 38, 2013.

There is clear evidence that other countries **recognize** and respond to **the difference in legitimacy** **between civilian and military courts** and that they are, indeed, more **willing to cooperate with U.S.** **counterterrorism efforts** when terrorism suspects are tried in the **c**riminal **j**ustice **s**ystem. Increased international cooperation is therefore another advantage of criminal prosecution.¶ Many key U.S. allies have been unwilling to cooperate in cases involving **l**aw-**o**f-**w**ar detention or prosecution but have cooperated in criminal [\*166] prosecutions. In fact, many U.S. extradition treaties, including those with allies such as India and Germany, forbid extradition when the defendant will not be tried in a criminal court. n252 This issue has played out in practice several times. An al-Shabaab operative was extradited from the Netherlands only after assurances from the United States that he would be prosecuted in criminal court. n253 Two similar cases arose in 2007. n254 In perhaps the most striking example, five terrorism suspects - including Abu Hamza al-Masr, who is accused of providing material support to al-Qaeda by trying to set up a training camp in Oregon and of organizing support for the Taliban in Afghanistan - were extradited to the United States by the **U**nited **K**ingdom in October 2012. n255 The extradition was made on the express condition that they would be tried in civilian federal criminal courts rather than in the military commissions. n256 And, indeed, both the **E**uropean **C**ourt of **H**uman **R**ights and the British courts allowed the extradition to proceed after assessing the protections offered by the U.S. **federal criminal justice system** and finding they fully met all relevant standards. n257 An insistence on using military commissions may thus **hinder extradition** and other kinds of international prosecutorial cooperation, such as the sharing of testimony and evidence.¶ Finally, the **c**riminal **j**ustice **s**ystem is simply a more agile and versatile prosecution forum. Federal jurisdiction offers an extensive variety of antiterrorism statutes that can be marshaled to prosecute terrorist activity committed outside the United States, and subsequently to detain those who are convicted. n258 This greater variety of offenses - military commissions can only [\*167] punish an increasingly narrow set of traditional offenses against the laws of war n259 - offers prosecutors important flexibility. For instance, it might be very difficult to prove al-Qaeda membership in an MCA prosecution or a law-of-war habeas proceeding; but if the defendant has received training at a terrorist camp or participated in a specific terrorist act, federal prosecutors may convict under various statutes tailored to more specific criminal behavior. n260 In addition, military commissions can no longer hear prosecutions for material support committed before 2006. n261 Due in part to the established track record of the federal courts, the federal criminal justice system also allows for more flexible interactions between prosecutors and defendants. Proffer and plea agreements are **powerful incentives for defendants to cooperate**, and often lead to **valuable intelligence-gathering**, producing more intelligence over the course of prosecution. n262

**That solves safe havens and extradition to the US court system**

David S. Kris 11 – Former Assistant Attorney General for National Security at the U.S. Department of Justice, Law Enforcement as a Counterterrorism Tool, Assistant Attorney General for National Security at the U.S. Department of Justice, from March 2009 to March 2011, Journal of Security Law & Policy, Vol5:1. 2011, http://jnslp.com//wp-content/uploads/2011/06/01\_David-Kris.pdf

Finally, the **c**riminal **j**ustice **s**ystem may help us **obtain important cooperation from other countries**. That **cooperation may be necessary** if we want to detain suspected terrorists¶ or otherwise accomplish our national¶security objectives. Our federal courts are well-respected internationally.¶ They are well-established, formal legal mechanisms that allow the transfer of terrorism suspects to the United States¶ for trial in federal court, and for¶ the provision of information to assist¶ in law enforcement investigations –¶ i.e., extradition and mutual legal assistance treaties (MLATs). **Our allies around the world are comfortable with these mechanisms**, as well as with more informal procedures that are often used to provide assistance to the United States in law enforcement matters, whether relating to terrorism or¶ other types of cases. Such cooperation can be critical to the success of a prosecution, and in some cases can be **the only way in which we will gain** **custody of a suspected terrorist** who has broken our laws.¶ 184¶ In contrast, many of our **key** **allies around the world** are **not willing to cooperate** with or support our efforts to hold suspected terrorists in **law of war detention** or to **prosecute them in military commissions**. While we hope that over time they will grow more supportive of these legal¶ mechanisms, at present many countries would not extradite individuals to the United States for military commission proceedings or law of war¶ detention. Indeed, some of our extradition treaties explicitly forbid extradition to the United States where the person will be tried in a forum other than a criminal court. For example, our treaties with Germany¶ (Article 13)¶ 185¶ and with Sweden (Article V(3))¶ 186¶ expressly forbid extradition¶ when the defendant will be tried in¶ an “extraordinary” court, and the¶ understanding of the Indian government pursuant to its treaty with the¶ United States is that extradition is available only for proceedings under the¶ ordinary criminal laws of the requesting state.¶ 187¶ More generally, the¶ doctrine of dual criminality – under which extradition is available only for¶ offenses made criminal in both countries – and the relatively common¶ exclusion of extradition for military offenses not also punishable in civilian¶ court may also limit extradition outside the criminal justice system.¶ 188¶ Apart¶ from extradition, even where we already have the terrorist in custody, many countries will not provide testimony, other information, or assistance in support of law of war detention or a military prosecution, either as a matter¶ of national public policy or under other provisions of some of our MLATs.¶ 189¶ These concerns are not hypothetical. During the last Administration,¶ the United States was obliged to give¶ assurances against the use of military¶ commissions in order to obtain extradition of several terrorism suspects to¶ the United States.¶ 190¶ There are a number of terror suspects currently in foreign custody who **likely would not be extradited** to the United States by¶ foreign nations if they faced military tribunals.¶ 191¶ In some of these cases, it might be necessary for the foreign nation **to release these suspects** if they cannot be extradited because they do¶ not face charges pending in the¶ foreign nation.

#### *Scenario A – NATO*

**Plan prevents end of allied intel cooperation and reinvigorates NATO**

Tom **Parker 12**, Former Policy Dir. for Terrorism, Counterterrorism and H. Rts. at Amnesty International, U.S. Tactics Threaten NATO, September 17, <http://nationalinterest.org/commentary/us-tactics-threaten-nato-7461>

A growing chasm in operational practice is opening up between the **U**nited **S**tates and its allies in NATO. This rift is **putting the Atlantic alliance at risk**. Yet no one in Washington seems to be paying attention. The escalating use of **u**nmanned **a**erial **v**ehicle**s** to **strike terrorist suspects** in an increasing number of operational environments from the Arabian Peninsula to Southeast Asia, **coupled** with the continued use of military commissions and **indefinite** **detention**, is driving a wedge between the **U**nited **S**tates and its allies. Attitudes across the Atlantic are hardening fast. This isn’t knee-jerk, man-on-the-street anti-Americanism. European governments that have tried to turn a blind eye to U.S. counterterrorism practices over the past decade are now **forced to pay attention by their own courts**, which will **restrict cooperation in the future**.As recently as last month, the German federal prosecutor’s office opened a probe into the October 2010 killing of a German national identified only as “Buenyamin E.” in a U.S. drone strike in Pakistan. There are at least four other similar cases involving German nationals and several reported strikes involving legal residents of the United Kingdom. In March, Polish prosecutors charged the former head of Polish intelligence, Zbigniew Siemiatkowski, with “unlawfully depriving prisoners of the their liberty” because of the alleged role he played in helping to establish a CIA secret prison in northeastern Poland in 2002–2003. Last December, British Special Forces ran afoul of the UK courts for informally transferring two Al Qaeda suspects detained in Iraq, Yunus Rahmatullah and Amanatullah Ali, to U.S. forces. The British government has been instructed to recover the men from U.S. custody or face legal sanctions that could result in two senior ministers being sent to prison. Perhaps the most dramatic example illustrating the gap that has opened up between the United States and its European allies concerns the 2009 in absentia conviction of twenty-three U.S. agents in an Italian court for the role they played in the extraordinary rendition of radical Imam Hassan Mustafa Osama Nasr from Milan to Cairo. Britain, Poland, Italy and Germany are among America’s closest military partners. Troops from all four countries are currently serving alongside U.S. forces in Afghanistan, but they are now operating within a **very different set of constraints than their U.S. counterparts**. The **E**uropean **C**ourt of **H**uman **R**ights established its jurisdiction over stabilization operations in Iraq, and by implication its writ extends to Afghanistan as well. The British government has lost a series of cases before the court relating to its operations in southern Iraq. This means that concepts such as the right to life, protection from arbitrary punishment, remedy and due process apply in areas under the effective control of European forces. Furthermore, the possibility that **intel**ligence provided by any of America’s European allies could be used to target a terrorism suspect in Somalia or the Philippines for a lethal drone strike now **raises serious criminal liability issues** for the Europeans. The **U**nited **S**tates conducts such operations under the legal theory that it is in an international armed conflict with Al Qaeda and its affiliates that can be pursued anywhere on the globe where armed force may be required. But **not one other member of NATO shares this legal analysis**, which flies in the face of established international legal norms. The United States may have taken issue with the traditional idea that wars are fought between states and not between states and criminal gangs, but its allies have not. The heads of Britain’s foreign and domestic **intel**ligence services have been surprisingly open about the “inhibitions” that this growing divergence has caused the transatlantic special relationship, telling Parliament that it has become an **obstacle to intelligence sharing**. European attitudes are not going to change—the European Court of Human Rights is now deeply embedded in European life, and individual European governments cannot escape its oversight no matter how well disposed they are to assist the United States. The United States has bet heavily on the efficacy of a new array of counterterrorism powers as the answer to Al Qaeda. In doing so it has evolved a concept of operations that has much more in common with the approach to terrorist threats taken by Israel and Russia than by its European partners. There has been little consideration of the wider strategic cost of these tactics, even as the Obama administration doubles down and extends their use. Meanwhile, some of America’s oldest and closest allies are beginning to place **more** and more **constraints on working with U.S. forces**. NATO cannot conduct military operations under two competing legal regimes for long. Something has to give—and **it may just be the Atlantic alliance**.

#### NATO prevents global nuclear war

Zbigniew Brzezinski 9, former U.S. National Security Adviser, Sept/Oct 2009, “An Agenda for NATO,” Foreign Affairs, 88.5, EBSCO

NATO's potential is not primarily military. Although NATO is a collective-security alliance, its actual military power comes predominantly from the United States, and that reality is not likely to change anytime soon. NATO's real power derives from the fact that it combines the United States' military capabilities and economic power with Europe's collective political and economic weight (and occasionally some limited European military forces). Together, that combination makes NATO globally significant. It must therefore remain sensitive to the importance of safeguarding the geopolitical bond between the United States and Europe as it addresses new tasks. The basic challenge that NATO now confronts is that there are historically unprecedented risks to global security. Today's world is threatened neither by the militant fanaticism of a territorially rapacious nationalist state nor by the coercive aspiration of a globally pretentious ideology embraced by an expansive imperial power. The paradox of our time is that the world, increasingly connected and economically interdependent for the first time in its entire history, is experiencing intensifying popular unrest made all the more menacing by the growing accessibility of weapons of mass destruction -- not just to states but also, potentially, to extremist religious and political movements. Yet there is no effective global security mechanism for coping with the growing threat of violent political chaos stemming from humanity's recent political awakening. The three great political contests of the twentieth century (the two world wars and the Cold War) accelerated the political awakening of mankind, which was initially unleashed in Europe by the French Revolution. Within a century of that revolution, spontaneous populist political activism had spread from Europe to East Asia. On their return home after World Wars I and II, the South Asians and the North Africans who had been conscripted by the British and French imperial armies propagated a new awareness of anticolonial nationalist and religious political identity among hitherto passive and pliant populations. The spread of literacy during the twentieth century and the wide-ranging impact of radio, television, and the Internet accelerated and intensified this mass global political awakening. In its early stages, such new political awareness tends to be expressed as a fanatical embrace of the most extreme ethnic or fundamentalist religious passions, with beliefs and resentments universalized in Manichaean categories. Unfortunately, in significant parts of the developing world, bitter memories of European colonialism and of more recent U.S. intrusion have given such newly aroused passions a distinctively anti-Western cast. Today, the most acute example of this phenomenon is found in an area that stretches from Egypt to India. This area, inhabited by more than 500 million politically and religiously aroused peoples, is where NATO is becoming more deeply embroiled. Additionally complicating is the fact that the dramatic rise of China and India and the quick recovery of Japan within the last 50 years have signaled that the global center of political and economic gravity is shifting away from the North Atlantic toward Asia and the Pacific. And of the currently leading global powers -- the United States, the EU, China, Japan, Russia, and India -- at least two, or perhaps even three, are revisionist in their orientation. Whether they are "rising peacefully" (a self-confident China), truculently (an imperially nostalgic Russia) or boastfully (an assertive India, despite its internal multiethnic and religious vulnerabilities), they all desire a change in the global pecking order. The future conduct of and relationship among these three still relatively cautious revisionist powers will further intensify the strategic uncertainty. Visible on the horizon but not as powerful are the emerging regional rebels, with some of them defiantly reaching for nuclear weapons. North Korea has openly flouted the international community by producing (apparently successfully) its own nuclear weapons -- and also by profiting from their dissemination. At some point, its unpredictability could precipitate the first use of nuclear weapons in anger since 1945. Iran, in contrast, has proclaimed that its nuclear program is entirely for peaceful purposes but so far has been unwilling to consider consensual arrangements with the international community that would provide credible assurances regarding these intentions. In nuclear-armed Pakistan, an extremist anti-Western religious movement is threatening the country's political stability. These changes together reflect the waning of the post-World War II global hierarchy and the simultaneous dispersal of global power. Unfortunately, U.S. leadership in recent years unintentionally, but most unwisely, contributed to the currently threatening state of affairs. The combination of Washington's arrogant unilateralism in Iraq and its demagogic Islamophobic sloganeering weakened the unity of NATO and focused aroused Muslim resentments on the United States and the West more generally.

#### Interoperability within NATO ensures global trade, natural disaster response and prevents cyber attacks

Jamie Shea 12, Deputy Assistant Secretary General for Emerging Security Challenges, "Keeping NATO Relevant", April 19, carnegieendowment.org/2012/04/19/keeping-nato-relevant/acl9#

At the same time, the national security strategies of the NATO allies underline the extent to which they are currently preoccupied with regional crises, preventing global proliferation, dismantling terrorist networks, preserving their trade routes and access to raw materials, and integrating the rising global powers into a rules-based international system. If NATO is decreasingly responsive to this global agenda, or is focused only on contingencies requiring major military mobilization, such as those that Article 5 was traditionally intended to address, there is a risk of a disconnect between NATO-Brussels and the policy and resource decisions taken in NATO capitals or in other institutions like the EU.¶ SLIMMING DOWN AND STAYING RELEVANT¶ NATO’s core challenge for the next decade will be to slim down while retaining the capability to handle the global security agenda of its members. This is still possible, and NATO’s new Strategic Concept certainly provides the doctrinal basis. But words do not automatically lead to actions.¶ To succeed, the Alliance will need to be serious about three things: demonstrating real capability to counter the new security challenges; harmonizing allied positions on potential or actual regional crises; and binding the maximum number of its partners in North Africa, the Middle East, and the Asia-Pacific region into a structured security community through consultations, training, and interoperability. As NATO builds down, it will need to make sure that it does not sacrifice the structures and people that allow it to deliver on these three tasks and that make the Alliance more than just a multinational military headquarters for “when all else has failed” responses.¶ Because the new security challenges are often civilian in nature (90 percent of cyberspace is owned by the private sector) and because they are often managed by ministries of the interior, the police, or specialized government agencies, some have questioned NATO’s role and relevance. It is also not easy for an organization that has traditionally taken on the major role and responsibility in a crisis (Bosnia, Kosovo, Afghanistan, Libya) or has not been involved at all (Iraq, North Korea, Syria) to adapt to being a partial or supporting actor. There are a large number of agencies involved in a cyber, terrorism, or energy incident and the military role is only one of many that need to be brought into play, and with varying degrees of importance as the crisis develops. But because NATO cannot always be the complete solution does not mean that its role is symbolic, provided that the Alliance identifies the aspect of the issue that corresponds to its essentially military capabilities and crisis-management mechanisms.¶ Countering New Security Challenges¶ All future conflicts will have a cyber dimension, whether in stealing secrets and probing vulnerabilities to prepare for a military operation or in disabling crucial information and command and control networks of the adversary during the operation itself. Consequently, NATO’s future military effectiveness will be closely linked to its cyber-defense capabilities; in this respect, there is also much that NATO can do to help allies improve their cyber forensics, intrusion detection, firewalls, and procedures for handling an advanced persistent attack, such as that which affected Estonia in 2007.¶ The Alliance can also help to shape the future cyber environment by promoting information sharing and confidence-building measures among its partners and, in a longer-term perspective, other key actors, such as Brazil, China, and India. This is a field where the military is clearly ahead in many key technical areas. NATO already has one of the most capable computer incident response centers around and one of the best systems for exchanging and assessing intelligence on cyber threats. NATO must first establish its credibility in this area by bringing all of its civilian and military networks under centralized protection by the end of 2012, but it would not make sense to leave NATO’s role in cyber defense there. It can be a center of excellence for exercises, best practice, stress testing, and common standards for both allies and partners.¶ Of course, NATO will have work to do in order to be an effective player in the cyber field, along with other emerging threats. It will need to go beyond its traditional stakeholders in the allied foreign and defense ministries and build relationships with ministries of the interior, intelligence services, customs, and government crisis-management cells (such as COBRA in the United Kingdom). It will also need to step up its cooperation with industry (which is still in the lead for most of the analysis of cyber malware) and also with private security companies that will be playing an increasing role in cyber defense, protection of critical infrastructure, and protection of shipping from pirates.¶ This field is the very expression of security policy in the twenty-first century, in which industry will not just provide equipment but entire security management services to the armed forces. Private contractors will be firmly embedded in every level of defense ministries as well as the armed forces and security agencies. Many of the security functions traditionally performed by governments will be subcontracted to private companies—from physical protection to malware analysis, intelligence and early warning, and logistics. Accordingly, NATO must learn how to work more productively with them.¶ Given the exponential growth in malware and hacking skills, the cyber threat is the most pressing challenge; but there are others too that NATO can readily handle. For instance, using its Special Forces Headquarters at Allied Command Operations to train and set common standards for special forces with centralized air lift, or monitoring emerging technologies so that NATO can better exploit both existing and future disruptive technologies and counter the use of asymmetric methods by its adversaries. Yet another is the protection of critical infrastructure and supply lines for energy and raw materials, especially in the maritime domain where 90 percent of global trade takes place. Key choke points are especially vulnerable to piracy or threats of closure during crises and war. Related areas are the protection against chemical, biological, or radiological agents and training armed forces to cope with extreme weather conditions and natural disasters resulting from climate change.¶ The difference between these emerging challenges and what NATO encountered in the past is that they cannot be deterred. Cyber attacks, terrorism, supply shortages, and natural disasters will all occur. So a key new role of NATO is to help develop the societal resilience to cope with these new types of attacks, to plug vulnerabilities, and to build in the redundant back-up capabilities to allow societies to recover quickly.¶ But again, while NATO’s military organization and capabilities can be a useful first or second responder, they will need to be coordinated with domestic police, health, and emergency management agencies and organizations like the EU. So NATO’s progress in practically embracing the new challenges will depend upon its capacity for effective networking. This is where civilian-military exercises involving NATO and the EU, and NATO and the civilian crisis-management agencies, can help the Alliance to better prepare and understand the different structures and procedures used by its member nations.

**Trade solves war**

Michael J. **Panzner 8**, faculty at the New York Institute of Finance, 25-year veteran of the global stock, bond, and currency markets who has worked in New York and London for HSBC, Soros Funds, ABN Amro, Dresdner Bank, and JPMorgan Chase, Financial Armageddon: Protect Your Future from Economic Collapse, Revised and Updated Edition, p. 136-138

Continuing calls for curbs on the flow of finance and trade will inspire the United States and other nations to spew forth **protectionist legislation** like the notorious Smoot-Hawley bill. Introduced at the start of the Great Depression, it triggered a series of tit-for-tat economic responses, which many commentators believe helped turn a serious economic downturn into a **prolonged** and **devastating global disaster**, But if history is any guide, those lessons will have been long forgotten during the next collapse. Eventually, fed by a mood of desperation and growing public anger, restrictions on trade, finance, investment, and immigration will almost certainly intensify. ¶ Authorities and ordinary citizens will likely scrutinize the cross-border movement of Americans and outsiders alike, and lawmakers may even call for a general crackdown on nonessential travel. Meanwhile, many nations will make transporting or sending funds to other countries exceedingly difficult. As desperate officials try to limit the fallout from decades of ill-conceived, corrupt, and reckless policies, they will introduce controls on foreign exchange, foreign individuals and companies seeking to acquire certain American infrastructure assets, or trying to buy property and other assets on the (heap thanks to a rapidly depreciating dollar, will be stymied by limits on investment by noncitizens. Those efforts will cause spasms to ripple across economies and markets, disrupting global payment, settlement, and clearing mechanisms. All of this will, of course, continue to undermine business confidence and consumer spending.¶ In a world of lockouts and lockdowns, any link that transmits systemic financial pressures across markets through arbitrage or portfolio-based risk management, or that allows diseases to be easily spread from one country to the next by tourists and wildlife, or that otherwise facilitates unwelcome exchanges of any kind will be viewed with suspicion and dealt with accordingly.¶ The rise in isolationism and protectionism will bring about ever more heated arguments and **dangerous confrontations** over shared sources of oil, gas, and other key commodities as well as factors of production that must, out of necessity, be acquired from less-than-friendly nations. Whether involving raw materials used in strategic industries or basic necessities such as food, water, and energy, efforts to secure adequate supplies will take increasing precedence in a world where demand seems constantly out of kilter with supply. Disputes over the misuse, overuse, and pollution of the environment and natural resources will become more commonplace. Around the world, such tensions will give rise to **full-scale military encounters,** often with minimal provocation.¶ In some instances, economic conditions will serve as a convenient pretext for conflicts that stem from cultural and religious differences. Alternatively, nations may look to divert attention away from domestic problems by channeling frustration and populist sentiment toward other countries and cultures. Enabled by cheap technology and the waning threat of American retribution, **terrorist groups** will likely boost the frequency and scale of their horrifying attacks, bringing the threat of random violence to a whole new level.¶ Turbulent conditions will encourage aggressive saber rattling and interdictions by rogue nations running amok. Age-old clashes will also take on a new, more healed sense of urgency. China will likely assume an increasingly **belligerent posture** toward **Taiwan**, while Iran may embark on overt colonization of its neighbors in the Mideast. Israel, for its part, may look to draw a dwindling list of allies from around the world into a growing number of conflicts. Some observers, like John Mearsheimer, a political scientist at the University of Chicago, have even speculated that an "intense confrontation" between the United States and China is "inevitable" at some point.¶ More than a few disputes will turn out to be almost wholly ideological. Growing cultural and religious differences will be transformed from wars of words to battles soaked in blood. Long-simmering resentments could also degenerate quickly, spurring the basest of human instincts and triggering genocidal acts. **Terrorists** employing **biological or nuclear weapons** will vie with conventional forces using jets, cruise missiles, and bunker-busting bombs to cause widespread destruction. Many will interpret stepped-up conflicts between Muslims and Western societies as the beginnings of a **new world war**.

#### Inadequate response to disasters results in disease outbreak

Aljunid et al 12 Syed, Professor of Health Economics and Senior Research Fellow at UNU International Institute for Global Health, Kouadio Koffi Isidore, Postdoctoral Fellow at United Nations University International Institute for Global Health, Taro Kamigaki, Assistant Professor, at the Department of Virology of Tohoku University Graduate School of Medicine, Karen Hammad, Australian emergency nurse and Lecturer at the School of Nursing and Midwifery, Flinders University and Hitoshi Oshitani, Professor of Virology at Tohoku University Graduate School of Medicine, "Preventing and controlling infectious diseases after natural disasters", March 13, United Nations University, unu.edu/publications/articles/preventing-and-controlling-infectious-diseases-after-natural-disasters.html#info

Beyond damaging and destroying physical infrastructure, natural disasters can lead to outbreaks of infectious disease. In this article, two UNU-IIGH researchers and colleagues review risk factors and potential infectious diseases resulting from the secondary effects of major natural disasters that occurred from 2000 to 2011, classify possible diseases, and give recommendations on prevention, control measures and primary healthcare delivery improvements.¶ Over the past few decades, the incidence and magnitude of natural disasters has grown, resulting in substantial economic damages and affecting or killing millions of people. Recent disasters have shown that even the most developed countries are vulnerable to natural disasters, such as Hurricane Katrina in the United States in 2005 and the Great Eastern Japan Earthquake and tsunami in 2011. Global population growth, poverty, land shortages and urbanization in many countries have increased the number of people living in areas prone to natural disasters and multiplied the public health impacts.¶ Natural disasters can be split in three categories: hydro-meteorological disasters, geophysical disasters and geomorphologic disasters.¶ Hydro-meteorological disasters, like floods, are the most common (40 percent) natural disasters worldwide and are widely documented. The public health consequences of flooding are disease outbreaks mostly resulting from the displacement of people into overcrowded camps and cross-contamination of water sources with faecal material and toxic chemicals. Flooding also is usually followed by the proliferation of mosquitoes, resulting in an upsurgence of mosquito-borne diseases such as malaria. Documentation of disease outbreaks and the public health after-effects of tropical cyclones (hurricanes and typhoons) and tornadoes, however, is lacking.¶ Geophysical disasters are the second-most reported type of natural disaster, and earthquakes are the majority of disasters in this category. Outbreaks of infectious diseases may be reported when earthquake disasters result in substantial population displacement into unplanned and overcrowded shelters, with limited access to food and safe water. Disease outbreaks may also result from the destruction of water/sanitation systems and the degradation of sanitary conditions directly caused by the earthquake. Tsunamis are commonly associated with earthquakes, but can also be caused by powerful volcanic eruptions or underwater landslides. Although classified as geophysical disasters, they have a similar clinical and threat profile (water-related consequences) to that of tropical cyclones (e.g., typhoon or hurricane).¶ Geomorphologic disasters, such as avalanches and landslides, also are associated with infectious disease transmissions and outbreaks, but documentation is generally lacking.¶ After a natural disaster¶ The overwhelming majority of deaths immediately after a natural disaster are directly associated with blunt trauma, crush-related injuries and burn injuries. The risk of infectious disease outbreaks in the aftermath of natural disasters has usually been overemphasized by health officials and the media, leading to panic, confusion and sometimes to unnecessary public health activities.¶ The prolonged health impact of natural disasters on a community may be the consequence of the collapse of health facilities and healthcare systems, the disruption of surveillance and health programmes (immunization and vector control programmes), the limitation or destruction of farming activities (scarcity of food/food insecurity), or the interruption of ongoing treatments and use of unprescribed medications.¶ The risk factors for increased infectious diseases transmission and outbreaks are mainly associated with the after-effects of the disasters rather than to the primary disaster itself or to the corpses of those killed. These after-effects include displacement of populations (internally displaced persons and refugees), environmental changes and increased vector breeding sites. Unplanned and overcrowded shelters, poor water and sanitation conditions, poor nutritional status or insufficient personal hygiene are often the case. Consequently, there are low levels of immunity to vaccine-preventable diseases, or insufficient vaccination coverage and limited access to health care services.¶ Phases of outbreak and classification of infectious disease¶ Infectious disease transmission or outbreaks may be seen days, weeks or even months after the onset of the disaster. Three clinical phases of natural disasters summarize the chronological public health effects on injured people and survivors:¶ Phase (1), the impact phase (lasting up to to 4 days), is usually the period when victims are extricated and initial treatment of disaster-related injuries is provided.¶ Phase (2), the post-impact phase (4 days to 4 weeks), is the period when the first waves of infectious diseases (air-borne, food-borne, and/or water-borne infections) might emerge.¶ Phase (3), the recovery phase (after 4 weeks), is the period when symptoms of victims who have contracted infections with long incubation periods or those with latent-type infections may become clinically apparent. During this period, infectious diseases that are already endemic in the area, as well as newly imported ones among the affected community, may grow into an epidemic.¶ It is common to see the international community, NGOs, volunteers, experts and the media leaving a disaster-affected zone usually within three months, when in reality basic sanitation facilities and access to basic hygiene may still be unavailable or worsen due to the economic burden of the disasters.¶ Although it is not possible to predict with accuracy which diseases will occur following certain types of disasters, diseases can be distinguished as either water-borne, air-borne/droplet or vector-borne diseases, and contamination from wounded injuries.¶ Diarrhoeal diseases¶ The most documented and commonly occurring diseases are water-borne diseases (diarrhoeal diseases and Leptospirosis). Diarrhoeal diseases cause over 40 percent of the deaths in disaster and refugee camp settings. Epidemics among victims are commonly related to polluted water sources (faecal contamination), or contamination of water during transportation and storage. Outbreaks have also been related to shared water containers and cooking pots, scarcity of soap and contaminated food, as well as pre-existing poor sanitary infrastructures, water supply and sewerage systems.

#### Disease causes extinction---no burnout

**Torrey and Yolken 5** E. Fuller and Robert H, Directors Stanley Medical Research Institute, 2005, Beasts of the Earth: Animals, Humans and Disease, pp. 5-6

The outcome of this marriage, however, is not as clearly defined as it was once thought to be. For many years, it was believed that microbes and human slowly learn to live with each other as microbes evolve toward a benign coexistence wit their hosts. Thus, the bacterium that causes syphilis was thought to be extremely virulent when it initially spread among humans in the sixteenth century, then to have slowly become less virulent over the following three centuries. This reassuring view of microbial history has recently been challenged by Paul Ewald and others, who have questioned whether microbes do necessarily evolve toward long-term accommodation with their hosts. Under certain circumstances, Ewald argues, “Natural selection may…favor the evolution of extreme harmfulness if the exploitation that damages the host [i.e. disease] enhances the ability of the harmful variant to compete with a more benign pathogen.” The outcome of such a “marriage” may thus be the murder of one spouse by the other. In eschatological terms, this view argues that a microbe such as HIV or SARS virus may be truly capable of **eradicating the human race**.

#### *Scenario B – Terrorism*

#### Allied cooperation’s key to effective counter-terrorism

Micah Zenko 13, Douglas Dillon fellow with the Center for Preventive Action at the Council on Foreign Relations, Newsday, January 30, "Zenko: Why we can't just drone Algeria", http://www.newsday.com/opinion/oped/zenko-why-we-can-t-just-drone-algeria-1.4536641

CNN should not have been surprised. Neither the Bush nor Obama administrations received blanket permission to transit Algerian airspace with surveillance planes or drones; instead, they received authorization only on a case-by-case basis and with advance notice.¶ According to Washington Post journalist Craig Whitlock, the U.S. military relies on a fleet of civilian-looking unarmed aircraft to spy on suspected Islamist groups in North Africa, because they are less conspicuous - and therefore less politically sensitive for host nations - than drones. Moreover, even if the United States received flyover rights for armed drones, it has been unable to secure a base in southern Europe or northern Africa from which it would be permitted to conduct drone strikes; and presently, U.S. armed drones cannot be launched and recovered from naval platforms.¶ According to Hollywood movies or television dramas, with its immense intelligence collection and military strike capabilities, the United States can locate, track, and kill anyone in the world.¶ This misperception is continually reinvigorated by the White House's, the CIA's, and the Pentagon's close cooperation with movie and television studios. For example, several years before the CIA even started conducting non-battlefield drone strikes, it was recommending the tactic as a plotline in the short-lived (2001-2003) drama "The Agency." As the show's writer and producer later revealed: "The Hellfire missile thing, they suggested that. I didn't come up with this stuff. I think they were doing a public opinion poll by virtue of giving me some good ideas."¶ Similarly, as of November there were at least 10 movies about the Navy SEALs in production or in theaters, which included so much support from the Pentagon that one film even starred active-duty SEALs.¶ The Obama administration's lack of a military response in Algeria reflects how sovereign states routinely constrain U.S. intelligence and military activities. As the U.S. Air Force Judge Advocate General's Air Force Operations and the Law guidebook states: "The unauthorized or improper entry of foreign aircraft into a state's national airspace is a violation of that state's sovereignty. . . . Except for overflight of international straits and archipelagic sea lanes, all nations have complete discretion in regulating or prohibiting flights within their national airspace."¶ Though not sexy and little reported, deploying CIA drones or special operations forces requires constant behind-the-scenes diplomacy: with very rare exceptions - like the Bin Laden raid - the U.S. military follows the rules of the world's other 194 sovereign, independent states.¶ These rules come in many forms. For example, basing rights agreements can limit the number of civilian, military and contractor personnel at an airbase or post; what access they have to the electromagnetic spectrum; what types of aircraft they can fly; how many sorties they can conduct per day; when those sorties can occur and how long they can last; whether the aircraft can drop bombs on another country and what sort of bombs; and whether they can use lethal force in self-defense. When the United States led the enforcement of the northern no-fly zone over Iraq from the Incirlik Air Base in southern Turkey from 1991 to 2003, a Turkish military official at the rank of lieutenant colonel or higher was always on board U.S. Air Force AWACS planes, monitoring the airspace to assure that the United States did not violate its highly restrictive basing agreement.¶ As Algeria is doing presently, the denial or approval of overflight rights is a powerful tool that states can impose on the United States. These include where U.S. air assets can enter and exit another state, what flight path they may take, how high they must fly, what type of planes can be included in the force package, and what sort of missions they can execute. In addition, these constraints include what is called shutter control, or the limits to when and how a transiting aircraft can collect information. For example, U.S. drones that currently fly out of the civilian airfield in Arba Minch, Ethiopia, to Somalia, are restricted in their collection activities over Ethiopia's Ogaden region, where the government has conducted an intermittent counterinsurgency against the Ogaden National Liberation Front.

#### That disrupts leadership and makes carrying out attacks impossible

Kenneth Anderson 13, Professor of International Law at American University, June 2013, “The Case for Drones,” Commentary, Vol. 135, No. 6

Targeted killing of high-value terrorist targets, by contrast, is the end result of a long, independent intelligence process. What the drone adds to that intelligence might be considerable, through its surveillance capabilities -- but much of the drone's contribution will be tactical, providing intelligence that assists in the planning and execution of the strike itself, in order to pick the moment when there might be the fewest civilian casualties.

Nonetheless, in conjunction with high-quality intelligence, drone warfare offers an unparalleled means to strike directly at terrorist organizations without needing a conventional or counterinsurgency approach to reach terrorist groups in their safe havens. It offers an offensive capability, rather than simply defensive measures, such as homeland security alone. Drone warfare offers a raiding strategy directly against the terrorists and their leadership.

If one believes, as many of the critics of drone warfare do, that the proper strategies of counterterrorism are essentially defensive -- including those that eschew the paradigm of armed conflict in favor of law enforcement and criminal law -- then the strategic virtue of an offensive capability against the terrorists themselves will seem small. But that has not been American policy since 9/11, not under the Bush administration, not under the Obama administration -- and not by the Congress of the United States, which has authorized hundreds of billions of dollars to fight the war on terror aggressively. The United States has used many offensive methods in the past dozen years: Regime change of states offering safe havens, counter-insurgency war, special operations, military and intelligence assistance to regimes battling our common enemies are examples of the methods that are just of military nature.

Drone warfare today is integrated with a much larger strategic counterterrorism target -- one in which, as in Afghanistan in the late 1990s, radical Islamist groups seize governance of whole populations and territories and provide not only safe haven, but also an honored central role to transnational terrorist groups. This is what current conflicts in Yemen and Mali threaten, in counterterrorism terms, and why the United States, along with France and even the UN, has moved to intervene militarily. Drone warfare is just one element of overall strategy, but it has a clear utility in disrupting terrorist leadership. It makes the planning and execution of complex plots difficult if only because it is hard to plan for years down the road if you have some reason to think you will be struck down by a drone but have no idea when. The unpredictability and terrifying anticipation of sudden attack, which terrorists have acknowledged in communications, have a significant impact on planning and organizational effectiveness.

#### Risk of nuclear terrorism is real and high now

Bunn et al 10/2/13 Matthew, Valentin Kuznetsov, Martin B. Malin, Yuri Morozov, Simon Saradzhyan, William H. Tobey, Viktor I. Yesin, and Pavel S. Zolotarev. "Steps to Prevent Nuclear Terrorism." Paper, Belfer Center for Science and International Affairs, Harvard Kennedy School, October 2, 2013, Matthew Bunn. Professor of the Practice of Public Policy at Harvard Kennedy School andCo-Principal Investigator of Project on Managing the Atom at Harvard University’s Belfer Center for Science and International Affairs. • Vice Admiral Valentin Kuznetsov (retired Russian Navy). Senior research fellow at the Institute for U.S. and Canadian Studies of the Russian Academy of Sciences, Senior Military Representative of the Russian Ministry of Defense to NATO from 2002 to 2008. • Martin Malin. Executive Director of the Project on Managing the Atom at the Belfer Center for Science and International Affairs. • Colonel Yuri Morozov (retired Russian Armed Forces). Professor of the Russian Academy of Military Sciences and senior research fellow at the Institute for U.S. and Canadian Studies of the Russian Academy of Sciences, chief of department at the Center for Military-Strategic Studies at the General Staff of the Russian Armed Forces from 1995 to 2000. • Simon Saradzhyan. Fellow at Harvard University’s Belfer Center for Science and International Affairs, Moscow-based defense and security expert and writer from 1993 to 2008. • William Tobey. Senior fellow at Harvard University’s Belfer Center for Science and International Affairs and director of the U.S.-Russia Initiative to Prevent Nuclear Terrorism, deputy administrator for Defense Nuclear Nonproliferation at the U.S. National Nuclear Security Administration from 2006 to 2009. • Colonel General Viktor Yesin (retired Russian Armed Forces). Leading research fellow at the Institute for U.S. and Canadian Studies of the Russian Academy of Sciences and advisor to commander of the Strategic Missile Forces of Russia, chief of staff of the Strategic Missile Forces from 1994 to 1996. • Major General Pavel Zolotarev (retired Russian Armed Forces). Deputy director of the Institute for U.S. and Canadian Studies of the Russian Academy of Sciences, head of the Information and Analysis Center of the Russian Ministry of Defense from1993 to 1997, section head - deputy chief of staff of the Defense Council of Russia from 1997 to 1998.<http://belfercenter.ksg.harvard.edu/publication/23430/steps_to_prevent_nuclear_terrorism.html>

I. Introduction In 2011, Harvard’s Belfer Center for Science and International Affairs and the Russian Academy of Sciences’ Institute for U.S. and Canadian Studies published “The U.S. – Russia Joint Threat Assessment on Nuclear Terrorism.” The assessment analyzed the means, motives, and access of would-be nuclear terrorists, and concluded that the threat of nuclear terrorism is urgent and real. The Washington and Seoul Nuclear Security Summits in 2010 and 2012 established and demonstrated a consensus among political leaders from around the world that nuclear terrorism poses a serious threat to the peace, security, and prosperity of our planet. For any country, a terrorist attack with a nuclear device would be an immediate and catastrophic disaster, and the negative effects would reverberate around the world far beyond the location and moment of the detonation. Preventing a nuclear terrorist attack requires international cooperation to secure nuclear materials, especially among those states producing nuclear materials and weapons. As the world’s two greatest nuclear powers, the United States and Russia have the greatest experience and capabilities in securing nuclear materials and plants and, therefore, share a special responsibility to lead international efforts to prevent terrorists from seizing such materials and plants. The depth of convergence between U.S. and Russian vital national interests on the issue of nuclear security is best illustrated by the fact that bilateral cooperation on this issue has continued uninterrupted for more than two decades, even when relations between the two countries occasionally became frosty, as in the aftermath of the August 2008 war in Georgia. Russia and the United States have strong incentives to forge a close and trusting partnership to prevent nuclear terrorism and have made enormous progress in securing fissile material both at home and in partnership with other countries. However, to meet the evolving threat posed by those individuals intent upon using nuclear weapons for terrorist purposes, the United States and Russia need to deepen and broaden their cooperation. The 2011 “U.S. - Russia Joint Threat Assessment” offered both specific conclusions about the nature of the threat and general observations about how it might be addressed. This report builds on that foundation and analyzes the existing framework for action, cites gaps and deficiencies, and makes specific recommendations for improvement. “The U.S. – Russia Joint Threat Assessment on Nuclear Terrorism” (The 2011 report executive summary): • Nuclear terrorism is a real and urgent threat. Urgent actions are required to reduce the risk. The risk is driven by the rise of terrorists who seek to inflict unlimited damage, many of whom have sought justification for their plans in **radical interpretations of Islam;** by the spread of information about the decades-old technology of nuclear weapons; by the increased availability of weapons-usable nuclear materials; and by globalization, which makes it easier to move people, technologies, and materials across the world. • Making a crude nuclear bomb would not be easy, but is potentially within the capabilities of a technically sophisticated terrorist group, as numerous government studies have confirmed. Detonating a stolen nuclear weapon would likely be difficult for terrorists to accomplish, if the weapon was equipped with modern technical safeguards (such as the electronic locks known as Permissive Action Links, or PALs). Terrorists could, however, cut open a stolen nuclear weapon and make use of its nuclear material for a bomb of their own. • The nuclear material for a bomb is small and difficult to detect, making it a major challenge to stop nuclear smuggling or to recover nuclear material after it has been stolen. Hence, a primary focus in reducing the risk must be to keep nuclear material and nuclear weapons from being stolen by continually improving their security, as agreed at the Nuclear Security Summit in Washington in April 2010. • Al-Qaeda has sought nuclear weapons for almost two decades. The group has repeatedly attempted to purchase stolen nuclear material or nuclear weapons, and has repeatedly attempted to recruit nuclear expertise. Al-Qaeda reportedly conducted tests of conventional explosives for its nuclear program in the desert in Afghanistan. The group’s nuclear ambitions continued after its dispersal following the fall of the Taliban regime in Afghanistan. Recent writings from top al-Qaeda leadership are focused on justifying the mass slaughter of civilians, including the use of weapons of mass destruction, and are in all likelihood intended to provide a formal religious justification for nuclear use. While there are significant gaps in coverage of the group’s activities, al-Qaeda appears to have been frustrated thus far in acquiring a nuclear capability; it is unclear whether the the group has acquired weapons-usable nuclear material or the expertise needed to make such material into a bomb. Furthermore, pressure from a broad range of counter-terrorist actions probably has reduced the group’s ability to manage large, complex projects, but has not eliminated the danger. However, there is no sign the group has abandoned its nuclear ambitions. On the contrary, leadership statements as recently as 2008 indicate that the intention to acquire and use nuclear weapons is as strong as ever.

#### Extinction

**Hellman 8** [Martin E. Hellman, Professor @ Stanford, “Risk Analysis of Nuclear Deterrence” SPRING 2008 THE BENT OF TAU BETA PI, http://www.nuclearrisk.org/paper.pdf]

The threat of nuclear terrorism looms much larger in the public’s mind than the threat of a full-scale nuclear war, yet this article focuses primarily on the latter. An explanation is therefore in order before proceeding. A terrorist attack involving a nuclear weapon would be a catastrophe of immense proportions: “A 10-kiloton bomb detonated at Grand Central Station on a typical work day would likely kill some half a million people, and inflict over a trillion dollars in direct economic damage. America and its way of life would be changed forever.” [Bunn 2003, pages viii-ix]. The likelihood of such an attack is also **significant**. Former Secretary of Defense William Perry has estimated the chance of a nuclear terrorist incident within the next decade to be roughly 50 percent [Bunn 2007, page 15]. David Albright, a former weapons inspector in Iraq, estimates those odds at less than one percent, but notes, “We would never accept a situation where the chance of a major nuclear accident like Chernobyl would be anywhere near 1% .... A nuclear terrorism attack is a low-probability event, but we can’t live in a world where it’s anything but extremely low-probability.” [Hegland 2005]. In a survey of **85 national security experts**, Senator Richard Lugar **found** a median estimate of 20 percent for the “probability of **an attack involving a nuclear explosion occurring** somewhere in the world **in the next 10 years**,” with 79 percent of the respondents believing “it more likely to be carried out by terrorists” than by a government [Lugar 2005, pp. 14-15]. I support increased efforts to reduce the threat of nuclear terrorism, but that is not inconsistent with the approach of this article. Because terrorism is one of the potential trigger mechanisms for a **full-scale nuclear war**, the risk analyses proposed herein will include estimating the risk of nuclear terrorism as one component of the overall risk. If that risk, the overall risk, or both are found to be unacceptable, then the proposed remedies would be directed to reduce which- ever risk(s) warrant attention. Similar remarks apply to a number of other threats (e.g., nuclear war between the U.S. and China over Taiwan). his article would be incomplete if it only dealt with the threat of nuclear terrorism and neglected the threat of full- scale nuclear war. If both risks are unacceptable, an effort to reduce only the terrorist component would leave humanity in great peril. In fact, society’s almost total neglect of the threat of full-scale nuclear war makes studying that risk all the more important. The cosT of World War iii The danger associated with nuclear deterrence depends on both the cost of a failure and the failure rate.3 This section explores the cost of a failure of nuclear deterrence, and the next section is concerned with the failure rate. While other definitions are possible, this article defines a failure of deterrence to mean a full-scale exchange of all nuclear weapons available to the U.S. and Russia, an event that will be termed World War III. Approximately 20 million people died as a result of the first World War. World War II’s fatalities were double or triple that number—chaos prevented a more precise deter- mination. In both cases humanity recovered, and the world today bears few scars that attest to the horror of those two wars. Many people therefore implicitly believe that a third World War would be horrible but survivable, an extrapola- tion of the effects of the first two global wars. In that view, World War III, while horrible, is something that humanity may just have to face and from which it will then have to recover. In contrast, some of those most qualified to assess the situation hold a very different view. In a 1961 speech to a joint session of the Philippine Con- gress, General Douglas MacArthur, stated, “Global war has become a Frankenstein to destroy both sides. … If you lose, you are annihilated. If you win, you stand only to lose. No longer does it possess even the chance of the winner of a duel. It contains now only the germs of double suicide.” Former Secretary of Defense Robert McNamara ex- pressed a similar view: “If deterrence fails and conflict develops, the present U.S. and NATO strategy carries with it a high risk that Western **civilization will be destroyed**” [McNamara 1986, page 6]. More recently, George Shultz, William Perry, Henry Kissinger, and Sam Nunn4 echoed those concerns when they quoted President Reagan’s belief that nuclear weapons were “totally irrational, totally inhu- mane, good for nothing but killing, possibly destructive of life on earth and civilization.” [Shultz 2007] Official studies, while couched in less emotional terms, still convey the horrendous toll that World War III would exact: “The resulting deaths would be far beyond any precedent. Executive branch calculations show a range of U.S. deaths from 35 to 77 percent (i.e., 79-160 million dead) … a change in targeting could kill somewhere between 20 million and 30 million additional people on each side .... These calculations reflect only deaths during the first 30 days. Additional millions would be injured, and many would eventually die from lack of adequate medical care … millions of people might starve or freeze during the follow- ing winter, but it is not possible to estimate how many. … further millions … might eventually die of latent radiation effects.” [OTA 1979, page 8] This OTA report also noted the possibility of serious ecological damage [OTA 1979, page 9], a concern that as- sumed a new potentiality when the TTAPS report [TTAPS 1983] proposed that the ash and dust from so many nearly simultaneous nuclear explosions and their resultant fire- storms could usher in a **nuclear winter** that might **erase homo sapiens from** the face of the **earth**, much as many scientists now believe the K-T Extinction that wiped out the dinosaurs resulted from an impact winter caused by ash and dust from a large asteroid or comet striking Earth. The TTAPS report produced a heated debate, and there is still no scientific consensus on whether a nuclear winter would follow a full-scale nuclear war. Recent work [Robock 2007, Toon 2007] suggests that even a limited nuclear exchange or one between newer nuclear-weapon states, such as India and Pakistan, could have **devastating** long-lasting c**limatic consequences** due to the large volumes of smoke that would be generated by fires in modern megacities. While it is uncertain how destructive World War III would be, prudence dictates that we apply the same engi- neering conservatism that saved the Golden Gate Bridge from collapsing on its 50th anniversary and assume that preventing World War III is a necessity—not an option.

#### *Scenario C – TTIP*

#### TTIP is uniquely vulnerable now---EU concerns about our CT strategy will get drawn into the negotiations

**Levanti 13** – Masters in European Public Affairs @ Maastricht University [[Natasha Marie Levanti](http://www.europeanpublicaffairs.eu/author/natashamarielevanti/) , “The Transatlantic Journey – TTIP & Cautious Optimism,” Bursting the Bubble, 2 September 2013, pg. http://www.europeanpublicaffairs.eu/the-transatlantic-journey-ttip-cautious-optimism/

Transatlantic economic cooperation has been something on the minds of those on both sides of the Atlantic before the recent economic woes. For instance, the Transatlantic Economic Council (TEC) was formed in 2007 to deal with increasing regulatory cooperation, as well as aid in addressing non-tariff barriers to transatlantic trade. With the economic situations in both Europe and the United States, starting in 2008 with the housing market collapse, the two entities were more concerned about their individual recovery than cooperation between the two. Yet at the same time, the situation proved for many individuals that now is the time to pursue closer transatlantic trade and investment cooperation.¶ Data protection and surveillance was recently brought to light as a major issue between the U.S., and the EU. One which almost delayed the transatlantic trade talks due to, most notably, German and French objections after knowledge of possible U.S. surveillance tactics came to light. After some U.S. promises, the trade talks will continue as planned, but this is a glimpse of the extensive number of policy differences which will require discussion during this process. The intention and common belief is that the trade talks will go smoothly, creating a broad spectrum trade relationship between two of the world’s largest regional economies. Yet, with recent events one would think the talks are already off to a rocky start. Therefore, it is important to be aware of some of the issues or perspectives concerning E.U. / U.S. relations before they formally appear in the trade talks that are underway. While not all of these will specifically be discussed as part of the trade negotiations, as is seen with the recent occurrence about data protections, some of these issues may in fact be drawn into the talks surrounding the greater European Union relations with the United States.¶ After recent events, Data Protection is definitely an issue. Data protection issues have been recurrent between the two since the terror attacks of 9/11, though most recently brought to light again due to accusations of the U.S. tapping into various E.U. offices. In order to prevent this recent development from completely derailing the upcoming trade negotiations, the United States has offered to create ‘working groups’ on the subject.¶ A hot topic recently has been Cybersecurity. This is mainly due to the court cases surrounding U.S. based companies such as Google and Facebook. Yet despite the fact that there are, and probably will remain to be differences in the regulation of cybersecurity, both sides do appear willing to increase cooperation on this front in order to help counter cybercrime.¶ The European Union Trading System (ETS) is also a touchy subject, a system put in place to have airlines purchase carbon allowances in an effort to offset CO2 emissions by encouraging airlines to invest in more environmentally friendly aircraft. The E.U., under pressure from international relations has stopped, at least for the moment, the system’s international implementation. Part of this ‘international’ pressure was undoubtedly derived from a piece of legislation passed by U.S. Congress in 2012 that ‘prohibits’ U.S. aircraft operators from actively engaging in the European ETS. This matter has currently been taken up by the U.N.’s International Civil Aviation Organization, which promised in November of 2012 that this would be an issue addressed within the coming year.¶ Periodically, officials from the U.S. will bring up European energy security as an issue, or at least something that, with deeper trade relations, is considered to be a U.S. interest. Part of this issue is the diversification of European energy resources, since currently it is fairly reliant on Russian supplies. Also of concern in the energy sector is the increase of sustainable energy and the consolidation of the EU’s internal energy market.¶ The fight against terror and the future of NATO are not likely to be discussed at the trade talks; however these two issues need to be considered when looking at the current level of general cooperation between Europe and the United States**.** Both have been led by joint U.S. / European forces and since September 11, 2001, there has most assuredly been a deeper level of communication and cooperation. This is linked in part to other issues such as cybersecurity and data protection, and was, at least in part, some of the reasoning behind recent developments in those two sectors.

#### TTIP is key to effective multilateral solutions to warming

**Benson 13** - Intern at the Streit Council [Johann Benson (Master’s degree in public policy at the University of Minnesota’s Humphrey School of Public Affairs), “[Toward a Transatlantic Free Trade Agreement: What Impact on World Trade?](http://blog.streitcouncil.org/?p=1448),” Streit Talk, July 26, 2013 pg. http://blog.streitcouncil.org/?tag=ttip

With negotiations now officially underway, the proposed Transatlantic Trade and Investment Partnership (TTIP) is taking its first steps toward becoming reality. Questions remain, however; not only about what form the final agreement may take, but also what effect it could have on international trade.

In its [initial assessment of the TTIP](http://www.oecd.org/trade/TTIP.pdf), the OECD notes that while multilateral arrangements are preferable, bilateral and plurilateral agreements like the proposed TTIP “can be supportive of an effective multilateral trading system.” One of the primary ways in which these agreements can promote trade at the global level is by addressing issues that currently lie outside the scope of WTO regulations. Richard Baldwin, of the Graduate Institute in Geneva and the Centre for Economic Policy Research, has laid out the shortcomings of current WTO regulations and how post-2000 trade agreements are [fundamentally different](http://www.cepr.org/sites/default/files/policy_insights/PolicyInsight56.pdf) from those of the 1990s.

Baldwin argues that the rise of global supply chains has elevated the importance of removing non-tariff barriers, while tariffs (with some notable exceptions) have largely fallen by the wayside. Current WTO regulations (as well as agenda items of the stalled Doha Round) are not adequate for addressing the most pressing issues of international commerce and investment, such as competition (or antitrust) policy, the movement of capital, intellectual property rights (IPR), and investment assurances. These issues can and often have been addressed through recent bilateral trade and investment agreements. Critically, Baldwin also notes that there is a feedback effect from increased trade liberalization that makes future liberalization even more likely. It is for this reason, if no other, that an EU-U.S. free trade agreement is a step in the right direction.

Economic gains from the TTIP would mainly come from the harmonization of regulations and the removal of other non-tariff barriers. While the agreement is expected to lead to trade diversion among EU members (in the case of an ambitious agreement, for example, total trade between the UK and Spain [would decrease by about 45%](http://www.euractiv.com/trade/transatlantic-free-trade-boon-ba-analysis-529218)), it is projected that the TTIP would benefit the struggling economies of southern Europe even more than the EU as a whole. It would also drive trade creation between the EU and the U.S., and between the transatlantic area and third parties. For example, if car safety standards are harmonized in the European and American markets, it lowers costs not only for U.S. and EU automakers, but also for [any other company that exports to both markets](http://www.cfr.org/eu/eu-ustransatlantic-trade-investment-partnership/p30766). In fact, the third parties with the largest expected gains from the TTIP are ASEAN countries, due to their [very high trade to GDP ratios](http://trade.ec.europa.eu/doclib/docs/2013/march/tradoc_150737.pdf). Unfortunately, the fact that third parties often benefit from the removal of non-tariff barriers can also act as an obstacle to bilateral agreements. For instance, Jagdish Bhagwati has noted that [getting rid of production subsidies](http://werewolf.co.nz/2012/11/tpp-head-first-into-the-spaghetti-bowl/) requires a multilateral agreement because “you cannot – bilaterally – say that if the U.S. reduces or relaxes production subsidies, it will be only for New Zealand. Or only for Brazil.” This may, in some respects, limit the breadth and depth of the TTIP.

One of Bhagwati’s other worries about preferential trade agreements is that they create dispute settlement mechanisms that favor the stronger trading partner and undermine the WTO’s own dispute settlement mechanism. If the TTIP is eventually opened to newcomers on a take-it-or-leave-it basis, any country wishing to join the agreement – for which there would be strong incentives – would be strictly [a rule-taker](http://www.die-gdi.de/CMS-Homepage/openwebcms3_e.nsf/%28ynDK_contentByKey%29/MRUR-99EA5H?Open), with absolutely no say in the drafting of existing regulations. While numerous commentators argue that the primary objective of the TTIP is to ensure that “the United States and Europe remain [standard makers](http://www.cfr.org/trade/getting-yes-transatlantic-trade/p31077), rather than standard takers, in the global economy,” there is a risk that China and other emerging economies will attempt to erect trading blocs amongst themselves and create their own rules.

Completing the Doha Round may still be an uphill battle after the TTIP is concluded. The agreement is not likely to seriously threaten the multilateral trading system for the simple fact that bilateral deals – no matter how large – are themselves unable to address [a longer list](http://www.lowyinstitute.org/publications/saving-multilateralism-g20-wto-and-world-trade-0) of the world’s most pressing trade issues. Resource and food security, exchange rate policy, and efforts to limit carbon emissions all demand multilateral solutions. But the TTIP could provide a launching pad to address these and other issues.

#### Multilateral solutions solve climate change

CFR 13 [Council on Foreign Relations, “The Global Climate Change Regime,”Issue Brief, Release Date Last Updated: June 19, 2013, pg. http://www.cfr.org/climate-change/global-climate-change-regime/p21831

Scope of the Challenge

Climate change is one of the most significant threats facing the world today. According to the American Meteorological Society, there is a 90 percent probability that global temperatures will rise by 3.5 to 7.4 degrees Celsius (6.3 to 13.3 degrees Fahrenheit) in less than one hundred years, with even greater increases over land and the poles. These seemingly minor shifts in temperature could trigger widespread disasters in the form of rising sea levels, violent and volatile weather patterns, desertification, famine, water shortages, and other secondary effects including conflict. In November 2011, the International Energy Agency warned that the world may be fast approaching a tipping point concerning climate change, and suggested that the next five years will be crucial for greenhouse gas reduction efforts.

Avoiding the worst consequences of climate change will require large cuts in global greenhouse gas emissions. Humans produce greenhouse gases by burning coal, oil, and natural gas to generate energy for power, heat, industry, and transportation. Deforestation and agricultural activity also yield climate-changing emissions.

One way to reduce emissions would be to switch from fossil-fuel-based power to alternative sources of energy, such as nuclear, solar, and wind. A second, parallel option would be to achieve greater energy efficiency by developing new technologies and modifying daily behavior so each person produces a smaller carbon footprint. Additionally, retrofitting buildings and developing energy-efficient technology greatly help curb greenhouse gas emissions. All such measures, however, engender significant cost, and the onset of the global financial crisis has placed serious new constraints on national budgets both in the developed and developing worlds. Some climate change experts have expressed concern that the ongoing global financial crisis could defer action on climate change indefinitely.

Even if such reforms were implemented, substantial efforts will still be required to adapt to unavoidable change. Recent climate-related events, such as the flooding in Pakistan and Thailand, have caused focus to fall on adaptation financing to developing countries, which could support infrastructure projects to protect vulnerable areas. Other efforts might include drought-tolerant farming.

Distribution of global emissions reinforces the need for broad multilateral cooperation in mitigating climate change. Fifteen to twenty countries are responsible for roughly 75 percent of global emissions, but no one country accounts for more than about 26 percent. Efforts to cut emissions—mitigation—must therefore be global. Without international cooperation and coordination, some states may free ride on others' efforts, or even exploit uneven emissions controls to gain competitive advantage. And because the impacts of climate change will be felt around the world, efforts to adapt to climate change—adaptation—will need to be global too.

At the launch of the United Nations Framework Convention on Climate Change seventeenth Conference of Parties (COP-17) in Durban, South Africa, many climate change experts were concerned that the Kyoto Protocol could expire in 2012 with no secondary legally binding accord on limiting global emissions in place. This fear, however, was somewhat assuaged as the nearly two hundred countries present at the COP-17 approved an extension of the protocol through 2017 and potentially 2020. A decision was also reached at the meeting to draft a successor accord to the Kyoto Protocol by 2015, which would ultimately come into force in 2020. Delegates also envisioned that the new accord would include greenhouse gas emissions targets for all countries, regardless of their level of economic development. This framework notably contrasts with that of the Kyoto Protocol, which primarily focuses on reducing emissions emanating from developed countries.

Despite these and other marked successes during the COP-17, the perceived lack of leadership by central players in the climate change debate—especially the United States—has elicited increasing concern about the long term prospects of the global climate change regime. Additionally, Canada's December 2011 decision to withdraw from the Kyoto Protocol—based on domestic economic concerns as well as its view that the world's top greenhouse gas emitters have refused to ratify the accord—has generated concerns that the Kyoto Protocol itself may be in danger of collapse. Both of these concerns and many other issues will likely be a part of the agenda for the COP-18, scheduled for November 2012 in Qatar.

#### Binding global agreement prevents us from going over the climate cliff. It is not too late

**Davenport 13** - Energy and environment correspondent for National Journal [[Coral Davenport](http://www.nationaljournal.com/reporters/bio/18) (Former fellow with the Metcalf Institute for Marine and Environmental Reporting), “It's Already Too Late to Stop Climate Change,” The National Journal, Updated: May 30, 2013 | 12:16 a.m., Originally posted November 29, 2012 | 12:58 p.m. pg. http://www.nationaljournal.com/magazine/it-s-already-too-late-to-stop-climate-change-20121129

It also means that nations—first and foremost, the world’s two biggest polluters, the United States and China—must develop real, enforceable, and aggressive policies to cut their own carbon emissions, with or without a global agreement. Scientists say that once the world hits that 2-degree mark, the urgency of reducing carbon pollution to avoid a catastrophic tipping point becomes even greater.

Michael Oppenheimer, a professor of geosciences and international affairs at Princeton University and a member of the Nobel Prize-winning U.N. Intergovernmental Panel on Climate Change (IPCC), says that a 2-degree rise is not itself that point, but rather the beginning of irreversible changes. “It starts to speed you toward a tipping point,” he said. “It’s driving toward a cliff at night with the headlights off. We don’t know when we’ll hit that cliff, but after 2 degrees, we’re going faster, we have less control. After 3, 4, 5 degrees, you spiral out of control, you have even more irreversible change. At this point, with prompt action to reduce emissions, we can still keep it from getting totally out of control.”

When it comes to global climate-change treaties, the U.S. has already cried wolf twice on the world stage. In 1997, Vice President Al Gore urged the rest of the world to sign on to the landmark Kyoto Protocol, but the Senate refused to go along. At the 2009 U.N. climate-change summit in Copenhagen, President Obama took on the same role, urging China and other nations to sign pledges to cut carbon emissions, assuring the world that Congress would soon pass a cap-and-trade bill to cut U.S. carbon emissions. Six months later, the bill died in the Senate.

In December 2015, when it comes time to forge a binding global agreement that could keep the world from heading off a climate cliff, Obama won’t be able to face his counterparts on the world stage with just a promise of what’s to come. To get the world’s other major polluters to agree to cut the carbon pollution that threatens U.S. coastal cities, he’ll need to have a new U.S. climate law in hand.

#### Warming is real, anthropogenic, and threatens extinction --- prefer new evidence that represents consensus

Richard Schiffman 9/27/13, environmental writer @ The Atlantic citing the Fifth Intergovernmental Panel on Climate Change, “What Leading Scientists Want You to Know About Today's Frightening Climate Report,” The Atlantic, http://www.theatlantic.com/technology/archive/2013/09/leading-scientists-weigh-in-on-the-mother-of-all-climate-reports/280045/

The polar icecaps are melting faster than we thought they would; seas are rising faster than we thought they would; extreme weather events are increasing. Have a nice day! That’s a less than scientifically rigorous summary of the findings of the Fifth Intergovernmental Panel on Climate Change (IPCC) report released this morning in Stockholm.¶ Appearing exhausted after a nearly two sleepless days fine-tuning the language of the report, co-chair Thomas Stocker called climate change “the greatest challenge of our time," adding that “each of the last three decades has been successively warmer than the past,” and that this trend is likely to continue into the foreseeable future.¶ Pledging further action to cut carbon dioxide (CO2) emissions, U.S. Secretary of State John Kerry said, "This isn’t a run of the mill report to be dumped in a filing cabinet. This isn’t a political document produced by politicians... It’s science."¶ And that science needs to be communicated to the public, loudly and clearly. I canvassed leading climate researchers for their take on the findings of the vastly influential IPCC report. What headline would they put on the news? What do they hope people hear about this report?¶ When I asked him for his headline, Michael Mann, the Director of the Earth Systems Science Center at Penn State (a former IPCC author himself) suggested: "Jury In: Climate Change Real, Caused by Us, and a Threat We Must Deal With."¶ Ted Scambos, a glaciologist and head scientist of the National Snow and Ice Data Center (NSIDC) based in Boulder would lead with: "IPCC 2013, Similar Forecasts, Better Certainty." While the report, which is issued every six to seven years, offers no radically new or alarming news, Scambos told me, it puts an exclamation point on what we already know, and refines our evolving understanding of global warming.¶ The IPCC, the indisputable rock star of UN documents, serves as the basis for global climate negotiations, like the ones that took place in Kyoto, Rio, and, more recently, Copenhagen. (The next big international climate meeting is scheduled for 2015 in Paris.) It is also arguably the most elaborately vetted and exhaustively researched scientific paper in existence. Founded in 1988 by the United Nations and the World Meteorological Organization, the IPCC represents the distilled wisdom of over 600 climate researchers in 32 countries on changes in the Earth’s atmosphere, ice and seas. It endeavors to answer the late New York mayor Ed Koch’s famous question “How am I doing?” for all of us. The answer, which won’t surprise anyone who has been following the climate change story, is not very well at all. ¶ It is now 95 percent likely that human spewed heat-trapping gases — rather than natural variability — are the main cause of climate change, according to today’s report. In 2007 the IPCC’s confidence level was 90 percent, and in 2001 it was 66 percent, and just over 50 percent in 1995. ¶ What’s more, things are getting worse more quickly than almost anyone thought would happen a few years back.¶ “If you look at the early IPCC predictions back from 1990 and what has taken place since, climate change is proceeding faster than we expected,” Mann told me by email. Mann helped develop the famous hockey-stick graph, which Al Gore used in his film “An Inconvenient Truth” to dramatize the sharp rise in temperatures in recent times. ¶ Mann cites the decline of Arctic sea ice to explain : “Given the current trajectory, we're on track for ice-free summer conditions in the Arctic in a matter of a decade or two... There is a similar story with the continental ice sheets, which are losing ice — and contributing to sea level rise — at a faster rate than the [earlier IPCC] models had predicted.”¶ But there is a lot that we still don’t understand. Reuters noted in a sneak preview of IPCC draft which was leaked in August that, while the broad global trends are clear, climate scientists were “finding it harder than expected to predict the impact in specific regions in coming decades.”¶ From year to year, the world’s hotspots are not consistent, but move erratically around the globe. The same has been true of heat waves, mega-storms and catastrophic floods, like the recent ones that ravaged the Colorado Front Range. There is broad agreement that climate change is increasing the severity of extreme weather events, but we’re not yet able to predict where and when these will show up. ¶ “It is like watching a pot boil,” Danish astrophysicist and climate scientist Peter Thejll told me. “We understand why it boils but cannot predict where the next bubble will be.”¶ There is also uncertainty about an apparent slowdown over the last decade in the rate of air temperature increase. While some critics claim that global warming has “stalled,” others point out that, when rising ocean temperatures are factored in, the Earth is actually gaining heat faster than previously anticipated.¶ “Temperatures measured over the short term are just one parameter,” said Dr Tim Barnett of the Scripps Institute of Oceanography in an interview. “There are far more critical things going on; the acidification of the ocean is happening a lot faster than anybody thought that it would, it’s sucking up more CO2, plankton, the basic food chain of the planet, are dying, it’s such a hugely important signal. Why aren’t people using that as a measure of what is going on?”¶ Barnett thinks that recent increases in volcanic activity, which spews smog-forming aerosols into the air that deflect solar radiation and cool the atmosphere, might help account for the temporary slowing of global temperature rise. But he says we shouldn’t let short term fluctuations cause us to lose sight of the big picture.¶ The dispute over temperatures underscores just how formidable the IPCC’s task of modeling the complexity of climate change is. Issued in three parts (the next two installments are due out in the spring), the full version of the IPCC will end up several times the length of Leo Tolstoy’s epic War and Peace. Yet every last word of the U.N. document needs to be signed off on by all of the nations on earth. ¶ “I do not know of any other area of any complexity and importance at all where there is unanimous agreement... and the statements so strong,” Mike MacCracken, Chief Scientist for Climate Change Programs, Climate Institute in Washington, D.C. told me in an email. “What IPCC has achieved is remarkable (and why it merited the Nobel Peace Prize granted in 2007).”¶ Not surprisingly, the IPCC’s conclusions tend to be “conservative by design,” Ken Caldeira, an atmospheric scientist with the Carnegie Institution’s Department of Global Ecology told me: “The IPCC is not supposed to represent the controversial forefront of climate science. It is supposed to represents what nearly all scientists agree on, and it does that quite effectively.”¶ Nevertheless, even these understated findings are inevitably controversial. Roger Pielke Jr., the Director of the Center for Science and Technology Policy Research at the University of Colorado, Boulder suggested a headline that focuses on the cat fight that today’s report is sure to revive: "Fresh Red Meat Offered Up in the Climate Debate, Activists and Skeptics Continue Fighting Over It." Pielke should know. A critic of Al Gore, who has called his own detractors "climate McCarthyists," Pielke has been a lightning rod for the political controversy which continues to swirl around the question of global warming, and what, if anything, we should do about it. ¶ The public’s skepticism of climate change took a dive after Hurricane Sandy. Fifty-four percent of Americans are now saying that the effects of global warming have already begun. But 41 percent surveyed in the same Gallup poll believe news about global warming is generally exaggerated, and there is a smaller but highly passionate minority that continues to believe the whole thing is a hoax. ¶ For most climate experts, however, the battle is long over — at least when it comes to the science. What remains in dispute is not whether climate change is happening, but how fast things are going to get worse.¶ There are some possibilities that are deliberately left out of the IPCC projections, because we simply don’t have enough data yet to model them. Jason Box, a visiting scholar at the Byrd Polar Research Center told me in an email interview that: “The scary elephant in the closet is terrestrial and oceanic methane release triggered by warming.” The IPCC projections don’t include the possibility — some scientists say likelihood — that huge quantities of methane (a greenhouse gas thirty times as potent as CO2) will eventually be released from thawing permafrost and undersea methane hydrate reserves. Box said that the threshhold “when humans lose control of potential management of the problem, may be sooner than expected.”¶ Box, whose work has been instrumental in documenting the rapid deterioration of the Greenland ice sheet, also believes that the latest IPCC predictions (of a maximum just under three foot ocean rise by the end of the century) may turn out to be wildly optimistic, if the Greenland ice sheet breaks up. “We are heading into uncharted territory” he said. “We are creating a different climate than the Earth has ever seen.” ¶ The head of the IPCC, Rajendra Pachauri, speaks for the scientific consensus when he says that time is fast running out to avoid the catastrophic collapse of the natural systems on which human life depends. What he recently told a group of climate scientist could be the most chilling headline of all for the U.N. report: ¶ "We have five minutes before midnight."

### 1AC – Plan

#### The United States Federal Government should restrict the President's war making authority by limiting targeted killing and detention without charge within zones of active hostilities to declared territories and by statutory codification of executive branch review policy for those practices; and in addition, by limiting targeted killing and detention without charge outside zones of active hostilities to reviewable operations guided by an individualized threat requirement, a least-harmful-means test, a feasibility test for criminal prosecution, procedural safeguards, and by statutory codification of executive branch review policy for those practices.

### 1AC – Solvency

#### CONTENTION 2: SOLVENCY

#### The aff solves --- a zone approach is the perfect middle ground that resolves their downsides like circumvention and safe-havens

Jennifer Daskal 13, Fellow and Adjunct Professor, Georgetown Center on National Security and the Law, University of Penn L. Rev., THE GEOGRAPHY OF THE BATTLEFIELD: A FRAMEWORK FOR DETENTION AND TARGETING OUTSIDE THE "HOT" CONFLICT ZONE, April, 161 U. Pa. L. Rev. 1165, Lexis

II. A New Approach: Zones of Active Hostilities and Beyond¶ The current debate has resulted in a stalemate, with neither side adequately addressing the legitimate concerns of the other. The notion of an on-off switch, in which the state's ability to go after the enemy is restricted to limited territorial regions, ignores the geographically unbounded nature of a conflict with a transnational non-state actor. Conversely, the notion of an unbounded conflict raises legitimate concerns about the use of force as a first resort and the erosion of peacetime norms in areas far from any recognized "hot" battlefield. What is needed is a new framework of domestic and international law that better balances the multiple security and liberty interests at stake.¶ This Article offers such a framework - one that recognizes the broad scope of the conflict, but distinguishes between zones of active hostilities and elsewhere in setting the procedural and substantive standards for detention and targeting. This framework, which I call the zone approach, accommodates the state's key security interests while also protecting against the erosion of peacetime norms outside zones of active hostilities. It recognizes that rules applicable in wartime - rules that permit killing and [\*1193] detention without charge based on status alone - should be the exception rather than the norm, limited to circumstances in which security so demands.¶ This Part outlines the several normative and practical reasons why the zone approach should be adopted and incorporated into U.S. and, ultimately, international law. Although the analysis focuses primarily on the United States, the arguments as to the benefits of this framework apply equally to any other belligerent state seeking to defeat a transnational non-state enemy.¶ A. Basis for the Distinction¶ There is an intuitive sense that, separate and apart from any sovereignty concerns, the killing or detention of an alleged enemy of the state in a war zone is different from the killing or detention of an alleged enemy in a peaceful zone (think Munich or London), even if the known facts about the enemy's role in the opposing force are the same. Similarly, there is a less intuitive, but equally important, difference between both of those situations and the killing or detention of an alleged enemy in a lawless zone (think Yemen or Somalia). This Section highlights several reasons why these distinctions should be reflected in the law - reasons largely based on the relevant exigency, the importance of notice, and the intrinsic value of cabining war and its permissive use of force and detention without charge.¶ 1. The War Zone Versus the Peaceful Zone¶ The exigencies that justify application of wartime rules simply do not apply outside zones of active hostilities. The Supreme Court recognized this important distinction in Reid v. Covert, n83 in which it ruled that civilians accompanying the armed forces outside a war zone could not be subject to military trial. "The exigencies which have required military rule on the battlefield are not present where no conflict exists. Military trial of civilians "in the field' is an extraordinary jurisdiction and it should not be expanded at the expense of the Bill of Rights." n84 The Reid opinion echoed the reasoning of a case from almost ninety years prior, when the Court ruled that Indiana - which was not the site of any active fighting - could not be subject to martial law during the Civil War: "Martial law cannot arise from a threatened invasion. The necessity must be actual and present; the invasion [\*1194] real, such as effectually closes the courts and deposes the civil administration." n85 Similar reasoning has led courts to conclude that the requisition of property by the United States government is permitted at the "scene of conflict" but not thousands of miles away n86 and that the protections of the Suspension Clause depend to a large extent on whether or not the detainees are held in an "active theater of war." n87¶ As these cases recognize, the existence of warlike conditions in one part of the world should not lead to a relaxation of the substantive and procedural standards embodied in peacetime rules elsewhere. In some areas, intense fighting can create conditions that often make it impracticable, if not impossible, to apply ordinary peacetime rules. Such situations justify resort to more expedient wartime rules. By contrast, in areas where ordinary institutions are functioning, domestic police are effectively maintaining law and order, and communication and transportation networks are undisturbed, the exigent circumstances justifying the reliance on law-of-war tools are typically absent. n88 In those areas, the peacetime standards - which themselves reflect a careful balancing of liberty and security interests - serve the important functions of minimizing error and abuse and enhancing the legitimacy of the state's actions. These standards should be respected absent exigent circumstances that justify an exception.¶ Second, the notion of a global conflict clashes with the legitimate and reasonable expectations of persons residing in a peacetime zone. These expectations matter. The corollary - the requirement of fair notice - is perhaps the primary factor that distinguishes a law-abiding government from a lawless dictatorship. Its importance is emphasized time and time again in both U.S. constitutional law and international law doctrines. It sets boundaries [\*1195] on substantive rights, n89 is key to choice of law questions, n90 and is the core of procedural-rights protections in both domestic and international law. n91¶ In places of intense, obvious, and publicly acknowledged fighting, civilians are on notice that they are residing within a zone of conflict. Those who remain within the conflict zone have implicitly accepted some risk, albeit not voluntarily in most cases. They can, at least in theory, take steps to protect themselves and minimize the likelihood of being caught in the crossfire by, when possible, leaving or avoiding areas with the heaviest concentration of fighters or taking extra precautions in conducting their daily activities. n92 Host states are similarly on notice of the likelihood of ongoing hostilities and can take appropriate steps to move their citizens away from areas of intense fighting.¶ [\*1196] By comparison, civilians sitting at an outdoor cafe in Paris are not on notice that they are within the zone of conflict. As a result, there is something intuitively unsettling about the idea that they could be deemed the legitimate collateral damage of a state-sponsored attack. It is precisely this fear of the unpredictable on which terrorists capitalize when they attack unsuspecting civilians. A legal doctrine that allows the state to engage in attacks that may have a similar consequence - even if civilians are not the intended or expected targets of the attacks - raises legitimate concerns.¶ It is, of course, possible to conceive of a new set of rules for this new type of conflict, under which the procedural and substantive requirements of domestic criminal justice systems and human rights norms give way when the non-state enemy crosses into one's jurisdiction. But the idea that a non-state actor could, through its clandestine behavior, trigger the permissive use of killing and detention without charge runs counter to longstanding conceptions of fairness and justice. n93 It essentially allows the terrorist to erode protections of basic rights simply by crossing state lines.¶ Third, the conditions on the ground affect the assumptions as to who qualifies as the enemy. While it may be valid to presume that individuals who attend a training camp and are found in a zone of active hostilities intend to join the fight, the same presumption does not necessarily hold for individuals who are subsequently located thousands of miles away in a zone of relative peace. n94 Absent additional, specific information suggesting that the individual is actively engaged in attack planning or playing a sufficiently important role in the organization so as to pose a significant ongoing threat, the justifications for law-of-war detention or lethal killing (to prevent the return to the battlefield or otherwise eliminate the threat) are questionable. n95 At a minimum, heightened quantum-of-information standards ought to [\*1197] apply to detention and targeting that take place outside a zone of active hostilities. n96¶ 2. The Lawless Zone¶ In practice, the truly contested areas fall somewhere between the obvious warzone and the peacetime zone. The United States is unlikely to begin launching drone strikes in Paris. It is, however, reportedly doing so with increasing frequency in places like Yemen and possibly Somalia n97 - areas that can be loosely characterized as "lawless zones."¶ In some ways, a lawless zone shares attributes with a zone of active hostilities. Domestic law enforcement tends to be largely ineffective or nonexistent, suggesting the need for alternative mechanisms to deal with threats. In many instances (and certainly in much of Yemen as well as Somalia), civilians are on notice that they are living in a conflict zone, even if the main conflict is distinct from the transnational conflict between the state and a non-state entity (e.g., the internal armed conflict between the government and insurgent forces in southern Yemen, and the internal armed conflict between al Shabaab and the Transitional Federal Government in Somalia).¶ Despite these similarities, the lawless zone where a discrete number of non-state actors find sanctuary is analytically distinct from the hot conflict zone where there is overt, active, ongoing fighting between troops on the ground. This is so for two main reasons.¶ First, the existence of a separate, distinct conflict of the type often found in a lawless zone does not provide notice of a conflict between a belligerent state and transnational non–state enemy. In concrete terms, the existence of a conflict between al Shabaab and the Transitional Federal Government does not provide notice of a conflict between the United States and al Qaeda affiliates reportedly operating in Somalia. This matters for reasons of attribution and accountability. It also affects the degree, if not the fact, of conflict experienced by the civilian population. Imagine if the existence of a lawless zone gave states free rein to unilaterally attack any alleged non–state enemy found therein. Absent any meaningful limits, such a region might be decimated by external attacks. The situation would likely exacerbate the separate conflict, prolong the situation of lawlessness, and make it exceed- ingly difficult for the population properly to identify or take steps to address the source of conflict.98¶ Second, operations in a lawless zone are likely to be limited to targeted and surgical strikes, often with advance planning and little risk to the state's own troops. This is a very different setting than an active battlefield where troops on the ground are exposed to high levels of risk. As is often noted, those engaged in on-the-ground combat should not be required to hold their fire until they conduct a careful evaluation of the threat posed; such a rule would be potentially suicidal. In Yemen and Somalia, by contrast, the United States carefully pinpoints and identifies targets, with little to no danger to its own troops. When engaging in that type of deliberate killing, with negligible risk to one's own forces, there should be a corresponding obligation to take extra precautions to prevent error, overzealousness, and abuse. N99¶ B. Current State Practice¶ Since 2006, the United States has, at least implicitly and as a matter of policy, distinguished between zones of active hostilities and elsewhere. n100 The Bush Administration initially placed a significant number of off-the-battlefield captures into long-term law-of-war detention. Detainees reportedly included persons captured in places as far-flung from the Afghanistan battlefield as Bosnia, Mauritania, and Thailand - as well as the United States. n101 These off-the-battlefield detentions turned out to be highly controversial. They have been the subject of numerous court challenges, [\*1199] international criticism, and endless commentary. n102 Moreover, they raise difficult questions about repatriation - issues with which the United States continues to struggle. n103¶ Beginning in September 2006, the Bush Administration initiated a shift in policy. Largely in response to the Supreme Court's ruling in Hamdan v. Rumsfeld, n104 President Bush announced that he was closing CIA-run black sites, at least temporarily, and ordered the transfer of fourteen long-term CIA detainees to Guantanamo. n105 Subsequently, the number of out-of-battlefield captures transferred to Guantanamo fell to a mere three captures in 2007 n106 and only one capture in 2008. n107 All were described as high-value targets based on alleged links to al Qaeda leadership or involvement in specific terrorist attacks. n108¶ [\*1200] On January 22, 2009, two days after taking office, President Obama declared the permanent shuttering of CIA black sites as well as his plan to close the detention center at Guantanamo Bay. n109 While Guantanamo remains open today, the Obama Administration has committed not to transfer any additional detainees there. n110 Since 2009, Warsame is the only known case of an out-of-battlefield detainee being placed in anything other than very short-term military custody. n111¶ Some have argued that the low number of out-of-battlefield detentions is due in part to the lack of viable locations for holding detainees. But while that may be a factor, it seems that the difficulty of apprehension, the high diplomatic, reputational, and transactional costs of such detentions, and the relative effectiveness of the criminal justice system in responding to threats, are equal - if not more - important factors in limiting the reliance on law-of-war detention. n112¶ As out-of-battlefield detentions have declined, targeted killings reportedly have increased dramatically. n113 The vast majority of these killings appear [\*1201] to have been concentrated in northwest Pakistan - an area that most concede is a spillover of the zone of active hostilities in Afghanistan. n114 A growing number of strikes reportedly have been launched in Yemen as well. n115¶ The Obama Administration also appears to have adopted a distinction between Afghanistan and elsewhere in setting the rules for these strikes. While top administration officials have argued that their military authorities are not restricted to the "hot" battlefield of Afghanistan, they also have argued that "outside of Afghanistan and Iraq" targets are focused on those "who are a threat to the United States, whose removal would cause a significant - even if only temporary - disruption of the plans and capabilities of al-Qa'ida and its associated forces." n116 Whether or not one agrees with the standard employed, it is clear that the administration itself recognizes a distinction between Afghanistan (and, earlier, Iraq) and other areas embroiled in the conflict with al Qaeda. Procedural rules in terms of who must authorize the strike also reportedly vary depending on whether one is operating within Afghanistan and the border regions of Pakistan or elsewhere. n117 While there are good reasons to demand additional safeguards, the [\*1202] United States' own actions already reflect the importance and value of distinguishing between zones of active hostilities and other areas.¶ III. The Specifics: Defining the Zones and Setting the Standards¶ Given the basis for distinguishing between zones of active hostilities and elsewhere, this Part provides the specifics of the proposed approach. It first lays out criteria for distinguishing between a zone of active hostilities and elsewhere by drawing on both existing law and the normative justifications for the distinctions. It then describes the proposed substantive and procedural standards that ought to apply, consistent with the goals of protecting individual liberty, peacetime institutions, and the fundamental security interests of the state.¶ This task is both necessary and inherently difficult. It is an attempt to develop a set of clear standards, or on-off triggers, for a situation in which the gravity, imminence, and likelihood of a threat are dynamic, uncertain, and difficult to categorize. My aim is to propose an initial set of standards that will regulate the use of force and detention without charge outside a zone of active hostilities, consistent with the state's legitimate security needs. The expectation is that debate and discussion will help develop and refine the details over time.¶ A. The Zone of Active Hostilities¶ Commentary, political discourse, court rulings, and academic literature are rife with references to the distinction between the so-called "hot battlefield" and elsewhere. Yet despite the salience of this distinction, there is no commonly understood definition of a "hot battlefield," let alone a common term applied by all. n118 In what follows, I briefly survey the relevant treaty [\*1203] and case law and offer a working definition of what I call the "zone of active hostilities." This definition takes into account such sources of law as well as the normative and practical reasons for this distinction.¶ 1. Treaty and Case Law¶ While not explicitly articulated, the notion of a distinct zone of active hostilities where fighting is underway is implicit in treaty law. The Geneva Conventions, for example, specify that prisoners of war and internees must be moved away from the "combat zone" in order to keep them out of danger, n119 and that belligerent parties must conduct searches for the dead and wounded left on the "battlefield." n120 While there are no explicit definitions provided, the context suggests that these terms refer to those areas where fighting is currently taking place or very likely to occur. The related term "zones of military operations," which is spelled out in a bit more detail in the Commentaries to the Geneva Conventions, is described as covering those areas where there is actual or planned troop movement, even if no active fighting. n121¶ [\*1204] In a variety of contexts, U.S. courts also have opined on whether certain activities fall within or outside of a zone of active hostilities, indicating that the existence and quantity of fighting forces are key. In Hamdi v. Rumsfeld, for example, the Supreme Court observed that the large number of troops on the ground in Afghanistan supported the finding that the United States was involved in "active combat" there. n122 A panel of the D.C. Circuit subsequently noted that the ongoing military campaign by U.S. forces, the attacks against U.S. forces by the Taliban and al Qaeda, the casualties U.S. personnel incurred, and the presence of other non-U.S. troops under NATO command supported its finding that Afghanistan was "a theater of active military combat." n123 Previous cases have similarly used the presence of fighting forces, the actual engagement of opposing forces, and casualty counts to identify a theater of active conflict. n124¶ Conversely, U.S. courts have often assumed that areas in which there is no active fighting between armed entities fall outside of the zone of active hostilities. Thus, the Al-Marri and Padilla litigations were premised on the notion that the two men were outside of the zone of active hostilities when [\*1205] taken into custody in the United States. n125 The central issue in those cases was how much this distinction mattered. n126 The D.C. Circuit in Al Maqaleh similarly distinguished Afghanistan - defined as part of "the theater of active military combat" - from Guantanamo - described as outside of this "theater of war" - presumably because of the absence of active fighting there. n127 In the context of the Guantanamo habeas litigation, D.C. District Court judges have at various times also described Saudi Arabia, Gambia, Zambia, Bosnia, Pakistan, and Thailand as outside an active battle zone. n128¶ In defining what constitutes a conflict in the first place, international courts have similarly looked at the existence, duration, and intensity of the actual fighting. Specifically, in Tadic, the ICTY defined a noninternational armed conflict as involving "protracted armed violence between governmental authorities and organized armed groups." n129 In subsequent cases, the ICTY [\*1206] described the term "protracted armed violence" as turning on the intensity of the violence and encompassing considerations such as "the number, duration, and intensity of individual confrontations; the type of weapons and other military equipment used; the number and calibre of weapons fired; the number of persons and type of forces partaking in the fighting; the number of casualties; [and] the extent of material destruction." n130 Security Council attention is also deemed relevant. n131¶ The International Committee of the Red Cross (ICRC) has similarly defined noninternational armed conflicts as "protracted armed confrontations" that involve a "minimum level of intensity." n132¶ 2. Identifying the Zone¶ Consistent with treaty and case law, overt and sustained fighting are key factors in identifying a zone of active hostilities. Specifically, the fighting must be of sufficient duration and intensity to create the exigent circumstances that justify application of extraordinary war authorities, to put civilians on notice, and to justify permissive evidentiary presumptions regarding the identification of the enemy. n133 The presence of troops on the [\*1207] ground is a significant factor, although neither necessary nor sufficient to constitute a zone of active hostilities. Action by the Security Council or regional security bodies such as NATO, as well as the belligerent parties' express recognition of the existence of a hot conflict zone, are also relevant.¶ Linking the zone of active hostilities primarily to the duration and intensity of the fighting and to states' own proclamations suffers, however, from an inherent circularity. A state can itself create a zone of active hostilities by ratcheting up violence or issuing a declaration of intent, thereby making previously unlawful actions lawful. n134¶ It is impossible to fully address this concern. The problem can, however, be significantly reduced by insisting on strict compliance with the law-of-war principles of distinction and proportionality and by vigorously punishing states for acts of aggression. n135 There will, of course, be disagreement as to whether a state's escalation of a certain conflict constitutes aggression, particularly given underlying disagreements about who qualifies as a lawful target. The zone approach is helpful in this regard as well: it narrows the range of disagreement by demanding heightened substantive standards as to who qualifies as a legitimate target outside the zones of active hostilities. Under the zone approach, the escalation of force must be aimed at a narrower set of possible military targets until the increased use of force is sufficiently intense and pervasive enough to create a new zone of active hostilities.¶ 3. Geographic Scope of the Zone¶ A secondary question relates to the geographic scope of the zone of active hostilities. In answering the related question of the scope of the overarching armed conflict, the Tadic court defined the conflict as extending throughout the state in which hostilities were conducted (in the case of international armed conflict) n136 and the area over which a party had territorial control (in the case of a noninternational armed conflict that did not extend [\*1208] throughout an entire state). n137 Neither approach, however, maps well onto the practical realities of a transnational conflict between a state and a non-state actor. In many cases, the non-state actor and related hostilities will be concentrated in a small pocket of the state. It would be contrary to the justifications of exigency and proper notice to define the zone of active hostilities as extending to the entire state. A territorial control test also does not make sense when dealing with a non-state actor, such as al Qaeda, which does not exercise formal control over any territory and is driven more by ideology than territorial ambition.¶ This Article suggests a more nuanced, albeit still imperfect, approach: If the fighting is sufficiently widespread throughout the state, then the zone of active hostilities extends to the state's borders. If, however, hostilities are concentrated only in certain regions within a state, then the zone will be geographically limited to those administrative areas or provinces in which there is actual fighting, a significant possibility of fighting, or preparation for fighting. This test is fact-intensive and will depend on both the conditions on the ground and preexisting state and administrative boundaries.¶ It remains somewhat arbitrary, of course, to link the zone of hostilities to nation-state boundaries or administrative regions within a state when neither the state itself nor the region is a party to the conflict and when the non-state party lacks explicit ties to the state or region at issue. This proposed framework inevitably will incorporate some areas into the zone of active hostilities in which the key triggering factors - sustained, overt hostilities - are not present. But such boundaries, even if overinclusive or artificial, provide the most accurate means available of identifying the zone of active hostilities, at least over the short term.¶ Over the long term, it would be preferable for the belligerent state to declare particular areas to be within the zone of active hostilities, either through an official pronouncement by the state party to the conflict or via a resolution by the Security Council or a regional security body. A public declaration would provide explicit notice as to the existence and parameters of the zone of active hostilities, thereby reducing uncertainty as to which legal rules apply. Such declarations would allow for public debate and diplomatic pressure

in the event of disagreement. Furthermore, the belligerent states could then define the zone with greater nuance, which would better [\*1209] reflect the actual fighting than would preexisting state or administrative boundaries. n138¶ Some likely will object that such an official designation would recreate the same safe havens that this proposal seeks to avoid. But a critical difference exists between a territorially restricted framework that effectively prohibits reliance on law-of-war tools outside of specific zones of active hostilities and a zone approach that merely imposes heightened procedural and substantive standards on the use of such tools. Under the zone approach, the non-state enemy is not free from attack or capture; rather, the belligerent state simply must take greater care to ensure that the target meets the enhanced criteria described in Section III.B.¶ B. Setting the Standards¶ Law-of-war detention and lethal targeting outside a zone of active hostilities should be limited, not categorically prohibited. It should be focused on those threats that are clearly tied to the zone of active hostilities and other significant and ongoing threats that cannot be adequately addressed through other means. Moreover, a heightened quantum of information and other procedural requirements should apply, given the possibility and current practice of ex ante deliberation and review. Pursuant to these guiding principles, this Section proposes the adoption of an individualized threat requirement, a least-harmful-means test, and meaningful procedural safeguards for lethal targeting and law-of-war detention that take place outside zones of active hostilities.

**Failure to codify existing policy into law risks spreading executive targeted killings and indefinite detention---plan’s key**

Daskal 13 - Fellow and Adjunct Professor, Georgetown Center on National Security and the Law

University of Penn L. Rev., THE GEOGRAPHY OF THE BATTLEFIELD: A FRAMEWORK FOR DETENTION AND TARGETING OUTSIDE THE "HOT" CONFLICT ZONE, April, 161 U. Pa. L. Rev. 1165, Lexis

Fifth, and critically, while the **U**nited **S**tates might be confident that it will exercise its authorities responsibly, it **cannot assure that other states will** follow suit. What is to prevent Russia, for example, from asserting that [\*1233] it is engaged in an armed conflict with Chechen rebels, and can, consistent with the law of war, **kill** **or** **detain** any person **anywhere** in the world which it deems to be a "functional member" of that rebel group? Or **Turkey** from doing so with respect to alleged "functional members" of **Kurdish rebel groups?** If such a theory ultimately resulted in the targeted killing or detaining without charge of an American citizen, the United States would have few principled grounds for objecting.¶ Capitalizing on **the** strategic **benefits of restraint**, the **U**nited **S**tates should **codify into law** what is **already**, in many key respects, **national policy**. As a first step, the President should sign an Executive order requiring that out-of-battlefield target and capture operations be based on individualized threat assessments and subject to a least-harmful-means test, clearly articulating the standards and procedures that would apply. As a next step, Congress should mandate the creation of a review system, as described in detail in this Article. In doing so, **the U**nited **S**tates will **set an important example**, one that **can become a building block upon which to develop an international consensus** as to **the rules that apply to detention** and **targeted killings** **outside the conflict zone**.

**Failure to codify limits sets precedent for strikes and the erosion of rule of law---Congress key**

**Maxwell 12** - Colonel and Judge Advocate, U.S. Army, 1st Quarter 2012, “TARGETED KILLING, THE LAW, AND TERRORISTS: FEELING SAFE?,” Joint Force Quarterly, p. 123-130, Mark David Maxwell.

Once a state demonstrates membership in an organized armed group, the members can be presumed to be a continuous danger. **Because this danger is worldwide**, the state can now act in areas **outside** the traditional **zones of conflict**. It is the individual’s conduct over time—**regardless of location**— that gives him the status. Once the status attaches, the member of the organized armed group can be targeted. ¶ Enter Congress ¶ The weakness of this theory is that **it is not codified in U.S. law**; it is merely the extrapolation of international theorists and organizations. The **only entity under the Constitution** that can frame and settle Presidential power regarding the enforcement of international norms is **Congress**. As the check on executive power, Congress must amend the AUMF to **give the executive a statutory roadmap that articulates when force is appropriate** and under what circumstances the President can use targeted killing. This would be the needed endorsement from Congress, the other political branch of government, to clarify the U.S. position on its use of force regarding targeted killing. For example, it would spell out the limits of American lethality once an individual takes the status of being a member of an organized group. Additionally, **statutory clarification** will **give other states a roadmap** for the contours of what constitutes anticipatory self-defense and the **proper conduct of the military** under the law of war.¶ Congress should also require that the President brief it on the decision matrix of articulated guidelines before a targeted killing mission is ordered. As Kenneth Anderson notes, “[t]he point about briefings to Congress is partly to allow it to exercise its democratic role as the people’s representative.”74¶ The desire to feel safe is understandable. The consumers who buy SUVs are not buying them to be less safe. Likewise, the champions of targeted killings want the feeling of safety achieved by the elimination of those who would do the United States harm. But allowing the President to order **targeted killing without congressional limits** means the President can manipulate force in the name of national security without **tethering it to** the law advanced by international **norms**. The potential consequence of such **unilateral executive action** is that it gives other states, such as **North Korea** and **Iran**, the **customary precedent to do the same**. Targeted killing **might be required in certain circumstances**, but if the guidelines are debated and understood, the decision can be executed **with** the full faith of the people’s representative, **Congress**. When the decision is made **without Congress**, the result might make the United States feel safer, but the process **eschews** what gives a state its greatest safety: the **rule of law**.

# 2AC

## Allies

#### Congress makes deterrence credible

Matthew C. Waxman 8/25, Professor of Law, Columbia Law School; Adjunct Senior Fellow for Law and Foreign Policy, Council on Foreign Relations, “The Constitutional Power to Threaten War”, Forthcoming in Yale Law Journal, vol. 123 (2014), 2013, PDF

A second argument, this one advanced by some congressionalists, is that stronger legislative checks on presidential uses of force would improve deterrent and coercive strategies by making them more selective and credible. The most credible U.S. threats, this argument holds, are those that carry formal approval by Congress, which reflects strong public support and willingness to bear the costs of war; requiring express legislative backing to make good on threats might therefore be thought to enhance the potency of threats by encouraging the President to seek congressional authorization before acting.181 A frequently cited instance is President Eisenhower’s request (soon granted) for standing congressional authorization to use force in the Taiwan Straits crises of the mid- and late-1950s – an authorization he claimed at the time was important to bolstering the credibility of U.S. threats to protect Formosa from Chinese aggression.182 (Eisenhower did not go so far as to suggest that congressional authorization ought to be legally required, however.) “It was [Eisenhower’s] seasoned judgment … that a commitment the United States would have much greater impact on allies and enemies alike because it would represent the collective judgment of the President and Congress,” concludes Louis Fisher. “Single-handed actions taken by a President, without the support of Congress and the people, can threaten national prestige and undermine the presidency. Eisenhower’s position was sound then. It is sound now.”183 A critical assumption here is that legal requirements of congressional participation in decisions to use force filters out unpopular uses of force, the threats of which are unlikely to be credible and which, if unsuccessful, undermine the credibility of future U.S. threats.¶ A third view is that legal clarity is important to U.S. coercive and deterrent strategies; that ambiguity as to the President’s powers to use force undermines the credibility of threats. Michael Reisman observed, for example, in 1989: “Lack of clarity in the allocation of competence and the uncertain congressional role will sow uncertainty among those who depend on U.S. effectiveness for security and the maintenance of world order. Some reduction in U.S. credibility and diplomatic effectiveness may result.”184 Such stress on legal clarity is common among lawyers, who usually regard it as important to planning, whereas strategists tend to see possible value in “constructive ambiguity”, or deliberate fudging of drawn lines as a negotiating tactic or for domestic political purposes.185 A critical assumption here is that clarity of constitutional or statutory design with respect to decisions about force exerts significant effects on foreign perceptions of U.S. resolve to make good on threats, if not by affecting the substance of U.S. policy commitments with regard to force then by pointing foreign actors to the appropriate institution or process for reading them.

#### NATO still relevant----there is just about Albania

Charles A. Kupchan 13, D.Phil from Oxford in International Affairs, Professor of International Affairs at Georgetown, Whitney H. Shepardson Senior Fellow at the Council on Foreign Relations, 3/6/13, "Why is NATO still needed, even after the downfall of the Soviet Union?," http://www.cfr.org/nato/why-nato-still-needed-even-after-downfall-soviet-union/p30152

The North Atlantic Treaty Organization (NATO) is an international military alliance that was created to enable its members (the United States, Canada, and their European partners) to counter the threat posed by the Soviet Union. Alliances usually come to an end when the threat that led to their formation disappears. However, NATO defies the historical norm, not only surviving well beyond the Cold War's end, but also expanding its membership and broadening its mission.¶ NATO remains valuable to its members for a number of reasons. The expansion of the alliance has played an important role in consolidating stability and democracy in Central Europe, where members continue to look to NATO as a hedge against the return of a threat from Russia. In this respect, NATO and the European Union have been working in tandem to lock in a prosperous and secure Atlantic community.¶ Meanwhile, NATO has repeatedly demonstrated the utility of its integrated military capability. The alliance used force to end ethnic conflict in the Balkans and played a role in preserving the peace that followed. NATO has sustained a long-term presence in Afghanistan, helping to counter terrorism and prepare Afghans to take over responsibility for their own security. NATO also oversaw the mission in Libya that succeeded in stopping its civil war and removing the Qaddafi regime. All of these missions demonstrate NATO's utility and its contributions to the individual and collective welfare of its members, precisely why they continue to believe in the merits of membership.

#### Prefer experts – attack will happen

Robert J. Lieber 9, Professor of Government at Georgetown University, “Persistent primacy and the future of the American era”, International Politics (2009) 46, 119–139. doi:10.1057/ip.2008.44

It is also the judgment of prominent and largely non-partisan authorities on terrorism and proliferation that the use of CBRN may well occur within the next decade. For example, Robert L. Gallucci (2006, p. 52) has written that, ‘[U]nless many changes are made, it is more likely than not that al Qaeda or one of its affiliates will detonate a nuclear weapon in a US city within the next five to ten years.’ In addition, a survey of 100 foreign policy experts by Foreign Policy magazine and the Center for American Progress found that, ‘More than 80 per cent expect a terrorist attack on the scale of 9/11 within a decade’ (‘Terrorism Index,’ 2007, p. 62). Similarly, there are the responses of 85 national security and non-proliferation experts to a survey conducted by the US Senate Foreign Relations Committee staff for its then Chairman, Senator Richard Lugar of Indiana, and published in June 2005. These respondents were asked to predict the likelihood of a CBRN attack occurring anywhere in the world within the following 10 years and their average probability estimate was 29 per cent for a nuclear attack, 40 per cent for a radiological attack and 70 per cent for some kind of CBRN event (Senate, 2005).

## Solvency

### 2AC Circumvention

#### Congress solves circumvention---raises political costs

Ilya **Somin 11**, Professor of Law at George Mason University School of Law, June 21 2011, “Obama, the OLC, and the Libya Intervention,” http://www.volokh.com/2011/06/21/obama-the-olc-and-the-libya-intervention/

But I am more skeptical than Balkin that illegal presidential action can be constrained through better consultation with legal experts within the executive branch. The fact is that the president can almost always find respectable lawyers within his administration who will tell him that any policy he really wants to undertake is constitutional. Despite the opposition of the OLC, Obama got the view he wanted from the White House Counsel and from State Department Legal Adviser Harold Koh. Bush, of course, got it from within the OLC itself, in the form of John Yoo’s “torture memo.” This isn’t just because administration lawyers want to tell their political masters what they want to hear. It also arises from the understandable fact that administrations tend to appoint people who share the president’s ideological agenda and approach to constitutional interpretation. By all accounts, John Yoo was and is a true believer in nearly unlimited wartime executive power. He wasn’t simply trying to please Bush or Dick Cheney.¶ Better and more thorough consultation with executive branch lawyers can prevent the president from undertaking actions that virtually all legal experts believe to be unconstitutional. But on the many disputed questions where there is no such consensus, the president will usually be able find administration lawyers who will tell him what he wants to hear. To his credit, Ackerman is aware of this possibility, and recommends a creative institutional fix in his recent book: a new quasi-independent tribunal for assessing constitutional issues within the executive branch. I am somewhat skeptical that his approach will work, and it may well require a constitutional amendment to enact. I may elaborate these points in a future post, if time permits.¶ Regardless, for the foreseeable future, the main constraints on unconstitutional presidential activity must come from outside the executive branch – that is, from Congress, the courts, and public opinion. These constraints are highly imperfect. But they do impose genuine costs on presidents who cross the line. Ackerman cites the Watergate scandal, Iran-Contra and the “torture memo” as examples of the sorts of abuses of executive power that need to be restricted. True enough. But it’s worth remembering that Nixon was forced to resign over Watergate, Reagan paid a high political price for Iran-Contra, and the torture memo was a public relations disaster for Bush, whose administration eventually ended up withdrawing it (thanks in large part to the efforts of Jack Goldsmith). On the other side of the ledger, Bill Clinton paid little price for waging an illegal war in Kosovo, though he avoided it in part by keeping that conflict short and limited. It remains to be seen whether President Obama will suffer any political damage over Libya.

### AT: Self-Defense

#### Won’t shift to self-defense--- Barnes votes aff

Beau Barnes 12, J.D. Candidate, Boston University School of Law, “Reauthorizing the ‘War on Terror’: The Legal and Policy Implications of the AUMF’s Coming Obsolescence,” Military Law Review, Vol 211, http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2150874

This article, prompted by Congress’s recent failed efforts to revisit and refine the September 18, 2001, Authorization for Use of Military Force (AUMF), argues for a “middle ground” approach to the statute’s reauthorization. It makes the case that a new authorization is needed because, contrary to the Obama Administration’s suggestions, the current statute is rapidly approaching obsolescence. Despite the intense media focus on the most recent legislative cycle, Congress has left the 2001 authorization legally unaltered and still anchored to the September 11, 2001, attacks. Confronting this reality presents three options: foregoing military operations against non-Al Qaeda terrorist organizations, accepting the AUMF’s obsolescence and relying on alternative legal authority, or refashioning a new domestic statutory authority for the U.S. military’s global anti-terrorist operations.

## CP

### 2AC Word PIC

#### 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.

#### “Targeted killing” and detention are the most precise and objective term which avoids euphemism---all alternative terms fail

Nils Melzer 8, Legal Advisor for the International Committee of the Red Cross, "Targeted Killing in International Law", May 29, Oxford University Press, Google Books, p. 6-8

Depending on factors such as academic, political or military perspective, a wide variety of alternative terms has been used to describe State-sponsored targeted killings. On the non-technical end of the scale, the terminology ranges from simple euphemisms such as ‘liquidation’,9 ‘neutralization’,10 ‘elimination’,” or ‘interception’,’2 w more sophisticated composite terms emphasizing the selective, preventative or military character of the act, such as ‘targeted liquidation, targeted elimination, targeted thwarting, targeted self- defence’,’6 ‘preventive liquidation),7 ‘preventive killing,8 ‘selective argeting,9 or ‘strategic elimination’,20 and culminates in almost artistic verbiage such as ‘pinpointed preemptive actions’,21 ‘long-range hot pursuit’22 or ‘targeted frustration of terrorism’.23 Quite obviously, these terms not only lack sufficiently precise definitional contours, but also tend to indicate political preferences, which render them unsuitable for an objective and unprejudiced analysis of the method of targeted killing under international law.¶ On the more technical end of the scale, targeted killings are often, and some-times interchangeably,24 referred to as ‘extrajudicial executions’,25 ‘extrajudicial killings’,26 ‘extrajudicial punishment’27 or ‘assassinations’,28 terms which are widely regarded as referring to inherently unlawful conduct and, therefore, are equally unsuitable for an unprejudiced legal analysis.29 Moreover, for historical reasons, the prevailing legal definition of ‘assassination’ is far too narrow for a comprehensive analysis of the legal problems raised by the currently emerging State practice of targeted killing.30 Reference should finally be made to the technical terms used in German and Swiss legal doctrine, legislation and jurisprudence for the deliberate use of lethal force in law enforcement operations, which could literally be translated as ‘final rescue shot’ (finder Retrungsschuss,3’ ‘targeted shot of death’ (gezielter Thdesschuss32 and ‘targeted killing’ (gezielte Tbtung.33¶ The terms ‘final rescue shot’ and ‘targeted shot of death’ are too narrow for the intended scope of this analysis, because both presuppose the use of firearms, and the former additionally implies the use of lethal force in order to rescue a person. The notion of ‘targeted killing’ (gezieíte Törung), however, seems to reflect the decisive traits of the method under review with sufficient precision and neutral objectivity to allow a technical discussion without inclination to euphemism or polemic. At the same time, the notion of ‘targeted killing’ indicates no presumptions as to the international lawfulness of the method, and makes no unnecessary restrictions as to the means used or the motivation underlying a particular deprivation of life.34 The word ‘targeting’ describes the entire process of making a target of a person, from individual selection to the application of lethal force, whereas the word ‘killing’ describes the ultimate aim and result of the targeting process. The notion of ‘targeted killing’ has been adopted without substantial opposition by a large part of the legal doctrine,’5 and has also been used in the press36 and, most recently, by the UN Secretary-General.’7 For the purposes of the present analysis, therefore, the notion of ‘targeted killing’ will be preferred over alternative terms.

#### Can’t put discursive questions first

Taft-Kaufman 95 (Jill, PF Speech—Central Michigan, “OTHER WAYS: POSTMODERNISM AND PERFORMATIVE PRAXIS”, Southern Communication Journal v60n3 (Spring 1995) 225-6)

To the postmodernist, then, real objects have vanished. So, too, have real people. Smith (1988) suggests that postmodernism has canonized doubt about the availability of the referent to the point that "the real often disappears from consideration" (p. 159). Real individuals become abstractions. Subject positions rather than subjects are the focus. The emphasis on subject positions or construction of the discursive self engenders an accompanying critical sense of irony which recognizes that "all conceptualizations are limited" (Fischer, 1986, p. 224). This postmodern position evokes what Connor (1989) calls "an absolute weightlessness in which anything is imaginatively possible because nothing really matters" (p. 227). Clarke (1991) dubs it a "playfulness that produces emotional and/or political disinvestment: a refusal to be engaged" (p. 103). The luxury of being able to muse about what constitutes the self is a posture in keeping with a critical venue that divorces language from material objects and bodily subjects. The postmodern passwords of "polyvocality," "Otherness," and "difference," unsupported by substantial analysis of the concrete contexts of subjects, creates a solipsistic quagmire. The political sympathies of the new cultural critics, with their ostensible concern for the lack of power experienced by marginalized people, aligns them with the political left. Yet, despite their adversarial posture and talk of opposition, their discourses on intertextuality and inter-referentiality isolate them from and ignore the conditions that have produced leftist politics—conflict, racism, poverty, and injustice. In short, as Clarke (1991) asserts, postmodern emphasis on new subjects conceals the old subjects, those who have limited access to good jobs, food, housing, health care, and transportation, as well as to the media that depict them. Merod (1987) decries this situation as one which leaves no vision, will, or commitment to activism. He notes that academic lip service to the oppositional is underscored by the absence of focused collective or politically active intellectual communities. Provoked by the academic manifestations of this problem Di Leonardo (1990) echoes Merod and laments: Has there ever been a historical era characterized by as little radical analysis or activism and as much radical-chic writing as ours? Maundering on about Otherness: phallocentrism or Eurocentric tropes has become a lazy academic substitute for actual engagement with the detailed histories and contemporary realities of Western racial minorities, white women, or any Third World population. (p. 530) Clarke's assessment of the postmodern elevation of language to the "sine qua non" of critical discussion is an even stronger indictment against the trend. Clarke examines Lyotard's (1984) The Postmodern Condition in which Lyotard maintains that virtually all social relations are linguistic, and, therefore, it is through the coercion that threatens speech that we enter the "realm of terror" and society falls apart. To this assertion, Clarke replies: I can think of few more striking indicators of the political and intellectual impoverishment of a view of society that can only recognize the discursive. If the worst terror we can envisage is the threat not to be allowed to speak, we are appallingly ignorant of terror in its elaborate contemporary forms. It may be the intellectual's conception of terror (what else do we do but speak?), but its projection onto the rest of the world would be calamitous....(pp. 2-27) The realm of the discursive is derived from the requisites for human life, which are in the physical world, rather than in a world of ideas or symbols.(4) Nutrition, shelter, and protection are basic human needs that require collective activity for their fulfillment. Postmodern emphasis on the discursive without an accompanying analysis of how the discursive emerges from material circumstances hides the complex task of envisioning and working towards concrete social goals (Merod, 1987). Although the material conditions that create the situation of marginality escape the purview of the postmodernist, the situation and its consequences are not overlooked by scholars from marginalized groups. Robinson (1990) for example, argues that "the justice that working people deserve is economic, not just textual" (p. 571). Lopez (1992) states that "the starting point for organizing the program content of education or political action must be the present existential, concrete situation" (p. 299). West (1988) asserts that borrowing French post-structuralist discourses about "Otherness" blinds us to realities of American difference going on in front of us (p. 170). Unlike postmodern "textual radicals" who Rabinow (1986) acknowledges are "fuzzy about power and the realities of socioeconomic constraints" (p. 255), most writers from marginalized groups are clear about how discourse interweaves with the concrete circumstances that create lived experience. People whose lives form the material for postmodern counter-hegemonic discourse do not share the optimism over the new recognition of their discursive subjectivities, because such an acknowledgment does not address sufficiently their collective historical and current struggles against racism, sexism, homophobia, and economic injustice. They do not appreciate being told they are living in a world in which there are no more real subjects. Ideas have consequences. Emphasizing the discursive self when a person is hungry and homeless represents both a cultural and humane failure. The need to look beyond texts to the perception and attainment of concrete social goals keeps writers from marginalized groups ever-mindful of the specifics of how power works through political agendas, institutions, agencies, and the budgets that fuel them.

### 2AC Courts CP

#### Links to politics

Terence Samuel 9, Deputy Editor – The Root and Senior Correspondent - Prospect, “Obama's Honeymoon Nears Its End”, American Prospect, 5/29, http://www.prospect.org/cs/articles?article=obamas\_honeymoon\_nears\_its\_end

This week, Barack Obama named his first nominee to the Supreme Court, then headed west to Las Vegas and Los Angeles to raise money for Democrats in the 2010 midterms. Taken together, these two seemingly disparate acts mark the end of a certain period of innocence in the Obama administration: The "blame Bush" phase of the Obama administration is over, and the prolonged honeymoon that the president has enjoyed with the country and the media will soon come to an end as well. Obama is no longer just the inheritor of Bush's mess. This is now his presidency in his own right. The chance to choose a Supreme Court justice is such a sui generis exercise of executive power -- it so powerfully underscores the vast and unique powers of a president -- that blame-shifting has become a less effective political strategy, and less becoming as well. Obama's political maturation will be hastened by the impending ideological fight that is now virtually a guarantee for Supreme Court nominations. Old wounds will be opened, and old animosities will be triggered as the process moves along. Already we see the effect in the polls. While Obama himself remains incredibly popular, only 47 percent of Americans think his choice of Judge Sonia Sotomayor is an excellent or good choice for the Court, according to the latest Gallup poll. The stimulus package scored better than that. The prospect of a new justice really seems to force people to reconsider their culture warrior allegiances in the context of the party in power. This month, after news of Justice David Souter's retirement, a Gallup poll showed that more Americans considered themselves against abortion rights than in favor: 51 percent to 42 percent. Those number were almost exactly reversed a year ago when Bush was in office and Obama was on the verge of wrapping up the Democratic nomination. "This is the first time a majority of U.S. adults have identified themselves as pro-life since Gallup began asking this question in 1995," according to the polling organization. Is this the same country that elected Obama? Yes, but with his overwhelmingly Democratic Senate, the public may be sending preemptory signals that they are not interested in a huge swing on some of these cultural issues that tend to explode during nomination hearings. Even though Obama will win the Sotomayor fight, her confirmation is likely to leave him less popular in the end because it will involve contentious issues -- questions of race and gender politics like affirmative action and abortion -- that he managed to avoid or at least finesse through his campaign and during his presidency so far.

#### Perm do both---shields the link

Perine, 6/12/2008 (Katherine – staff at CQ politics, Congress unlikely to try to counter Supreme Court detainee ruling, CQ Politics, p. http://www.cqpolitics.com/wmspage.cfm?docID=news-000002896528&cpage=2)

Thursday’s decision, from a Supreme Court dominated by Republican appointees, gives Democrats further cover against GOP sniping. “This is something that the court has decided, and very often the court gives political cover to Congress,” said Ross K. Baker, a Rutgers University political science professor. “You can simply point to a Supreme Court decision and say, ‘The devil made me do it.’ ”

#### Congress necessary to prevent Court evisceration of War Powers

Benjamin Wittes 8, Senior Fellow in Governance Studies at the Brookings Institution, co-founder and editor-in-chief of the Lawfare blog, member of the Hoover Institution’s Task Force on National Security Law, Law and the Long War: The Future of Justice in the Age of Terror, google books

What the Supreme Court has done is carve itself a seat at the table. It has intimated, without ever deciding, that a constitutional basis for its actions exists—in addition to the statutory bases on which it decided the cases—meaning that its authority over overseas detentions may be an inherent feature of judicial power, not a policy question on which the legislature and executive can work their will. Whether the votes exist on the court to go this extra step we will find out soon enough. But the specter of a vastly different judicial posture in this area now haunts the executive branch—one in which the justices assert an inherent authority to review executive detention and interrogation practices, divine rights to apply with that jurisdiction based on due process and vaguely worded international humanitarian law principles not clearly implemented in U.S. law, and allow their own power to follow the military’s anywhere in the world. Such a posture would constitute an earthquake in the relationships among all three branches of government, and the doctrinal seeds for it have all been planted. Whether they ultimately take root depends on factors extrinsic to the war on terror—particularly the future composition of a Supreme Court now closely divided on these questions. It will also pivot on the manner in which the political branches posture the legal foundations of the war in the future. Building a strong legislative architecture now may be the only way to avert a major expansion of judicial power over foreign policy and warfare.

#### CP exposes US forces to prosecution, wrecking ops – only Congressional limits solve

Maxwell 12 - Colonel and Judge Advocate, U.S. Army, 1st Quarter 2012, “TARGETED KILLING, THE LAW, AND TERRORISTS: FEELING SAFE?,” Joint Force Quarterly, p. 123-130, Mark David Maxwell.

The Obama administration, like its predecessor, disagrees. Its legal justification for targeted killings outside a current zone of armed conflict is anticipatory self-defense. The administration cites the inherent and unilateral right every nation has to engage in anticipatory self-defense. This right is codified in the United Nations charter43 and is also part of the U.S. interpretation of customary international law stemming from the Caroline case in 1837. A British warship entered U.S. territory and destroyed an American steamboat, the Caroline. In response, U.S. Secretary of State Daniel Webster articulated the lasting acid test for anticipatory self-defense: “[N]ecessity of self defense [must be] instant, overwhelming, leaving no choice of means and no moment for deliberation . . . [and] the necessity of self defense, must be limited by that necessity and kept clearly within it.”44¶ A state can act under the guise of anticipatory self-defense. This truism, however, leaves domestic policymakers to struggle with two critical quandaries: first, the factual predicate required by the state to invoke anticipatory self-defense, on the one hand; and second, the protections the state’s soldiers possess when they act under this authority, on the other. As to the first issue, there is simply no guidance from Congress to the President; the threshold for triggering anticipatory self-defense is ad hoc. As to the second issue, under the law of war, a soldier who kills an enemy has immunity for these precapture or warlike acts.45 This “combatant immunity” attaches only when the law of war has been triggered. Does combatant immunity attach when the stated legal authority is self-defense? There is no clear answer.¶ The administration is blurring the contours of the right of the state to act in Yemen under self-defense and the law of war protections afforded its soldiers when so acting. Therefore, what protections do U.S. Airmen enjoy when operating the drone that killed an individual in Yemen, Somalia, or Libya? If they are indicted by a Spanish court for murder, what is the defense? Under the law of war, it is combatant immunity. But if the law of war is not triggered because the killing occurred outside the zone of armed conflict, the policy could expose Airmen to prosecution for murder.¶ In order to alleviate both of these quandaries, Congress must step in with legislative guidance. Congress has the constitutional obligation to fund and oversee military operations.46 The goal of congressional action must not be to thwart the President from protecting the United States from the dangers of a very hostile world. As the debates of the Church Committee demonstrated, however, the President’s unfettered authority in the realm of national security is a cause for concern. Clarification is required because the AUMF gave the President a blank check to use targeted killing under domestic law, but it never set parameters on the President’s authority when international legal norms intersect and potentially conflict with measures stemming from domestic law.

#### Judicial review would result in all targeted killings being ruled unconstitutional---courts would conclude they don’t satisfy the requirement of imminence for use of force in self-defense

Benjamin McKelvey 11, J.D., Vanderbilt University Law School, November 2011, “NOTE: Due Process Rights and the Targeted Killing of Suspected Terrorists: The Unconstitutional Scope of Executive Killing Power,” Vanderbilt Journal of Transnational Law, 44 Vand. J. Transnat'l L. 1353

In the alternative, and far more broadly, the DOJ argued that executive authority to conduct targeted killings is constitutionally committed power. n101 Under this interpretation, the President has the authority to defend the nation against imminent threats of attack. n102 This argument is not limited by statutory parameters or congressional authorization, such as that under the AUMF. n103 Rather, the duty to defend the nation is inherent in the President's constitutional powers and is not subject to judicial interference or review. n104

The DOJ is correct in arguing that the President is constitutionally empowered to use military force to protect the nation from imminent attack. n105 As the DOJ noted in its brief in response, the Supreme Court has held that the president has the authority to protect the nation from "imminent attack" and to decide the level of necessary force. n106 The same is true in the international context. Even though Yemen is not a warzone and al-Qaeda is not a state actor, international law accepts the position that countries may respond to specific, imminent threats of harm with lethal force. n107 [\*1367] Under these doctrines of domestic and international law, the use of lethal force against Aulaqi was valid if he presented a concrete, specific, and imminent threat of harm to the United States. n108

Therefore, the President was justified in using lethal force to protect the nation against Aulaqi, or any other American, if that individual presented a concrete threat that satisfied the "imminence" standard. n109 However, the judiciary may, as a matter of law, review the use of military force to ensure that it conforms with the limitations and conditions of statutory and constitional grants of authority. n110 In the context of targeted killing, a federal court could evaluate the targeted killing program to determine whether it satisfies the constitutional standard for the use of defensive force by the Executive Branch. Targeted killing, by its very name, suggests an entirely premeditated and offensive form of military force. n111 Moreover, the overview of the CIA's targeted killing program revealed a rigorous process involving an enormous amount of advance research, planning, and approval. n112 While the President has exclusive authority over determining whether a specific situation or individual presents an imminent threat to the nation, the judiciary has the authority to define "imminence" as a legal standard. n113 These [\*1368] are general concepts of law, not political questions, and they are subject to judicial review. n114

Under judicial review, a court would likely determine that targeted killing does not satisfy the imminence standard for the president's authority to use force in defense of the nation. Targeted killing is a premeditated assassination and the culmination of months of intelligence gathering, planning, and coordination. n115 "Imminence" would have no meaning as a standard if it were stretched to encompass such an elaborate and exhaustive process. n116 Similarly, the concept of "defensive" force is eviscerated and useless if it includes entirely premeditated and offensive forms of military action against a perceived threat. n117 Under judicial review, a court could easily and properly determine that targeted killing does not satisfy the imminence standard for the constitutional use of defensive force. n118

## DA

### 2AC Immigration DA

#### Won’t pass---GOP and Obama won’t spend PC

Zeke J. Miller 10/24, TIME, "Obama's New Immigration Pivot Isn't About Immigration", 2013, swampland.time.com/2013/10/24/obamas-new-immigration-pivot-isnt-about-immigration/

But privately, administration officials and congressional Democrats admit that they are unlikely to get immigration reform through Congress any time soon. Minutes after Obama spoke, Brendan Buck, a spokesman for Speaker John Boehner released a statement rejecting Obama’s calls for a comprehensive plan. “The House will not consider any massive, Obamacare-style legislation that no one understands,” Buck wrote. “Instead, the House is committed to a common sense, step-by-step approach that gives Americans confidence that reform is done the right way.”¶ Obama has long approached the issue of immigration cautiously, preferring to let congressional Democrats shoulder the burden of trying to push legislation through Congress—a fact that didn’t go unnoticed by activists. Obama has deported illegal immigrants at a faster rate than any other president, quickly approaching 2 million deportations in five years in office. That careful path shifted in 2012 when Obama signed an executive order deferring action for young illegal immigrants, known by advocates as “DREAMers” for the stymied legislation that would grant them a path to citizenship. The poll-tested election-year action helped Obama capture over 70 percent of the national Hispanic vote last November, and quickly after the election Obama made immigration reform a top priority.¶ Earlier this year the conditions were ripe for a compromise. Moderate Republicans, sensing that their party was rushing toward a demographic time bomb, were ready to compromise. Now the situation is entirely different. Some Republican proponents, like Sen. Marco Rubio, have gone quiet. The shutdown and debt limit battle has only emboldened the party’s conservative wing, who are less likely than ever before to embrace a part of the president’s agenda.

#### PC not key to immigration

Russell Berman 10/25/2013, “GOP comfortable ignoring Obama pleas for vote on immigration bill,” Hill, http://thehill.com/homenews/house/330527-gop-comfortable-ignoring-obama-pleas-to-move-to-immigration-reform

For President Obama and advocates hoping for a House vote on immigration reform this year, the reality is simple: Fat chance. [Video] Since the shutdown, Obama has repeatedly sought to turn the nation’s focus to immigration reform and pressure Republicans to take up the Senate’s bill, or something similar. But there are no signs that Republicans are feeling any pressure. Speaker John Boehner (R-Ohio) has repeatedly ruled out taking up the comprehensive Senate bill, and senior Republicans say it is unlikely that the party, bruised from its internal battle over the government shutdown, would pivot quickly to an issue that has long rankled conservatives. Rep. Tom Cole (R-Okla.), a leadership ally, told reporters Wednesday there is virtually no chance the party would take up immigration reform before the next round of budget and debt-ceiling fights are settled. While that could happen by December if a budget conference committee strikes an agreement, that fight is more likely to drag on well into 2014: The next deadline for lifting the debt ceiling, for example, is not until Feb. 7. “I don’t even think we’ll get to that point until we get these other problems solved,” Cole said. He said it was unrealistic to expect the House to be able to tackle what he called the “divisive and difficult issue” of immigration when it can barely handle the most basic task of keeping the government’s lights on. “We’re not sure we can chew gum, let alone walk and chew gum, so let’s just chew gum for a while,” Cole said. In a colloquy on the House floor, Minority Whip Steny Hoyer (D-Md.) asked Majority Leader Eric Cantor (R-Va.) to outline the GOP's agenda between now and the end of 2013. Cantor rattled off a handful of issues — finishing a farm bill, energy legislation, more efforts to go after ObamaCare — but immigration reform was notably absent. When Hoyer asked Cantor directly on the House floor for an update on immigration efforts, the majority leader was similarly vague. “There are plenty of bipartisan efforts underway and in discussion between members on both sides of the aisle to try and address what is broken about our immigration system,” Cantor said. “The committees are still working on this issue, and I expect us to move forward this year in trying to address reform and what is broken about our system.” Immigration reform advocates in both parties have long set the end of the year as a soft deadline for enacting an overhaul because of the assumption that it would be impossible to pass such contentious legislation in an election year. Aides say party leaders have not ruled out bringing up immigration reform in the next two months, but there is no current plan to do so. The legislative calendar is also quite limited; because of holidays and recesses, the House is scheduled to be in session for just five weeks for the remainder of the year. In recent weeks, however, some advocates have held out hope that the issue would remain viable for the first few months of 2014, before the midterm congressional campaigns heat up. Democrats and immigration reform activists have long vowed to punish Republicans in 2014 if they stymie reform efforts, and the issue is expected to play prominently in districts with a significant percentage of Hispanic voters next year. With the shutdown having sent the GOP’s approval rating plummeting, Democrats have appealed to Republicans to use immigration reform as a chance to demonstrate to voters that the two parties can work together and that Congress can do more than simply careen from crisis to crisis. “Rather than create problems, let’s prove to the American people that Washington can actually solve some problems,” Obama said Thursday in his latest effort to spur the issue on. But Republicans largely dismiss that line of thinking and say the two-week shutdown damaged what little trust between the GOP and Obama there was at the outset. “There is a sincere desire to get it done, but there is also very little goodwill after the president spent the last two months refusing to work with us,” a House GOP leadership aide said. “In that way, his approach in the fiscal fights was very short-sighted: It made his achieving his real priorities much more difficult.”

**Plan boosts Obama’s capital**

Douglas **Kriner 10**, Assistant Profess of Political Science at Boston University, After the Rubicon: Congress, Presidents, and the Politics of Waging War, p. 59-60

Presidents and politicos alike have long recognized Congress's ability to reduce the political costs that the White House risks incurring by pursuing a major military initiative. While declarations of war are all but extinct in the contemporary period, Congress has repeatedly moved to authorize presidential military deployments and consequently to tie its own institutional prestige to the conduct and ultimate success of a military campaign. Such authorizing legislation, even if it fails to pass both chambers, creates a sense of **shared legislative-executive responsibility** for a military action's success and provides the president with **considerable political support** for his chosen policy course.34 Indeed, the desire for this political cover—and not for the constitutional sanction a congressional authorization affords—has historically motivated presidents to seek Congress's blessing for military endeavors. For example, both the elder and younger Bush requested legislative approval for their wars against Iraq, while assiduously maintaining that they possessed sufficient independent authority as commander in chief to order the invasions unilaterally.35 This fundamental tension is readily apparent in the elder Bush's signing statement to HJ Res 77, which authorized military action against Saddam Hussein in January of 1991. While the president expressed his gratitude for the statement of congressional support, he insisted that the resolution was not needed to authorize military action in Iraq. "As I made clear to congressional leaders at the outset, my request for congressional support did not, and my signing this resolution does not, constitute any change in the long-standing positions of the executive branch on either the President's constitutional authority to use the Armed Forces to defend vital U.S. interests or the constitutionality of the War Powers Resolution."36

#### Regardless of PC, Obama has no cred which wrecks his agenda

Keith Koffler 10/11, who covered the White House as a reporter for CongressDaily and Roll Call, is editor of the website White House Dossier, "Obama's crisis of credibility", 2013, www.politico.com/story/2013/10/obamas-crisis-of-credibility-98153.html

President Barack Obama is like a novice flier thrust into the cockpit of a 747. He’s pushing buttons, flipping switches and radioing air traffic control, but nothing’s happening. The plane is just slowly descending on its own, and while it may or may not crash, it at least doesn’t appear to be headed to any particularly useful destination.¶ Obama’s ineffectiveness, always a hallmark of his presidency, has reached a new cruising altitude this year. Not even a year into his second term, he looks like a lame duck and quacks like a lame duck. You guessed it — he’s a lame duck.¶ On the world stage, despite Obama’s exertions, Iran’s centrifuges are still spinning, the Israelis and Palestinians remain far apart, Bashar Assad is still in power, the Taliban are gaining strength and Iraq is gripped by renewed violence.¶ At home, none of Obama’s agenda has passed this year. Republicans aren’t bowing to him in the battle of the budget, and much of the GOP seems uninterested in House Speaker John Boehner’s vision of some new grand bargain with the president.¶ Obama has something worse on his hands than being hated. All presidents get hated. But Obama is being ignored. And that’s because he has no credibility.¶ A president enters office having earned a certain stock of political capital just for getting elected. He then spends it down, moving his agenda forward, until he collects a fresh supply by getting reelected.¶ But political capital is only the intangible substrate that gives a president his might. His presidency must also be nourished by credibility — a sense he can be trusted, relied upon and feared — to make things happen.¶ A president enters office with a measure of credibility. After all, he seemed at least trustworthy enough to get elected. But unlike political capital, credibility must be built in office. Otherwise, it is squandered.¶ Obama has used every credibility-busting method available to eviscerate any sense that he can be counted on. He’s dissimulated, proven his unreliability, ruled arbitrarily and turned the White House into a Chicago-style political boiler room. His credibility has been sapped with his political opponents, a public that thinks him incompetent, our allies, who don’t trust him, and, even worse, our enemies, who don’t fear him.¶ There’s not going to be any grand bargain on the budget this year. Republicans are not only miles from the president ideologically — they’re not going to trust him with holding up his end of the bargain. If they had a president they thought they could do business with, their spines might be weakening more quickly in the current budget impasse and they would be looking for an exit.¶ There are the unkept promises like closing Guantanamo, halving the deficit during his first term and bringing unemployment down below 8 percent as a result of the 2009 stimulus. Then there are the moments when one has to conclude that Obama could not have possibly been telling the truth.¶ His contention when selling Obamacare that people would be able to keep their insurance and their doctors is not simply “turning out” to be wrong. That some people would lose either their doctors or their insurance is an obvious result of a properly functioning Affordable Care Act. He could not possibly have known so little about his signature program that he didn’t foresee such a possibility.¶ Last year, the independent Politifact.com rated Obama’s vow to pass health care reform that reduces premiums for the average family by $2,500 a “promise broken,” suggesting that premiums might in fact go up slightly. Obama’s claim that Obamacare reduces the deficit is also probably wrong. In an article published Wednesday, Charles Blahous, the Republican-appointed Medicare Public Trustee, notes that he has estimated Obamacare would add $340 billion to federal deficits in its first decade, and that recent evidence suggests the tally is likely to be higher. But certainly Obama has performed a sleight of hand, since budget savings used to “pay for” Obamacare can no longer be used to subtract from the deficit.¶ Meanwhile, Republicans can’t trust the president to abide by any deal he might sign since he has a record of picking and choosing which laws to enforce. He stopped enforcing the Defense of Marriage Act before it was declared unconstitutional. Having not gotten the “Dream Act” out of Congress, he wrote it himself, choosing not to send certain children of illegal immigrants back to their native countries. He attacked Libya without the consent of Congress.¶ Sapping his credibility further is willingness to harbor and express vicious contempt for his ideological opposites, whom he variously describes as terrorists, “extremists,” and “enemies.” Behaving like a Chicago ward boss is not going to advance his agenda very far on Capitol Hill.¶ Obama’s failure to enforce his “red line” with Syria on the use of chemical weapons and punt the matter to a dubious weapons destruction process is only the latest example of his inconstancy. The president failed to maintain a needed troop presence in Iraq, resulting in disastrous and sustained violence that is wasting our efforts there; he tarried in supporting a potential Iranian uprising; he dumped a stalwart U.S. ally, Egypt, into the hands of the Muslim Brotherhood; he said Assad had to go, and then Assad didn’t go; he broke his promise to Hispanic voters to move immigration reform during his first term; and he dropped an additional $400 million in revenue on the table to blow up a potentially massive 2011 budget bargain with Republicans.¶ The only thing Obama can truly be counted on is to make his tee time on Saturdays, though the government shutdown has temporarily cramped his golf game.¶ During his first year in office, Ronald Reagan crushed an illegal strike by air traffic controllers by firing them all, defying charges that he was a union-busting thug and that planes would soon be dropping out of the sky. It was a moment that convinced observers at home and abroad that Reagan was not to be taken lightly, that he was a serious man of his word, and that he was to be respected and even feared. And so he got things done.¶ Obama has never shown similar fortitude to the world for the simple reason that he lacks it. Obama is not to be feared, or even trusted. And that’s a fatal flaw in a president.

#### Laundry list pounds the agenda

WSJ 10/17, Peter Nicholas and Carol E. Lee, "Obama's Agenda Faces Rocky Road", 2013, online.wsj.com/news/articles/SB10001424052702303680404579141472200495820

Yet as much as he wants to shift the focus to immigration and the farm bill, Mr. Obama will have trouble pulling it off. His administration is under pressure to fix the operational problems that have bedeviled the new health-care exchanges.¶ The next set of fiscal deadlines, and worries about the next round of the across-the-board spending cuts, scheduled to take effect in mid-January, are likely to overshadow other efforts. That leaves lawmakers with only a narrow window of time to tackle any remotely complex legislation before the 2014 midterm dynamics overtake Washington.¶ Messy internal GOP politics over the farm bill could also complicate lawmakers' efforts to reconcile the different measures passed by the House and Senate.¶ As for immigration, House Republicans have said they plan to consider piecemeal immigration bills, but so far not one has reached the House floor.¶ Rep. Raul Labrador (R., Idaho), a conservative who has urged Republicans to tackle immigration changes, said Wednesday the budget fight would make it harder for GOP leaders to negotiate with the president on immigration.

#### Reform fails---changes cause backlog

Murthy 9 Law Firm, “What if CIR Passes? Can USCIS Handle the Increased Workload?”, NewsBrief, 10-30, http://www.murthy.com/news/n\_cirwkl.html

Any type of legalization program will face significant opposition, particularly during an economic downturn. However, given the numbers of individuals possibly eligible, even under a less expansive program, the USCIS must prepare for a potential onslaught of applications if any type of CIR passes and becomes the law. As many MurthyDotCom and MurthyBulletin readers know from personal experience, the USCIS has historically suffered from backlogs and capacity issues. Were such a measure to pass, absent substantial changes, a flood of new applications could pose a significant challenge to the processing capacity of the USCIS. *USCIS Preparing to Expand Rapidly, Should Need Arise* A Reuters blog quoted USCIS spokesman, Bill Wright, as saying, “The agency has been preparing for the advent of any kind of a comprehensive immigration reform, and if that means a surge of applications and operations, we have been working toward that.” USCIS Director, Alejandro Mayorkas, has stated that the goal of the USCIS is to be ready to expand rapidly to handle the increase in applications that would result from CIR. In the past, opponents have used lack of capacity and preparation as an argument against CIR and expansion of eligibility for immigration benefits. *Will CIR Result in Increased or Reduced Backlogs for Others?* Legal immigrants and their employers have concerns about being disadvantaged by any CIR legislation that would provide benefits to undocumented workers. However, true CIR is not limited to these provisions, and would be expected to contain provisions regarding various aspects of legal immigration. CIR certainly will be hotly debated and any proposed legislation will be modified throughout the debate process. As part of the preparations of the USCIS, and in order not to harm those who have already initiated cases under existing law, the USCIS needs to continue to work on backlogs. While significant progress has been made in many areas, and case processing times have been improved greatly, there are still case backlogs that need to be addressed.

### AT: Economy Impact

#### Immigration not key to economy

Mike Flynn 13, Breitbart reporter, July 13, "White House Oversells Economic Benefits of Immigration Reform," www.breitbart.com/Big-Government/2013/07/13/white-house-oversells-economic-benefits-of-immigration-reform

On Saturday, President Obama used his weekly radio address to tout the economic benefits of passing the Senate immigration reform bill. On Wednesday, the White House issued a report saying the immigration reform bill would both trim the deficit and boost the economy over the next two decades. Even accepting the Administration's numbers at face-value, the report shows how little would be gained economically from reform in the long-term. In the short-term, however, there are some very real costs ignored by the White House.¶ The White House report draws heavily from a CBO analysis on the economic impact of the Senate bill, released in mid-June. The CBO estimates that, under the Senate bill, in 20 years, the nation's GDP would be $1.4 trillion higher than it otherwise would be if the bill didn't pass. The Administration claims the bill will grow the economy by 5.4% in that time-frame. ¶ Which sounds impressive, until one realizes that we are talking about a 20 year window here. An incremental growth of 5% over two decades isn't exactly an economic bonanza. In that time-span the US economy will generate $300-500 trillion in total economic impact. An extra few trillion is at the margins or the margins.¶ Worse, the economic benefits the CBO estimates will accrue only begin at least a decade after enactment. Through 2031, Gross National Product, which measures the output of US residents and firms, would be lower than it otherwise would be. In ten years, the per capita GNP would be almost 1% lower than without the Senate bill. ¶ The CBO analysis also shows that average wages of American workers would be lower than they otherwise would be through at least the first 10 years of the law's enactment. The unemployment rate would also rise for the first decade, due to a large increase in the labor force.¶ Supporters and opponents of immigration reform both overstate its economic impact. In a nation of more than 300 million people and a $16 trillion economy, any economic impact is going to be felt at the margins. The CBO, however, finds that, for at least a decade, the economic effects of the Senate bill are negative at the margins. After 2 decades, the CBO says the effects become positive at the margin. ¶ A decade of relatively worse economic performance to secure marginally better performance 20 years from now is not an obviously good bargain. One can make many argument in favor of immigration reform. Economic growth, however, seems a very weak one.

#### TTIP ensures global economic recovery

Doug Palmer 13, “White House gives Congress 90-day notice on EU trade talks,” 3-20, http://www.reuters.com/article/2013/03/20/us-usa-eu-trade-idUSBRE92J17V20130320

Because tariffs across the Atlantic are relatively low, the hard work of the negotiations will be smoothing out regulatory differences that have stunted trade in areas such as agriculture, chemicals, pharmaceutical and autos.¶ NOT 'A MAGIC POTION'¶ Two-way goods and services trade between the United States and the EU totals about $1 trillion annually. The two sides also have combined foreign direct investment in each other's market of about $3.7 trillion.¶ But bilateral trade between the two large, mature economies has grown slowly in recent years because of the effects of 2008-2009 financial crisis and competing subsidy and regulatory policies, the Peterson Institute for International Economics noted in a recent policy brief.¶ "A trade accord is not a magic potion for prosperity, **but it can contribute to economic recovery by removing even relatively low barriers across a large volume of bilateral trade**," the Washington-based think tank said.¶ The Center for Economic Policy Research in London has estimated a U.S.-EU free trade agreement could generate 119 billion euros ($155 billion) a year for the European Union and 95 billion euros a year for the United States.

## K

### FW

#### Learning technical policy aspects of military policy is key---alt coopted

Lorelei Kelly 10, national security expert and Director of the New Strategic Security Initiative and the Afghanistan Congressional Communications Hub, former Senior Associate at the Henry L. Stimson Center, holds a B.A. from Grinnell College and an M.A. from Stanford University and the Air Command and Staff College of the U.S. Air Force, “Afghanistan: Should We Stay or Should We Go?,” Foreign Policy In Focus, April 14th, Available Online at http://www.fpif.org/articles/afghanistan\_should\_we\_stay\_or\_should\_we\_go, Accessed 09-09-2010

What I'm saying is that if you have a message that always makes the military a malign actor, I think that you are not going to get inside the room on the policy debate. Not when most of the money, most of the personnel, and most of the creative initiatives have come out of the Pentagon. Those things not coming out of the State Department, which doesn't have the capacity. They're trying, but will they really be part of a huge transformation of our own government to create a different posture in the world? I don't know. I don't disagree that having some sort of [outside] mobilization is important. But what I have seen in the last 20 years is that the sort of mobilize-and-punish relationship with your elected leaders doesn't work. We spend all our time and effort there, and we're not in the room making the deals. I can't tell you how good the conservative[s are] at being in the room. They shape the environment; they're there first. I fear that if progressives aren't gently and lovingly making the case that the military is not the vehicle to carry out the policies that are going to make us more prosperous and secure in the future, we are going to be a country where the only functioning, healthy institution is the military.

### Isaac-Must Read

#### Consequentialism key---pacifism is complicit with evil

**Isaac 2**—Professor of Political Science at Indiana-Bloomington, Director of the Center for the Study of Democracy and Public Life, PhD from Yale (Jeffery C., Dissent Magazine, Vol. 49, Iss. 2, “Ends, Means, and Politics,” p. Proquest)

As a result, the most important political questions are simply not asked. It is assumed that U.S. military intervention is an act of "aggression," but no consideration is given to the aggression to which intervention is a response. The status quo ante in Afghanistan is not, as peace activists would have it, peace, but rather terrorist violence abetted by a regime--the Taliban--that rose to power through brutality and repression. This requires us to ask a question that most "peace" activists would prefer not to ask: What should be done to respond to the violence of a Saddam Hussein, or a Milosevic, or a Taliban regime? What means are likely to stop violence and bring criminals to justice? Calls for diplomacy and international law are well intended and important; they implicate a decent and civilized ethic of global order. But they are also vague and empty, because they are not accompanied by any account of how diplomacy or international law can work effectively to address the problem at hand. The campus left offers no such account. To do so would require it to contemplate tragic choices in which moral goodness is of limited utility. Here what matters is not purity of intention but the intelligent exercise of power. Power is not a dirty word or an unfortunate feature of the world. It is the core of politics. Power is the ability to effect outcomes in the world. Politics, in large part, involves contests over the distribution and use of power. To accomplish anything in the political world, one must attend to the means that are necessary to bring it about. And to develop such means is to develop, and to exercise, power. To say this is not to say that power is beyond morality. It is to say that power is not reducible to morality. As writers such as Niccolo Machiavelli, Max Weber, Reinhold Niebuhr, and Hannah Arendt have taught, an unyielding concern with moral goodness **undercuts political responsibility**. The concern may be morally laudable, reflecting a kind of personal integrity, but it suffers from three fatal flaws: (1) It fails to see that the purity of one's intention does not ensure the achievement of what one intends. Abjuring violence or refusing to make common cause with morally compromised parties may seem like the right thing; but if such tactics entail impotence, then it is hard to view them as serving any moral good beyond the clean conscience of their supporters; (2) it fails to see that in a world of real violence and injustice, moral purity is not simply a form of powerlessness; it is often a form of **complicity in injustice**. This is why, from the standpoint of politics--as opposed to religion--pacifism is always a potentially immoral stand. In categorically repudiating violence, it refuses in principle to oppose certain violent injustices with any effect; and (3) it fails to see that **politics is as much about unintended consequences as it is about intentions**; it is the effects of action, rather than the motives of action, that is most significant. Just as the alignment with "good" may engender impotence, it is often the pursuit of "good" that generates evil. This is the lesson of communism in the twentieth century: it is not enough that one's goals be sincere or idealistic; it is equally important, always, to ask about the effects of pursuing these goals and to judge these effects in pragmatic and historically contextualized ways. Moral absolutism inhibits this judgment. It alienates those who are not true believers. It promotes arrogance. And it undermines political effectiveness.

### AT: Prior Questions – Cochrane

#### Prior questions will never be fully settled---must take action even under conditions of uncertainty

Molly Cochran 99, Assistant Professor of International Affairs at Georgia Institute for Technology, “Normative Theory in International Relations”, 1999, pg. 272

To conclude this chapter, while modernist and postmodernist debates continue, while we are still unsure as to what we can legitimately identify as a feminist ethical/political concern, while we still are unclear about the relationship between discourse and experience, it is particularly important for feminists that we proceed with analysis of both the material (institutional and structural) as well as the discursive. This holds not only for feminists, but for all theorists oriented towards the goal of extending further moral inclusion in the present social sciences climate of epistemological uncertainty. Important ethical/political concerns hang in the balance. We cannot afford to wait for the meta-theoretical questions to be conclusively answered. Those answers may be unavailable. Nor can we wait for a credible vision of an alternative institutional order to appear before an emancipatory agenda can be kicked into gear. Nor do we have before us a chicken and egg question of which comes first: sorting out the metatheoretical issues or working out which practices contribute to a credible institutional vision. The two questions can and should be pursued together, and can be via moral imagination. Imagination can help us think beyond discursive and material conditions which limit us, by pushing the boundaries of those limitations in thought and examining what yields. In this respect, I believe international ethics as pragmatic critique can be a useful ally to feminist and normative theorists generally.

### No Impact to Reps

#### Reps don’t cause war

Reiter 95 DAN REITER is a Professor of Political Science at Emory University and has been an Olin post-doctoral fellow in security studies at Harvard “Exploring the Powder Keg Myth” International Security v20 No2 Autumn 1995 pp 5-34 JSTOR

A criticism of assessing the frequency of preemptive wars by looking only at wars themselves is that this misses the non-events, that is, instances in which preemption would be predicted but did not occur. However, excluding non-events should bias the results in favor of finding that preemptive war is an important path to war, as the inclusion of non-events could only make it seem that the event was less frequent. Therefore, if preemptive wars seem infrequent within the set of wars alone, then this would have to be considered strong evidence in favor of the third, **most skeptical view of preemptive war**, because even when the sample is rigged to make preemptive wars seem frequent (by including only wars), they are still rare events. Below, a few cases in which preemption did not occur are discussed to illustrate factors that constrain preemption.¶ The rarity of preemptive wars offers preliminary support for the third, most skeptical view, that the preemption scenario does not tell us much about how war breaks out. Closer examination of the three cases of preemption, set forth below, casts doubt on the validity of the two preemption hypotheses discussed earlier: that hostile images of the enemy increase the chances of preemption, and that belief in the dominance of the offense increases the chances of preemption. In each case there are motives for war aside from fear of an imminent attack, indicating that such fears may not be sufficient to cause war. In addition, in these cases of war the two conditions hypothesized to stimulate preemption—hostile images of the adversary and belief in the military advantages of striking first—are present to a very high degree. This implies that these are insubstantial causal forces, as they are associated with the outbreak of war only when they are present to a very high degree. This reduces even further the significance of these forces as causes of war. To illustrate this point, consider an analogy: say there is a hypothesis that saccharin causes cancer. Discovering that rats who were fed a lot of saccharin and also received high levels of X-ray exposure, which we know causes cancer, had a higher risk for cancer does not, however, set off alarm bells about the risks of saccharin. Though there might be a relationship between saccharin consumption and cancer, this is not demonstrated by the results of such a test.

### AT: Morality/Ethics First---CBA Key

#### Policy analysis is preferable to prioritization of morality

Michael J. Glennon 11, Tufts University - The Fletcher School of Law and Diplomacy, "Pre-Empting Proliferation: International Law, Morality, and Nuclear Weapons", November 23, papers.ssrn.com/sol3/papers.cfm?abstract\_id=1963849

Michael Walzer is right that dwelling the United Nations Charter’s use-of-force rules constitutes “utopian quibbling.” But he is wrong in arguing that “practical morality” of the sort defended in Just and Unjust Wars (2006) presents a useful analytic framework in addressing issues such as the advisability of using force to counter threats of nuclear proliferation. The problem is that Walzer’s moral evaluations do not meet the standard of consistency that he himself demands, and the foundational inconsistency of his moral appraisals produces precisely the context-oriented relativism that he rejects. Policy analysis offers a preferable approach because it makes fewer assumptions. Its vocabulary interposes no problematic metaphysical infrastructure between ends and means, and it generates no debate that is not directly pertinent to the decision at hand. Neither international law nor practical morality ― nor a consequentialist calculus of national interest ― can eliminate the need for judicious choice and subjective judgment.

### Squo Improving

#### Squo is structurally improving---war, health, environment and equality

Bjorn Lomborg 10/16, Adjunct Professor at the Copenhagen Business School, "A Better World Is Here", 2013, www.project-syndicate.org/commentary/on-the-declining-costs-of-global-problems-by-bj-rn-lomborg

COPENHAGEN – For centuries, optimists and pessimists have argued over the state of the world. Pessimists see a world where more people means less food, where rising demand for resources means depletion and war, and, in recent decades, where boosting production capacity means more pollution and global warming. One of the current generation of pessimists’ sacred texts, The Limits to Growth, influences the environmental movement to this day.¶ The optimists, by contrast, cheerfully claim that everything – human health, living standards, environmental quality, and so on – is getting better. Their opponents think of them as “cornucopian” economists, placing their faith in the market to fix any and all problems.¶ But, rather than picking facts and stories to fit some grand narrative of decline or progress, we should try to compare across all areas of human existence to see if the world really is doing better or worse. Together with 21 of the world’s top economists, I have tried to do just that, developing a scorecard spanning 150 years. Across ten areas – including health, education, war, gender, air pollution, climate change, and biodiversity – the economists all answered the same question: What was the relative cost of this problem in every year since 1900, all the way to 2013, with predictions to 2050.¶ Using classic economic valuations of everything from lost lives, bad health, and illiteracy to wetlands destruction and increased hurricane damage from global warming, the economists show how much each problem costs. To estimate the magnitude of the problem, it is compared to the total resources available to fix it. This gives us the problem’s size as a share of GDP. And the trends since 1900 are sometimes surprising.¶ Consider gender inequality. Essentially, we were excluding almost half the world’s population from production. In 1900, only 15% of the global workforce was female. What is the loss from lower female workforce participation? Even taking into account that someone has to do unpaid housework and the increased costs of female education, the loss was at least 17% of global GDP in 1900. Today, with higher female participation and lower wage differentials, the loss is 7% – and projected to fall to 4% by 2050.¶ It will probably come as a big surprise that climate change from 1900 to 2025 has mostly been a net benefit, increasing welfare by about 1.5% of GDP per year. This is because global warming has mixed effects; for moderate warming, the benefits prevail.¶ On one hand, because CO2 works as a fertilizer, higher levels have been a boon for agriculture, which comprises the biggest positive impact, at 0.8% of GDP. Likewise, moderate warming prevents more cold deaths than the number of extra heat deaths that it causes. It also reduces demand for heating more than it increases the costs of cooling, implying a gain of about 0.4% of GDP. On the other hand, warming increases water stress, costing about 0.2% of GDP, and negatively affects ecosystems like wetlands, at a cost of about 0.1%.¶ As temperatures rise, however, the costs will rise and the benefits will decline, leading to a dramatic reduction in net benefits. After the year 2070, global warming will become a net cost to the world, justifying cost-effective climate action now and in the decades to come.¶ Yet, to put matters in perspective, the scorecard also shows us that the world’s biggest environmental problem by far is indoor air pollution. Today, indoor pollution from cooking and heating with bad fuels kills more than three million people annually, or the equivalent of a loss of 3% of global GDP. But in 1900, the cost was 19% of GDP, and it is expected to drop to 1% of GDP by 2050.¶ Health indicators worldwide have shown some of the largest improvements. Human life expectancy barely changed before the late eighteenth century. Yet it is difficult to overstate the magnitude of the gain since 1900: in that year, life expectancy worldwide was 32 years, compared to 69 now (and a projection of 76 years in 2050).¶ The biggest factor was the fall in infant mortality. For example, even as late as 1970, only around 5% of infants were vaccinated against measles, tetanus, whooping cough, diphtheria, and polio. By 2000, it was 85%, saving about three million lives annually – more, each year, than world peace would have saved in the twentieth century.¶ This success has many parents. The Gates Foundation and the GAVI Alliance have spent more than $2.5 billion and promised another $10 billion for vaccines. Efforts by the Rotary Club, the World Health Organization, and many others have reduced polio by 99% worldwide since 1979.¶ In economic terms, the cost of poor health at the outset of the twentieth century was an astounding 32% of global GDP. Today, it is down to about 11%, and by 2050 it will be half that.¶ While the optimists are not entirely right (loss of biodiversity in the twentieth century probably cost about 1% of GDP per year, with some places losing much more), the overall picture is clear. Most of the topics in the scorecard show improvements of 5-20% of GDP. And the overall trend is even clearer. Global problems have declined dramatically relative to the resources available to tackle them.¶ Of course, this does not mean that there are no more problems. Although much smaller, problems in health, education, malnutrition, air pollution, gender inequality, and trade remain large.¶ But realists should now embrace the view that the world is doing much better. Moreover, the scorecard shows us where the substantial challenges remain for a better 2050. We should guide our future attention not on the basis of the scariest stories or loudest pressure groups, but on objective assessments of where we can do the most good.

### AT: Positive Peace

#### Nuke war outweighs positive peace

Folk 78 – Peace Studies Professor, Bethany College (Jerry, Peace Education-Peace Studies Programs, Peace Change 5.1)

Those proponents of the positive peace approach who reject out of hand the work of researchers and educators coming to the field from the perspective of negative peace too easily forget that the prevention of a nuclear confrontation of global dimensions is the prerequisite for all other peace research, education, and action. Unless such a confrontation can be avoided there will be no world left in which to build positive peace. Moreover, the blanket condemnation of all such negative peace oriented research, education or action as a reactionary attempt to support and reinforce the status quo is doctrinaire. Conflict theory and resolution, disarmament studies, studies of the international system and of international organizations, and integration studies are in themselves neutral. They do not intrinsically support either the status quo or revolutionary efforts to change or overthrow it. Rather they offer a body of knowledge which can be used for either purpose or for some purpose in between. It is much more logical for those who understand peace as positive peace to integrate this knowledge into their own framework and to utilize it in achieving their own purposes. A balanced peace studies program should therefore offer the student exposure to the questions and concerns which occupy those who view the field essentially from the point of view of negative peace.

### Pacifism Alt Fails

#### Pacifism alternative fails---too optimistic and speculative

Brian Orend 6, Director of International Studies, and a Professor of Philosophy, at the University of Waterloo in Canada, "The Morality of War", Broadview Press, Google Books, p. 263

Summary¶ The goal of this chapter was to discuss and evaluate the pacifist alternative to just war theory. We described various pacifist arguments with considerable care and charity. But the arguments for TP. CP and DP are, in the final analysis, not as strong as those of just war theory. Pacifism, while well-intentioned seems, in effect, to reward aggression and to fail to take measures needed to protect people from aggression. Pacifism is also premised on an excessively optimistic view of the world. It does offer an alternative to armed resistance, but the success of this method historically seems deeply questionable. The method of systematic civil disobedience in the face of aggression remains essentially untried, for it has worked only in cases where the target was morally sensitive to begin with. When the target or aggressor is not sensitive, the result of this method is pure speculation. Pacifists hope it will work—and hope is a virtue—but this ultimately makes me wonder very seriously whether pacifism can actually be divorced from religion. It would seem that only under the warm blanket of religious faith could pacifism’s prospects, in our rough- and-tumble world, seem promising.

#### Pacifism fails---amounts to surrender and relies upon aggressor

Brian Orend 6, Director of International Studies, and a Professor of Philosophy, at the University of Waterloo in Canada, "The Morality of War", Broadview Press, Google Books, p. 247-8

There is something to TP, just as there is something in every major doctrine on the ethics of war and peace. But there are problems. The major one is whether the commitments of the pacifist are utopian (i.e., excessively unrealistic). War might be a nasty business which, ultimately, calls forth more vice than virtue. But it might also simply be needed to defeat an aggressor who is not moved by pacifist ideals. A world where aggressors are allowed to triumph, and then to inflict rights-violating brutality, is not part of any sane person’s idea of the best life, either. And there is something to be said, in the case of a just war, for: the virtues of defending one’s people (or fellow citizens) from aggression: the courage it takes to confront an aggressor; the self- discipline it takes to fight justly: and the strength and ingenuity it takes to formulate and execute a successful war plan. More generally, justice is also a virtue, and a major one at that. Much of the dispute has to do with different perspectives on what to do when the world puts us ill situations where the virtues of peace and justice are in conflict, and cannot both be realized. Where just war theorists differ from pacifists is that they suspect that there can he cases where justice does not include peace or, more precisely, where peace includes or creates injustice. Consider that just war theorists, like Michael Walzer. argue that, by failing to resist international aggression with effective means, pacifists end up rewarding aggression and failing to protect people—fellow citizens—who need it.’°¶ Pacifists reply to these just war arguments by contending that we do not need to resort to war in order to protect people and to punish aggression effectively. In the event of an armed invasion by an aggressor state, an organized and committed campaign of non-violent civil disobedience—perhaps combined with international diplomatic and economic sanctions—would be just as effective as war in expelling the aggressor, with much less destruction of lives and property. After all, the pacifist might say, no invader could possibly maintain its grip on the conquered nation in light of such systematic isolation, non-co-operation and non-violent resistance, how could it work the factories, harvest the fields, run the transportation network, staff the stores and banks, when everyone would be striking, refusing to comply or quietly sabotaging orders? I-low could it maintain the will to keep the country in the face of crippling economic sanctions and diplomatic censure from the international community? And so on. Jack DuVall and Peter Ackerman have detailed many actual, historical cases of non-violent resistance around the world: Robert Holmes and Gene Sharp, amongst others, have developed the abstract non-violent tactics which pacifists might rely on.’’ Consider the following list of tactics offered by Sharp:¶ general strike, sit-down strike, industry strike, go-slow and work to rule ... economic boycotts, consumers’ boycott. traders boycott, rent refusal, international economic embargo and social boycott ... boycott of government employment, boycott of elections, revenue refusal, civil disobedience and mutiny ... sit-ins, reverse strikes, non-violent obstruction, non-violent invasion and parallel government.’ 2¶ Though one cannot exactly disprove (his pacifist proposition—since it is (conveniently’?) a counter-factual thesis—there are powerful reasons to agree with John Rawls that this is “an unworldly view” to hold. For the effectiveness of these campaigns of civil disobedience relies on the standards and scruples of the invading aggressor. But what if the aggressor

is utterly brutal and ruthless? What if, faced with civil disobedience, the invader “cleanses” the area of the native population, and then imports its own people from back home’? It is hard to strike, or sabotage orders, if one is dead. And what if, faced with economic sanctions and diplomatic censure from a neighbouring country, the invader decides to invade it, too? We have some indication from history, particularly that of Nazi Germany, that such pitiless tactics are effective at breaking the will of even very principled people to resist. The defence of our lives and rights may well, against such heartless invaders, require the use of political violence. Indeed, under such conditions, as Walzer says, adherence to pacifism might even amount to a “disguised form of surrender.” He thinks that, in such instances, if one truly believes in values like “resisting aggression effectively” and “protecting oneself and fellow citizens from aggression,” then one should he willing to fight for them—because, in such cases, fighting holds the only realistic prospect of actually defending these values. Unwillingness to fight here means lion-support for these values. But how can you not want to protect people, and resist aggression effectively?”

# 1AR

## Case

### Circumvention

#### Formalization prevents circumvention

Daskal 13 - Fellow and Adjunct Professor, Georgetown Center on National Security and the Law

University of Penn L. Rev., THE GEOGRAPHY OF THE BATTLEFIELD: A FRAMEWORK FOR DETENTION AND TARGETING OUTSIDE THE "HOT" CONFLICT ZONE, April, 2013, 161 U. Pa. L. Rev. 1165, Lexis

The objections to such a proposal are many. In the context of proposed courts to review the targeting of U.S. citizens, for example, some have argued that such review would serve merely to institutionalize, legitimize, and expand the use of targeted drone strikes. n177 But this ignores the reality of their continued use and expansion and imagines a world in which targeted [\*1222] killings of operational leaders of an enemy organization outside a zone of active conflict is categorically prohibited (an approach I reject n178). If states are going to use this extraordinary power (and they will), there ought to be a clear and transparent set of applicable standards and mechanisms in place to ensure thorough and careful review of targeted-killing decisions. The formalization of review procedures - along with clear, binding standards - will help to avoid ad hoc decisionmaking and will ensure consistency across administrations and time.

#### President believes he is constrained by statute

Saikrishna Prakash 12**,** professor of law at the University of Virginia and Michael Ramsey, professor of law at San Diego, “The Goldilocks Executive” Feb, SSRN

We accept that the President’s lawyers search for legal arguments to justify presidential action, that they find the President’s policy preferences legal more often than they do not, and that the President sometimes disregards their conclusions. But the close attention the Executive pays to legal constraints suggests that the President (who, after all, is in a good position to know) believes himself constrained by law. Perhaps Posner and Vermeule believe that the President is mistaken. But we think, to the contrary, it represents the President’s recognition of the various constraints we have listed, and his appreciation that attempting to operate outside the bounds of law would trigger censure from Congress, courts, and the public.

**No circumvention---DC court decision**

Ed **Morrissey 13**, Hot Air, "DC circuit slaps Obama administration for refusing to follow statutory law", August 14, hotair.com/archives/2013/08/14/dc-circuit-slaps-obama-administration-for-refusing-to-follow-statutory-law/

Could the Yucca Mountain case put the White House in a vise on the ObamaCare mandates? The DC Circuit Court of Appeals ruled yesterday that the Obama administration cannot ignore statutory law that requires the completion of the licensing process for the controversial nuclear storage site in Nevada, including a final decision on approval. The Obama administration had avoided complying with the federal law that designated Yucca Mountain as a repository for nuclear waste:¶ In a rebuke to the Obama administration, a federal appeals court ruled Tuesday that the Nuclear Regulatory Commission has been violating federal law by delaying a decision on a proposed nuclear waste dump in Nevada.¶ By a 2-1 vote, the U.S. Court of Appeals for the District of Columbia ordered the commission to complete the licensing process and approve or reject the Energy Department’s application for a never-completed waste storage site at Nevada’s Yucca Mountain.¶ In a sharply worded opinion, the court said the nuclear agency was “simply flouting the law” when it allowed the Obama administration to continue plans to close the proposed waste site 90 miles northwest of Las Vegas. The action goes against a federal law designating Yucca Mountain as the nation’s nuclear waste repository.¶ “**The president may not decline to follow a statutory mandate or prohibition simply because of policy objections**,” Judge Brett M. Kavanaugh wrote in a majority opinion, which was joined Judge A. Raymond Randolph. Chief Judge Merrick B. Garland dissented.¶ As Glenn Reynolds wrote, “Seems like **this might apply in quite a few situations**.” The Obama administration has decided to ignore statutory language in the Affordable Care Act in order to delay enforcement of the employer mandate, out-of-pocket caps on insurance, and a few other aspects of the law it champions to this day. The Yucca Mountain case provides a similar scenario, and at least at the moment, legal precedent that would likely apply to an appeal of the waivers unilaterally imposed by President Obama.¶ The appeals court explicitly stated that a failure to bind a President to the statute has important implications for the principle of limited government — and so does the ObamaCare case. Once Congress passes a bill and a President signs it, it becomes binding law — **binding on the President** as well as everyone else. In order to “waive” a mandate at this point, Obama has to go back to Congress and ask them to modify the statute accordingly. Obama won’t do that because the House will insist on rolling back all of the mandates at the same time, and the Senate might actually go along with that approach after the serial disaster that this rollout has produced.¶ Instead, the formal constitutional-law scholar has convinced himself that statutes don’t apply to the President. The DC court of appeals has just given Obama a basic lesson in constitutional law, one that stretches from the Nevada mountainside to the doors of HHS. Perhaps the House might think about filing suit under this precedent to force Obama to come back to Congress.

## K

### Gvosdev

**Gvosdev 5** – Rhodes scholar, PhD from St. Antony’s College, executive editor of The National Interest (Nikolas, The Value(s) of Realism, SAIS Review 25.1, pmuse,)

As the name implies, realists focus on promoting policies that are achievable and sustainable. In turn, the morality of a foreign policy action is judged by its results, not by the intentions of its framers. A foreign policymaker must weigh the consequences of any course of action and assess the resources at hand to carry out the proposed task. As Lippmann warned, Without the controlling principle that the nation must maintain its objectives and its power in equilibrium, its purposes within its means and its means equal to its purposes, its commitments related to its resources and its resources adequate to its commitments, it is impossible to think at all about foreign affairs.8 Commenting on this maxim, Owen Harries, founding editor of The National Interest, noted, "This is a truth of which Americans—more apt to focus on ends rather than means when it comes to dealing with the rest of the world—need always to be reminded."9 In fact, Morgenthau noted that "there can be no political morality without prudence."10 This virtue of prudence—which Morgenthau identified as the cornerstone of realism—should not be confused with expediency. Rather, it takes as its starting point that it is more moral to fulfill one's commitments than to make "empty" promises, and to seek solutions that minimize harm and produce sustainable results. Morgenthau concluded: [End Page 18] Political realism does not require, nor does it condone, indifference to political ideals and moral principles, but it requires indeed a sharp distinction between the desirable and the possible, between what is desirable everywhere and at all times and what is possible under the concrete circumstances of time and place.11 This is why, prior to the outbreak of fighting in the former Yugoslavia, U.S. and European realists urged that Bosnia be decentralized and partitioned into ethnically based cantons as a way to head off a destructive civil war. Realists felt this would be the best course of action, especially after the country's first free and fair elections had brought nationalist candidates to power at the expense of those calling for inter-ethnic cooperation. They had concluded—correctly, as it turned out—that the United States and Western Europe would be unwilling to invest the blood and treasure that would be required to craft a unitary Bosnian state and give it the wherewithal to function. Indeed, at a diplomatic conference in Lisbon in March 1992, the various factions in Bosnia had, reluctantly, endorsed the broad outlines of such a settlement. For the purveyors of moralpolitik, this was unacceptable. After all, for this plan to work, populations on the "wrong side" of the line would have to be transferred and resettled. Such a plan struck directly at the heart of the concept of multi-ethnicity—that different ethnic and religious groups could find a common political identity and work in common institutions. When the United States signaled it would not accept such a settlement, the fragile consensus collapsed. The United States, of course, cannot be held responsible for the war; this lies squarely on the shoulders of Bosnia's political leaders. Yet Washington fell victim to what Jonathan Clarke called "faux Wilsonianism," the belief that "high-flown words matter more than rational calculation" in formulating effective policy, which led U.S. policymakers to dispense with the equation of "balancing commitments and resources."12 Indeed, as he notes, the Clinton administration had criticized peace plans calling for decentralized partition in Bosnia "with lofty rhetoric without proposing a practical alternative." The subsequent war led to the deaths of tens of thousands and left more than a million people homeless. After three years of war, the Dayton Accords—hailed as a triumph of American diplomacy—created a complicated arrangement by which the federal union of two ethnic units, the Muslim-Croat Federation, was itself federated to a Bosnian Serb republic. Today, Bosnia requires thousands of foreign troops to patrol its internal borders and billions of dollars in foreign aid to keep its government and economy functioning. Was the aim of U.S. policymakers, academics and journalists—creating a multi-ethnic democracy in Bosnia—not worth pursuing? No, not at all, and this is not what the argument suggests. But aspirations were not matched with capabilities. As a result of holding out for the "most moral" outcome and encouraging the Muslim-led government in Sarajevo to pursue maximalist aims rather than finding a workable compromise that could have avoided bloodshed and produced more stable conditions, the peoples of Bosnia suffered greatly. In the end, the final settlement was very close [End Page 19] to the one that realists had initially proposed—and the one that had also been roundly condemned on moral grounds.

**Proven by the fact that any US response to another terror attack turns the dick out of the K**

Ignatieff 4 [Michael, former director of the Carr Center for Human Rights Policy at the Kennedy School of Government at Harvard, former Professor in Human Rights Policy at the University of Toronto and a senior fellow of the university's Munk Centre for International Studies; “Could We Lose the War on Terror? Lesser Evils,” New York Times Magazine, 5/02]

Consider the consequences of a second major attack on the mainland United States -- the detonation of a radiological or dirty bomb, perhaps, or a low-yield nuclear device or a chemical strike in a subway. Any of these events could cause death, devastation and panic on a scale that would make 9/11 seem like a pale prelude. After such an attack, a pall of mourning, melancholy, anger and fear would hang over our public life for a generation. An attack of this sort is already in the realm of possibility. The recipes for making ultimate weapons are on the Internet, and the materiel required is available for the right price. Democracies live by free markets, but a free market in everything -- enriched uranium, ricin, anthrax -- will mean the death of democracy. Armageddon is being privatized, and unless we shut down these markets, doomsday will be for sale. Sept. 11, for all its horror, was a conventional attack. We have the best of reasons to fear the fire next time. A democracy can allow its leaders one fatal mistake -- and that's what 9/11 looks like to many observers -- but Americans will not forgive a second one. A succession of large - scale attacks would pull at the already-fragile tissue of trust that binds us to our leadership and destroy the trust we have in one another. Once the zones of devastation were cordoned off and the bodies buried, we might find ourselves, in short order, living in a national-security state on continuous alert , with sealed borders, constant identity checks and permanent detention camps for dissidents and aliens. Our constitutional rights might disappear from our courts, while torture might reappear in our interrogation cells. The worst of it is that government would not have to impose tyranny on a cowed populace. We would demand it for our own protection. And if the institutions of our democracy were unable to protect us from our enemies, we might go even further, taking the law into our own hands. We have a history of lynching in this country, and by the time fear and paranoia settled deep in our bones, we might repeat the worst episodes from our past, killing our former neighbors, our onetime friends. That is what defeat in a war on terror looks like. We would survive, but we would no longer recognize ourselves. We would endure, but we would lose our identity as free peoples. Alarmist? Consider where we stand after two years of a war on terror. We are told that Al Qaeda's top leadership has been decimated by detention and assassination. True enough, but as recently as last month bin Laden was still sending the Europeans quaint invitations to surrender. Even if Al Qaeda no longer has command and control of its terrorist network, that may not hinder its cause. After 9/11, Islamic terrorism may have metastasized into a cancer of independent terrorist cells that, while claiming inspiration from Al Qaeda, no longer require its direction, finance or advice. These cells have given us Madrid. Before that, they gave us Istanbul, and before that, Bali. There is no shortage of safe places in which they can grow. Where terrorists need covert support, there are Muslim communities, in the diasporas of Europe and North America, that will turn a blind eye to their presence. If they need raw recruits, the Arab rage that makes for martyrs is still incandescent. Palestine is in a state of permanent insurrection. Iraq is in a state of barely subdued civil war. Some of the Bush administration's policies, like telling Ariel Sharon he can keep settlements on the West Bank, may only be fanning the flames. So anyone who says "Relax, more people are killed in road accidents than are killed in terrorist attacks" is playing games. The conspiracy theorists who claim the government is manufacturing the threat in order to foist secret government upon us ought to wise up. Anyone who doesn't take seriously a second major attack on the United States just isn't being serious. In the Spanish elections in March, we may have had a portent of what's ahead: a terrorist gang trying to intimidate voters into altering the result of a democratic election. We can confidently expect that terrorists will attempt to tamper with our election in November. Condoleezza Rice, the national security adviser, said in a recent television interview that the Bush administration is concerned that terrorists will see the approaching presidential election as "too good to pass up." Thinking the worst is not defeatist. It is the best way to avoid defeat. Nor is it defeatist to concede that terror can never be entirely vanquished. Terrorists will continue to threaten democratic politics wherever oppressed or marginalized groups believe their cause justifies violence. But we can certainly deny them victory. We can continue to live without fear inside free institutions. To do so, however, we need to change the way we think, to step outside the confines of our cozy conservative and liberal boxes.

### Gray

#### No risk of endless warfare

Gray 7—Director of the Centre for Strategic Studies and Professor of International Relations and Strategic Studies at the University of Reading, graduate of the Universities of Manchester and Oxford, Founder and Senior Associate to the National Institute for Public Policy, formerly with the International Institute for Strategic Studies and the Hudson Institute (Colin, July, “The Implications of Preemptive and Preventive War Doctrines: A Reconsideration”, <http://www.ciaonet.org/wps/ssi10561/ssi10561.pdf>)

7. A policy that favors preventive warfare expresses a futile quest for absolute security. It could do so. Most controversial policies contain within them the possibility of misuse. In the hands of a paranoid or boundlessly ambitious political leader, prevention could be a policy for endless warfare. However, the American political system, with its checks and balances, was designed explicitly for the purpose of constraining the executive from excessive folly. Both the Vietnam and the contemporary Iraqi experiences reveal clearly that although the conduct of war is an executive prerogative, in practice that authority is disciplined by public attitudes. Clausewitz made this point superbly with his designation of the passion, the sentiments, of the people as a vital component of his trinitarian theory of war. 51 It is true to claim that power can be, and indeed is often, abused, both personally and nationally. It is possible that a state could acquire a taste for the apparent swift decisiveness of preventive warfare and overuse the option. One might argue that the easy success achieved against Taliban Afghanistan in 2001, provided fuel for the urge to seek a similarly rapid success against Saddam Hussein’s Iraq. In other words, the delights of military success can be habit forming. On balance, claim seven is not persuasive, though it certainly contains a germ of truth. A country with unmatched wealth and power, unused to physical insecurity at home—notwithstanding 42 years of nuclear danger, and a high level of gun crime—is vulnerable to demands for policies that supposedly can restore security. But we ought not to endorse the argument that the United States should eschew the preventive war option because it could lead to a futile, endless search for absolute security. One might as well argue that the United States should adopt a defense policy and develop capabilities shaped strictly for homeland security approached in a narrowly geographical sense. Since a president might misuse a military instrument that had a global reach, why not deny the White House even the possibility of such misuse? In other words, constrain policy ends by limiting policy’s military means. This argument has circulated for many decades and, it must be admitted, it does have a certain elementary logic. It is the opinion of this enquiry, however, that the claim that a policy which includes the preventive option might lead to a search for total security is **not at all convincing**. Of course, folly in high places is always possible, which is one of the many reasons why popular democracy is the superior form of government. It would be absurd to permit the fear of a futile and dangerous quest for absolute security to preclude prevention as a policy option. Despite its absurdity, this rhetorical charge against prevention is a stock favorite among prevention’s critics. It should be recognized and dismissed for what it is, a debating point with little pragmatic merit. And strategy, though not always policy, **must be nothing if not pragmatic**.

### Violence KT Terror

**Pacifism empirically fails**

Chuck **Hawks 1**, AA from Santa Monica College and BS from the University of Oregon, How To Defeat Terrorism, http://www.chuckhawks.com/defeat\_terrorism.htm

But do the conditions that made non-violence a successful strategy in these three historical cases pertain to the present confrontation between the civilized world and international terrorism? In particular, do such conditions exist in the present confrontation between, on one side, the fundamentalist Muslim terrorist organization al Qaeda and their allies in the Taliban government of Afghanistan and, on the other side, the United States, the United Kingdom, and their allies in the civilized world? This is a question worth considerable thought and analysis, and I do not pretend to have all the answers. My formal degrees are in the field of political science (I particularly studied international affairs), and I have a modest reputation as an amateur historian, especially as regards 20th Century military history. I like to think that I also have a smidgen of intelligence, and some small talent for logical analysis. Whether I do, here are my observations about pacifism and the current war on terrorism. After some thought I have concluded that for pacifist tactics to succeed, at the minimum, the following conditions must pertain. One, the pacifist's opponents must be rational (capable of understanding the logic of the pacifist's position). Two, the opponents must have moral values and ideals that are not inimical to the pacifist's. Three, the opponents must respect basic human rights. And four, the pacifist's opponents must not necessarily equate non-violence with weakness. Looking at our historical pacifist models, Jesus was a rabbi saving souls and teaching people in the (Jewish) culture in which he was raised. Dr. King was a Christian minister leading a movement for the rights of his people in the (American) culture in which he was raised. And Gandhi was leading his people in their struggle for independence from the British (a rational and moral people with a long democratic tradition of self-rule). The fundamental ingredients for successful pacifism were in place in all three instances. Of the three historical examples, I am most familiar with the American Civil Rights movement of the 1950's and early 1960's, because it took place during my lifetime, and because I gave it my support. In that case, the American population was literate and well educated, basically rational, and had a long democratic tradition. Furthermore, all of the participants were Americans and were raised in the same culture, there was widespread respect for human rights, the Judeo/Christian ethic was the cultural norm, and virtually no one wanted violence. Also, in that case, the vast majority of Caucasian Americans had (and have) no desire to oppress Negro Americans. All of the conditions required for successful pacifism were indeed fulfilled. Unfortunately, at least one (and usually more) of the required conditions are always missing when opposing totaliarian regimes (due to the nature of totaliarian regimes). Nor can they be present in any struggle against international terrorism (the fundamental tenents of terrorism preclude points two and three). In fact, **none of the requisite conditions for successful pacifism are fufilled in the present struggle against** Islamic **terrorists**. Throughout history, pacifism and non-violence has encouraged those with a totalitarian bent (whether religious or secular) to ever-greater crimes against their own people, their neighbors, and the rest of humanity. They have historically interpreted it as weakness, which they invariably attempt to exploit for their own demented purposes. This is clear from the writings and statements of modern totalitarian leaders. For example: The vast majority of European Jews responded non-violently to the Nazi pogrom. They went peacefully to the concentration camps, and ultimately to their deaths, a fact that has puzzled historians for years. This pacifistic approach did nothing to slow down the "Final Solution," and in fact increased its efficiency. Which is the history behind the slogan popular in modern Israel: "Never again!" Another example: Non-violence was simply not a viable option when the forces of the Imperial Japanese Empire attacked the US, the UK, and their allies in December of 1941. Had the Western Allies not resisted with armed force, the Japanese would clearly have gone on to occupy, and exploit by force, all of Southeast Asia and the entire Pacific basin, as well as China. Had they not been opposed by armed force Germany, Japan, and the other Axis nations would have eventually built a power base that made them literally unstoppable. War was the only viable way to prevent this and, with 20-20 hindsight, clearly the correct decision. (Paradoxically, had the Axis succeeded in world domination, international terrorism would probably not be a problem today. Axis [state] terrorism would have systematically executed all of the dissidents in the occupied territories, and long since crushed the independent states of the Middle East. The entire region would be under the boot heel of the Axis, and the people there would be slaves. Terrorism is effective only where there are moral and innocent people to terrorize.) The United States of America had, until the events of 11 September 2001, largely ignored terrorism. This was especially true during the 8 years of the Clinton Administration. You could even make the argument that the terrorist acts of 11 September 2001 were, at least in part, the result of President Clinton's legacy of inaction. The Clinton Administration took no effective action when the al Qaeda terrorist organization attacked the American embassies in Kenya and Tanzania, killing 224 people, and again did nothing when al Qaeda attacked the United States Ship Cole. Both of those assaults were ipso-facto declarations of war, acts that historically require a declaration of war from the aggrieved state. But the Clinton Administration chose not to take decisive action. At the end of his administration, in a move cynically designed to garner Puerto Rican votes for Hillary Clinton's senate bid, President Clinton pardoned 16 terrorists convicted of bombing attacks against New York city, over the vociferous objections of the entire law enforcement community. President Clinton evidently believed that terrorists would leave America alone if America did not respond to, even forgave, terrorist provocation. Clearly, American restraint did not convince the al Qaeda terrorists to leave America alone. (Neither, for that matter, did America's repeated attempts to save Moslem people from violence and starvation in various parts of the world.) The leaders and members of al Qaeda did not become more amenable to reason, their ethics and morality did not improve, they steadfastly rejected the concept of human rights, and they did not abandon violence. (Unlikely in any case, as **their "culture" views** **pacifism as weakness**.) Instead, they were emboldened to greater acts of terrorism, which resulted in the suicide attacks on the World Trade Center and the Pentagon. These fanatics have stated that, If they could, they would kill everyone in America and every American anywhere in the world to achieve their goals. (Interestingly, this would include almost all American Muslims, who are not proper "fundamentalists" by al Qaeda standards.) The notorious al Qaeda leader Osama bin Laden, among others, has made this clear in his speeches and recent statements. So have the leaders of the totalitarian theocracy in Afghanistan known as the Taliban, who support al Qaeda and international terrorism. Personally, I have serious reservations about the practicality of any "war" against intangibles, whether poverty, drugs, or terrorism. But, one way or another, I am convinced that international terrorists and the regimes that support them must be rooted out and brought to justice--which means killed--because they will not stop killing us. (As I understand it, the theology of the Islamic terrorists promises them rewards in heaven for killing us.) I have reluctantly accepted the necessity for a broad based campaign on the economic, political, and military fronts against the terrorists themselves and the nation states that support them, as outlined by President Bush. No citizen of the civilized world should expect a quick victory over international terrorism. Understand that the terrorists who attacked the United States on 11 September 2001 have drawn us into a long series of wars. We have embarked on a process that will take many years to bring to a successful conclusion. Want it or not, the United States in particular and the Western democracies in general, are involved in a war to the death with these terrorists and their supporters. A war in which there are no real front lines, and in which the terrorist "fighters" would much rather attack defenseless civilians than engage our troops. Since terrorists have forced civilized people everywhere to be on the "front lines" of this battle, my first suggestion to decent people on the home front is to arm themselves. In the United States, federal and state governments should encourage those Americans who so desire to arm themselves, in accordance with our individual Constitutional right "to keep and bear arms." (That means to own and carry guns, without superfluous government restrictions on law-abiding citizens.) And I would suggest that the governments of the other democratic nations of the world ease their draconian restrictions on the private ownership of firearms (especially handguns). It is time for the leaders of democratic governments worldwide to trust their own citizens. Permit those people of the civilized world, who are willing to do so, to accept responsibility for their own safety, on the Israeli model. Islamic terrorists claim that they are willing to die to the last man for their cause; unfortunately, we must be ready and willing to help them do just that. On the home front, this has become a battle between fanatical terrorists fighting to die and decent people fighting to live. To paraphrase General Patton: Our job is not to die for our beliefs, it is to make the other poor bastard die for his.

### UQ – Improvements Now

#### No impact uniqueness – world getting better now their miltarism is peaceful

Busby 12 Josh, Assistant Professor of Public Affairs and a fellow in the RGK Center for Philanthropy and Community Service as well as a Crook Distinguished Scholar at the Robert S. Strauss Center for International Security and Law, <http://duckofminerva.blogspot.com/2012/01/get-real-chicago-ir-guys-out-in-force.html>

Is Unipolarity Peaceful? As evidence, Monteiro provides metrics of the number of years during which great powers have been at war. For the unipolar era since the end of the Cold War, the United States has been at war 13 of those 22 years or 59% (see his Table 2 below). Now, I've been following some of the discussion by and about Steven Pinker and Joshua Goldstein's [work](http://www.nytimes.com/2011/12/18/opinion/sunday/war-really-is-going-out-of-style.html?pagewanted=all) that suggests the world is becoming more peaceful with interstate wars and intrastate wars becoming more rare. I was struck by the graphic that Pinker used in a Wall Street Journal [piece](http://online.wsj.com/article/SB10001424053111904106704576583203589408180.html) back in September that drew on the Uppsala Conflict Data, which shows a steep decline in the number of deaths per 100,000 people. How do we square this account by Monteiro of a unipolar world that is not peaceful (with the U.S. at war during this period in Iraq twice, Afghanistan, Kosovo) and Pinker's account which suggests declining violence in the contemporary period? Where Pinker is focused on systemic outcomes, Monteiro's measure merely reflect years during which the great powers are at war. Under unipolarity, there is only one great power so the measure is partial and not systemic. However, Monteiro's theory aims to be systemic rather than partial. In critiquing Wohlforth's early work on unipolarity stability, Monteiro notes: Wohlforth’s argument does not exclude all kinds of war. Although power preponderance allows the unipole to manage conflicts globally, this argument is not meant to apply to relations between major and minor powers, or among the latter (17). So presumably, **a more adequate test of the peacefulness or not of unipolarity** (at least for Monteiro) is not the number of years

the great power has been at war **but whether the system as a whole is becoming more peaceful under unipolarity compared** to previous eras, including wars between major and minor powers or wars between minor powers and whether the wars that do happen are as violent as the ones that came before. Now, as Ross Douthat pointed [out](http://douthat.blogs.nytimes.com/2011/10/17/steven-pinkers-history-of-violence/), Pinker's argument isn't based on a logic of benign hegemony. It could be that even if the present era is more peaceful, unipolarity has nothing to do with it. Moreover, Pinker may be wrong. Maybe the world isn't all that peaceful. I keep thinking about the places I don't want to go to anymore because they are violent (Mexico, Honduras, El Salvador, Nigeria, Pakistan, etc.) As Tyler Cowen [noted](http://marginalrevolution.com/marginalrevolution/2011/10/steven-pinker-on-violence.html), the measure Pinker uses to suggest violence is a per capita one, which doesn't get at the absolute level of violence perpetrated in an era of a greater world population. **But, if my read of other** [**reports**](http://www.hsrgroup.org/human-security-reports/20092010/graphs-and-tables.aspx) **based on Uppsala data is right, war is becoming more rare and less deadly** (though later [data](http://www.pcr.uu.se/research/ucdp/charts_and_graphs/) suggests lower level armed conflict may be increasing again since the mid-2000s). The apparent violence of the contemporary era may be something of a presentist bias and reflect our own lived experience and the ubiquity of news media .Even if the U.S. has been at war for the better part of unipolarity, the deadliness is declining, even compared with Vietnam, let alone World War II. Does Unipolarity Drive Conflict? So, I kind of took issue with the Monteiro's premise that unipolarity is not peaceful. What about his argument that unipolarity drives conflict? Monteiro suggests that the unipole has three available strategies - defensive dominance, offensive dominance and disengagement - though is less likely to use the third. Like Rosato and Schuessler, Monteiro suggests because other states cannot trust the intentions of other states, namely the unipole, that minor states won't merely bandwagon with the unipole. Some "recalcitrant" minor powers will attempt to see what they can get away with and try to build up their capabilities. As an aside, in Rosato and Schuessler world, unless these are located in strategically important areas (i.e. places where there is oil), then the unipole (the United States) should disengage. In Monteiro's world, disengagement would inexorably lead to instability and draw in the U.S. again (though I'm not sure this necessarily follows), but neither defensive or offensive dominance offer much possibility for peace either since it is U.S. power in and of itself that makes other states insecure, even though they can't balance against it.